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federal register

Wednesday
May 1, 1985

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Environmental Protection Agency

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Federal Communications Commission

Bridges
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Presidential Documents

Title 3—

The President

Proclamation 5331 of April 29, 1985

National Child Safety Awareness Month, 1985

By the President of the United States of America

A Proclamation

May has been designated as National Child Safety Awareness Month this year, but for a mother or father who has suffered the tragedy of a missing child, the nightmare is not confined to one day, one week, or one month. It stays with them until their child is found. For all too many parents, it stays with them forever.

More than 1,500,000 children have been reported missing in the United States, but until recently there was little concerted action to deal with this problem. Today, however, a new spirit of activism is bringing together parents, law enforcement officials, and community agencies in an energetic drive to increase public awareness of the need to protect our Nation's children.

One of the most encouraging developments in this regard was the establishment of the National Center for Missing and Exploited Children. This Center disseminates educational material about child safety, offers information about voluntary identification procedures for young people, and maintains a toll-free hotline to help locate missing children. It is providing a needed focus for our Nation's efforts to stem this serious problem.

The safety of our children is everyone's responsibility, and by working together we can make a difference. It is important for parents to instruct their children at an early age and ensure that they know their complete name, address, and how to dial their telephone number. The public and private sectors can provide the assistance that is needed by children who are victims of abuse, including safe and secure shelter for runaway and homeless youth to protect them from the dangers they might encounter on the streets. Corporations can be helpful by publicizing the plight of missing children to facilitate their identification and return home.

The most important thing we can all do, however, is to create a society in which our children are respected, loved, and cherished. The family is the natural place for demonstrating this love and respect, but the spirit of respect for family values should be spread widely throughout society. Activities such as child pornography should be straightforwardly condemned as inconsistent with a society that truly loves its children and respects the integrity of the childhood years. By speaking up and making their voices heard, concerned Americans can make a big difference in the kind of society our children will grow up in and, even more, in their ability to grow up with the love and security that should be every child's birthright.

The Congress, by House Joint Resolution 33, has designated the month of May 1985 as "National Child Safety Awareness Month" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 1985 as National Child Safety Awareness Month. I call on all Americans to join the effort to protect our children to ensure a healthy and productive generation of Americans as our contribution to the future.

IN WITNESS WHEREOF, I have hereunto set my hand this 29th day of April, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-10701
Filed 4-29-85; 4:25 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5332 of April 29, 1985

Mother's Day, 1985

By the President of the United States of America

A Proclamation

For most of this century, we have set aside the second Sunday in May as a special day when we honor our mothers. It is very appropriate that we do so because from the earliest days of our country, mothers have played a major role in building America into a great Nation. The fortitude, courage, and love of family and country shown by these brave pioneer women lives on in mothers today.

It is especially important that we honor mothers today, because we are more aware than ever before of the importance of the family unit, in which mothers play so central a role. Families are truly the foundation of society, and mothers the vital foundation of the life of the family. Their influence on the training and education of our youth is so deep and pervasive that it is impossible to measure.

When we honor mothers, therefore, we honor the women who shape our Nation's future. Their collective effect on the America our children will inherit is greater than that of any act of Congress or any Presidential decision. I am happy, therefore, to have this chance once a year to pay them tribute.

In recognition of the contributions of all mothers to their families and to the Nation, the Congress, by a joint resolution approved May 8, 1914 (38 Stat. 770), has designated the second Sunday in May each year as Mother's Day and requested the President to call for its appropriate observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby request that Sunday, May 12, 1985, be observed as Mother's Day. I direct government officials to display the flag of the United States on all Federal government buildings, and I urge all citizens to display the flag at their homes and other suitable places on that day.

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

Ronald Reagan

[FR Doc. 85-10702
Filed 4-29-85; 4:26 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12511 of April 29, 1985

President's Child Safety Partnership

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. II), and in order to establish an advisory committee to recommend initiatives by which the private and public sectors may cooperate in promoting the safety of children, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Child Safety Partnership.

(b) The Partnership shall be composed of not more than 26 members designated or appointed by the President from among citizens of the United States, and shall include the Attorney General, the Secretary of Health and Human Services, and the Secretary of Education. The President shall designate a Chairman from among the members of the Partnership.

Sec. 2. *Functions.* (a) The Partnership shall examine issues and make recommendations to the President on preventing the victimization and promoting the safety of children in the United States.

(b) The Partnership may conduct such studies, inquiries, hearings, and meetings as may be necessary to carry out its functions. The focus of the Partnership's inquiries and reports shall be on recommendations for public-private cooperation to encourage and facilitate private sector involvement in child safety efforts, including activities appropriate for action by service organizations, schools, businesses, charitable organizations, and public safety organizations.

(c) The Partnership shall report to the President from time to time as requested and shall submit its final report by April 29, 1987.

Sec. 3. *Administration.* (a) The heads of Executive agencies shall, to the extent permitted by law, provide the Partnership such information as it may require to carry out its functions.

(b) Members of the Partnership shall serve without compensation for their work on the Partnership. However, members appointed from among private citizens, including employees from State and local government, may, subject to the availability of funds, be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the government service (5 U.S.C. 5701–5707).

(c) The Attorney General shall, to the extent permitted by law, provide the Partnership with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

Sec. 4. *General.* (a) The Departments of Justice, Health and Human Services, and Education are directed to join with the Partnership to encourage the development of public/private sector initiatives to prevent and respond to the victimization of children.

(b) Notwithstanding any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Partnership, shall be performed by the Attorney General, in accordance with guidelines and procedures established by the Administrator of General Services.

(c) The Partnership shall terminate on April 29, 1987, or 60 days after submitting its final report, whichever is earlier.

Ronald Reagan

THE WHITE HOUSE,
April 29, 1985.

[FR Doc. 85-10703
Filed 4-29-85; 4:28 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5333 of April 29, 1985

National Tourism Week, 1985

By the President of the United States of America

A Proclamation

Travel has long been recommended as a way to broaden the mind and refresh the spirit. But in previous ages, travel was often hazardous and difficult. The rewards of a romantic adventure could sometimes be more than overbalanced by the dangers a traveler might encounter along the way.

Today, the travel and tourism sector of our economy constitutes the second largest retail industry in the United States. The benefits of travel remain as enticing as ever, but the hazards and dangers have largely disappeared. Americans who want to travel abroad can experience the tremendous diversity of the world's cultures on group excursions or on individually designed tours.

Many Americans, however, are choosing to remain near home and explore the natural beauties and historic monuments of our own Nation. And many citizens of foreign lands are joining them in discovering that America's rich history and scenic wonders make it an excellent place to take a vacation.

The Congress, by Public Law 98–424 of September 25, 1984, has designated the week beginning May 19, 1985, as "National Tourism Week" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 19, 1985, as National Tourism Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 85-10751
Filed 4-30-85; 10:57 am]
Billing code 3195-01-M

Presidential Documents

Executive Order 12512 of April 29, 1985

Federal Real Property Management

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 486(a) of title 40 of the United States Code, and in order to ensure that Federal real property resources are treated in accordance with their value as national assets and in the best interests of the Nation's taxpayers, it is hereby ordered as follows:

Section 1. *General Requirements.* To ensure the effective and economical use of America's real property and public land assets, establish a focal point for the enunciation of clear and consistent Federal policies regarding the acquisition, management, and disposal of properties, and assure management accountability for implementing Federal real property management reforms, all Executive departments and agencies shall take immediate action to recognize the importance of such resources through increased management attention, establishment of clear goals and objectives, improved policies and levels of accountability, and other appropriate actions. Specifically:

(a) The Domestic Policy Council shall serve as the forum for approving government-wide real property management policies;

(b) All Executive departments and agencies shall establish internal policies and systems of accountability that ensure effective use of real property in support of mission-related activities, consistent with Federal policies regarding the acquisition, management, and disposal of such assets. All such agencies shall periodically review their real property holdings and conduct surveys of such property in accordance with standards and procedures determined by the Administrator of General Services. All such agencies shall also develop annual real property management improvement plans that include clear and concise goals and objectives related to all aspects of real property management, and identify sales, work space management, productivity, and excess property targets;

(c) The Director of the Office of Management and Budget shall review, through the management and budget review processes, the efforts of departments and agencies toward achieving the government-wide property management policies established pursuant to this Order. Savings achieved as a result of improved management shall be applied to reduce Federal spending and to support program delivery;

(d) The Office of Management and Budget and the General Services Administration shall, in consultation with the land managing agencies, develop legislative initiatives that seek to improve Federal real property management through the adoption of appropriate private sector management techniques; the elimination of duplication of effort among agencies; and the establishment of managerial accountability for implementing effective and efficient real property management practices; and

(e) The President's Council on Management Improvement, subject to the policy direction of the Domestic Policy Council, shall conduct such additional studies as are necessary to improve Federal real property management by appropriate agencies and groups.

Sec. 2. *Real Property.* The Administrator of General Services shall, to the extent permitted by law, provide government-wide policy oversight and guidance for Federal real property management; manage selected properties for

agencies; conduct surveys; delegate operational responsibility to agencies where feasible and economical; and provide leadership in the development and maintenance of needed property management information systems.

Sec. 3. *Public Lands.* In order to ensure that Federally owned lands, other than the real property covered by Section 2 of this Order, are managed in the most effective and economic manner, the Departments of Agriculture and the Interior shall take such steps as are appropriate to improve their management of public lands and National Forest System lands and shall develop appropriate legislative proposals necessary to facilitate that result.

Sec. 4. Executive Order No. 12348 of February 25, 1982, is hereby revoked.

Ronald Reagan

THE WHITE HOUSE,
April 29, 1985.

[FR Doc. 85-10752
Filed 4-30-85; 10:58 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Wednesday, May 1, 1985

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

U.S. Standards for Soybeans

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: According to the requirements for the periodic review of existing regulations, the Federal Grain Inspection Service (FGIS) has reviewed the U.S. Standards for Soybeans. Pursuant to this review, FGIS is revising the soybean standards to: (1) Delete the current classes of Green, Black, and Brown soybeans and include these deleted classes in a new definition of Soybeans of other colors; (2) include limits in the Sample grade requirements for soybeans, and (3) make miscellaneous changes in language, format, and references. These changes are made to update and conform the standards to other grain standards.

EFFECTIVE DATE: September 9, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, S.W., Washington, DC 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities because those persons who apply the standards and most users of soybean inspection services do not meet the requirements for small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Further, the standards are applied equally to all entities by FGIS employees or licensed persons.

Effective Date

Pursuant to section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)) (the Act), no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. Pursuant to that section of the Act, it has been determined that in the public interest, the revision become effective September 9, 1985. This will coincide with the beginning of the 1985 crop year and to facilitate domestic and export marketing and will provide adequate time to implement the revised standards and for the industry to make necessary marketing changes involving existing contracts and other documents. The effective date of this action coincides with the effective date of a previous revision of the soybean standards (49 FR 35743). To avoid confusion and to coordinate changes to the soybean standards, it is in the best interest of the public that these two revisions are effective on the same date.

Final Action

The review of the standards included a determination of the continued need for the standards and the potential to clarify or simplify the language of the standards; a review of changes in marketing practices and functions affecting the standards; a review of changes in technology and economic conditions in the area affected by the standards; and a determination of the potential to improve the standards and their application through the incorporation of grading factors or tests which better indicate quality attributes. The objective is to assure that the standards continue to serve the needs of the market to the greatest possible extent.

A notice requesting public comment on the U.S. Standards for Sobyeans, Corn, and Mixed Grain was published in the May 8, 1980, **Federal Register** (45 FR 30446). Views and comments were solicited to help in the study and evaluation of present grading practices and standards and in the development of any recommendations for change. Following this request for public comment, additional information was evaluated and discussions were held with soybean industry representatives to aid in the formulation of proposed changes to the soybean standards.

A proposal to revise the standards for soybeans was published in the December 20, 1984, **Federal Register** (49 FR 49474). The proposal included the following:

1. Delete test weight per bushel as a grade-determining factor for soybeans.
2. Revise the current classes of soybeans by deleting the classes of Green, Black, and Brown soybeans, and include these classes in a new definition of Soybeans of other colors.
3. Include limits in the Sample grade requirements for soybeans.
4. Make changes in language, format, and update the footnotes referenced in the standards to enhance the clarity and uniformity among grain standards.

Within the 60-day comment period, 37 written comments were received. Twenty-two comments were received from importers of U.S. soybeans and soybean products. Eight comments were received from State Departments of Agriculture, universities and producer representatives. Seven comments were received from representatives of grain elevators, domestic processors, and exporters. The large majority of commenters confined their remarks to the proposed deletion of test weight per bushel as a grade-determining factor and the previous final rule (49 FR 35743), which deletes moisture content as a grade determining factor (effective September 9, 1985).

Twenty-nine commenters were opposed to the deletion of test weight per bushel as a grade determining factor, while six commenters favored the proposal. The six commenters who favored the proposal included two national producer organizations, two State Departments of Agriculture, a

producer, and a university professor. The majority of the commenters who opposed the test weight change represented U.S. soybean handlers, grain industry associations, exporters, and importers. The soybean handlers and some of the exporters generally indicated that the deletion of test weight per bushel as a grade determining factor would not prevent producers from being discounted for soybeans with low test weight. Concerning the export markets, the grain trade associations and the exporters generally opposed the proposal because, in their opinion, it would be misleading and would create confusion for the importers given present trading and marketing practices. The importers opposed the proposal because they (1) consider test weight per bushel as a grade determining factor to be a critical test for soybeans; (2) claim that U.S. soybean quality has been deteriorating, and the deletion of test weight as a grade determining factor will add to the deterioration; and (3) believe that the change may impair the confidence in the uniformity and quality of U.S. soybeans, causing them to look to other suppliers to meet their needs.

While, as stated in the proposal, some producers have questioned the value of the test weight per bushel as a grade determining factor and its use for discounting, based upon information received from exporters as well as foreign importers, it is evident that its use as a grade determining factor is of value to the industry, especially in view of present trading and marketing practices.

Accordingly considering information available including comments, FGIS has determined that test weight per bushel should be retained as a grade determining factor in the soybean standards. As in the current standards, test weight per bushel will continue to be expressed in whole and half pounds with a fraction of a half pound disregarded. Applicable comments favored the current provisions of test weight per bushel including that it be expressed in whole and half pounds.

A majority of the comments addressing the proposed changes in class designations and the revisions in format favored these changes as an improvement in the soybean standards. The changes as proposed, are included in this final rule.

Many commenters addressed changes that were not included in the proposed revision of the soybean standards. Twelve commenters requested the inclusion of protein and oil content in the standards. Four commenters asked that FGIS make changes in the current provision for assessing stink bug damaged soybeans. Four other comments requested changes to the current allowances for foreign material. FGIS is currently conducting studies to refine the methodology for rapidly measuring oil and protein content and will consider proposing the inclusion of these factors into the standards in the future. A study is also underway to improve the current method for assessing stink bug damaged soybeans. Possible changes will be addressed when the study is completed. The comments on excess foreign material and the current foreign material provisions in the standards will be given consideration during the next review of the soybean standards.

As a result of this review, the U.S. Standards for Soybeans are revised as discussed below.

1. To enhance clarity and uniformity among standards, FGIS is revising the U.S. Standards for Soybeans by dividing the standards into 4 parts, and into sections, similar to the present format in other U.S. grain standards. Specifically, in addition to the changes below, the undesignated heading, TERMS DEFINED consists of a new § 810.601, *Definition of soybeans*, and a new § 810.602, *Definition of other terms*. An undesignated heading, PRINCIPLES GOVERNING APPLICATION OF STANDARDS consists of a new § 810.603, *Basis of determination*, a new § 810.604, *Temporary modifications in equipment and procedures*, and a new § 810.605, *Percentages*. An undesignated heading, GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS consists of a new § 810.606, *Grades and grade requirements for soybeans*, and a new § 810.607, *Grade designations*. The undesignated heading, SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS consists of a new § 810.608, *Special grades and special grade requirements*, and § 810.609, *Special grade designations*.

Incidental to this revision, the current § 810.601, *Terms defined*, is removed as unnecessary, TERMS DEFINED becomes an undesignated heading, and § 810.601 is designated the new *Definition of soybeans*. The current § 810.602, *Principles governing application of the standards*, is removed; PRINCIPLES GOVERNING APPLICATION OF STANDARDS becomes an undesignated heading, and § 810.602 is designated the new *Definition of other terms*. The current § 810.603, *Grades, grade requirements, and grade designations*, is removed; GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS becomes an undesignated heading, and § 810.603 is designated the new *Basis of determination*.

The current § 810.601 (a) *Soybeans*, is redesignated as § 810.601, *Definition of soybeans*, and includes the scientific name for soybeans. The current § 810.601 (b) *Classes*, § 810.601 (c) *Yellow soybeans*, and § 810.601 (g) *Mixed soybeans*, are revised and redesignated as the new § 810.602(a). The current § 810.601 (d), (e) and (f) are removed as classes and redesignated as § 810.602(h), *Soybeans of other colors*, as discussed below. The current § 810.601(h) *Grades* is removed as unnecessary. The current § 810.601 (i) *Bicolored soybeans*, is incorporated into the new § 810.602 (h), *Soybeans of other colors*, and includes additional information incorporated from the current § 810.903. Section 810.903, therefore, is removed.

The current § 810.601(j) *Splits*, (k) *Damaged kernels*, (l) *Heat-damaged kernels*, (m) *Foreign material*, and (n) *Stones*, are restated and redesignated as § 810.602 (i), (b), (e), (d), and (j), respectively. The current § 810.602 (c) *Moisture*, and (d) *Test weight per bushel* are redesignated as (f) and (k), respectively. The current § 810.601(o) *$^{9}/_{64}$ sieve*, is redesignated as § 810.602(1).

Also included in the new § 810.602 *Definition of other terms*, are definitions for two new terms, (c) *Distinctly low quality* and (g) *Purple mottled or stained*, which are incorporated from the current § 810.901 and § 810.902, respectively. Sections 810.901 and 810.902, therefore, are removed.

The new § 810.603 *Basis of determination* (previously § 810.602(a)), is clarified by rewording the section and dividing it into three subparagraphs, (a) *Distinctly low quality*, (b) *Certain quality determinations*, and (c) *All other determinations*. This format appears in other grain standards and the information which appears in the section is generally contained in the FGIS Grain Inspection Handbook.

A new § 810.604, *Temporary modifications in equipment and procedures*, is included. The equipment and procedures referenced in the soybean standards are applicable to grain produced under normal environmental conditions. The revision provides that, when adverse growing or harvest conditions make impractical the use of routine procedures, minor temporary modifications in the equipment or procedures may be required to obtain results expected under normal conditions. Adjustments in interpretations (i.e., identity, quality,

and condition) shall not be made. This section is similar to sections which appear in other grain standards.

The current § 810.602(b) *Percentages,* is clarified by explaining in greater detail the rounding procedures currently used for soybeans. Accordingly, this revision specifies how a figure will be rounded when followed by a figure greater, lesser, or equal to five. This revision makes the wording of the section the same or similar to that used in other grain standards, as appropriate. The section is included in the new § 810.605, *Percentages.*

A new § 810.606 *Grades and grade requirements for soybeans* (currently § 810.603), is included. Changes are made to clarify wording and to revise the format for the requirements for U.S. Sample grade. The format changes for the U.S. Sample grade requirements are made to conform to other grain standards and to incorporate the current § 810.901 into these requirements. Because of changes to other standards, § 810.901 applies only to soybeans, therefore § 810.901 is removed.

A new § 810.607 *Grade designation* (currently an undesignated heading), is included. Changes are made to clarify wording and to conform to other grain standards. The current § 810.603 (b) and (c) are redesignated as § 810.607 (a) and (b), respectively.

An undesignated heading, currently contained in § 810.603(d) is revised to read: SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS. The heading is followed by two new sections, § 810.608 *Special grades and special grade requirements,* and § 810.609 *Special grade designations.* This information is currently contained in § 810.603(d) (1 and 2). The new wording and format for this section of the soybean standards adds clarity and conforms with other grain standards.

As indicated above, § 810.901, § 810.902, and § 810.903 in the current standards are removed and incorporated into other sections.

2. The current classes of soybeans are revised. The current soybean standards define classes for Yellow, Green, Brown, Black, and Mixed soybeans. While it is known that some black or brown soybeans are produced for special purposes, detailed information on the production of green, brown, or black soybeans is not available because of the limited production. Further, these soybeans are rarely offered for official inspection. With these revisions, two classes of soybeans are defined—Yellow and Mixed soybeans. Under the revised standard, a sample containing green, brown, or black soybeans, or a mixture thereof, when exceeding 10% of the sample, is certified as Mixed soybeans. A new definition for soybeans of other colors is added to the revised soybean standards. Soybeans of other colors include black, brown, green, and bicolored soybeans. The percentage of yellow soybeans and the percentage of soybeans of other colors would follow the class designation on the inspection certificate, e.g., U.S. No. 2 Mixed soybeans, Yellow soybeans 80%, Soybeans of other colors, 20%.

3. FGIS has included in the definition of U.S. Sample grade, the limits for stones, pieces of glass, crotalaria seeds, castor beans, particles of an unknown foreign substance(s), rodent pellets, bird droppings, and animal filth. The limits of 8 or more stones (which have an aggregate weight in excess of 0.2 percent of the sample weight), 2 or more pieces of glass, 3 or more crotalaria seeds, 2 or more castor beans, 4 or more particles of an unknown substance(s) or a commonly recognized harmful or toxic substance(s), and 10 or more pieces of rodent pellets, bird droppings, or other animal filth, have been followed in the inspection process for many years, are contained in the FGIS Grain Inspection Handbook, and do not constitute new limits. The limits are added to the definition of U.S. Sample grade for clarity and to conform with other grain standards.

4. Footnotes are updated to delete reference to the Inspection and Equipment Handbooks as appropriate. Footnote 2 is revised and references to footnotes 3 and 4 are changed to footnote 2. Footnotes 3 and 4 are deleted.

5. In addition to the changes referenced above which differ from the proposed rule, miscellaneous non-substantive changes are made in this final rule for clarity and for facilitating use of the standards. These minor changes appear, generally in §§ 810.605, 810.606, and 810.607, and relate to grammatical and format changes. Otherwise, this final rule is the same as that proposed.

List of Subjects in 7 CFR Part 810

Export, Grain.

PART 810—OFFICIAL U.S. STANDARDS FOR GRAIN

The authority citation for Part 810 continues to read as follows:

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Accordingly, the United States Standards for Soybeans is amended by revising §§ 810.601–810.603, adding §§ 810.604–810.609, and by removing §§ 810.901–810.903 as follows:

United States Standards for Soybeans

Sec.

Terms Defined

Principles Governing Application of the Standards

Grades, Grade Designations, and Grade Requirements

Special Grade, Special Grade Requirements, and Special Grade Designations

United States Standards for Soybeans [1]

Terms Defined

§ 810.601 Definition of soybeans.

Grain which consists of 50 percent or more of whole or broken soybeans (*Glycine max* (L.) Merr.) which will not pass readily through an 5/64-inch sieve and not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act.

§ 810.602 Definition of other terms.

For the purposes of these standards the following terms shall have the meaning stated below:

(a) *Classes.* There are two classes for soybeans:

(1) *Yellow soybeans.* Soybeans which have yellow or green seed coats, and which in cross section, are yellow or have a yellow tinge, and may include not more than 10.0 percent of soybeans of other colors.

(2) *Mixed soybeans.* Soybeans that do not meet the requirements of the class Yellow soybeans.

(b) *Damaged kernels.* Soybeans and pieces of soybeans which are badly ground-damaged, badly weather-damaged, diseased, frost-damaged, heat-damaged, insect-bored, mold-damaged, sprout-damaged, stink-bug-stung, or otherwise materially damaged. Stinking-stung kernels are considered damaged

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

kernels at the rate of one-fourth of the actual percentage of the stung kernels.

(c) *Distinctly low quality.* Soybeans which are of obviously inferior quality because they are in an unusual state or condition, and which cannot be graded properly by use of the other grading factors provided in the standards. Distinctly low quality includes the presence of any objects too large to enter the sampling devices; i.e., large stones, wreckage, or similar objects.

(d) *Foreign material.* All matter, including soybeans and pieces of soybeans, which will readily pass through an 5/64-inch sieve and all matter other than soybeans remaining on the sieve after sieving.

(e) *Heat-damaged kernels.* Soybeans and pieces of soybeans which are materially discolored and damaged by heat.

(f) *Moisture.* Water content in soybeans as determined by an approved device in accordance with procedures prescribed in FGIS Instructions.[2]

(g) *Purple mottled or stained.* Soybeans which are discolored by the growth of a fungus; or by dirt; or by dirt-like substance(s) including nontoxic inoculants; or by other nontoxic substances.

(h) *Soybeans of other colors.* Soybeans which have green, black, brown, or bicolored seed coats. Soybeans which have green seed coats will also be green in cross section. Bicolored soybeans will have seed coats of two colors, one of which is brown or black, and the brown or black color shall cover 50 percent of the seed coats. The hilum of a soybean is not considered a part of the seed coat for this determination.

(i) *Splits.* Soybeans with more than ¼ of the bean removed and which are not damaged.

(j) *Stones.* Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(k) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic inch capacity) as determined on the original sample using an approved device in accordance with procedures prescribed in FGIS Instructions.[2] Test weight per bushel is expressed in whole and half pounds with a fraction of a half pound disregarded.

(l) 5/64 *inch sieve.* A metal sieve 0.032 inch thick perforated with round holes 0.125 (5/64) inch in diameter with approximately 4,736 perforations per square inch.

Principles Governing Application of Standards

§ 810.603 Basis of determination.

(a) *Distinctly low quality.* The determination of distinctly low quality is made on the basis of the lot as a whole at the time of sampling when a condition exists that may or may not appear in the representative sample and/or the sample as a whole.

(b) *Certain quality determinations.* Each determination of class, heat damaged kernels, damaged kernels, splits, and soybeans of other colors is made on the basis of the grain when free from foreign material.

(c) *All other determinations.* All other determinations are made on the basis of the sample as a whole. When a condition exists that may not appear in the representative sample, the determination may be made on the basis of the lot as a whole at the time of sampling in accordance with procedures prescribed in the Grain Inspection Handbook.[2]

§ 810.604 Temporary modifications in equipment and procedures.

The equipment and procedures referred to in the soybean standard are applicable to soybeans produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of soybeans may require temporary modifications in equipment or procedures to obtain results expected under normal conditions. When these adjustments are necessary, proper notification will be made in a timely manner. Adjustments in interpretations (i.e., identity, quality, and condition) are excluded and shall not be made.

§ 810.605 Percentages.

(a) Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(1) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure; e.g., 0.46, report as 0.5.

(2) When the figure to be rounded is followed by a figure less than 5, retain the figure; e.g., 0.54, report as 0.5.

(3) When the figure to be rounded is even and followed by the figure 5, retain the even figure. When the figure to be rounded is odd and followed by the figure 5, round the figure to the next higher number; e.g., 0.45 report as 0.4; 0.55; report as 0.6.

(b) Percentages shall be stated in whole and tenth percent to the nearest tenth percent, except when determining splits. The percentage of splits is stated in whole percent with a fraction of a percent disregarded.

Grades, Grade Requirements, and Grade Designations

§ 810.606 Grades and grade requirements for soybeans.

The following grades and grade requirements are applicable under these standards. In Mixed soybeans, the factor "soybeans of other colors" will be disregarded.

Grade	Minimum test weight per bushel (pounds)	Maximum limits of—				
		Splits (percent)	Damaged kernels		Foreign material (percent)	Soybeans of other colors(percent)
			Total (percent)	Heat damaged (percent)		
U.S. No. 1	56.00	10.0	2.0	0.2	1.0	1.0
U.S. No. 2	54.00	20.0	3.0	0.5	2.0	2.0
U.S. No. 3[1]	52.00	30.0	5.0	1.0	3.0	5.0
U.S. No. 4[2]	49.00	40.0	8.0	3.0	5.0	10.0

U.S. Sample grade: U.S. Sample grade shall be soybeans which:

(a) Do not meet the requirements of U.S. No. 1, 2, 3, or 4; or

(b) Contain 8 or more stones which have an aggregate weight in excess of 0.2 percent of the sample weight, 2 or more pieces of broken glass, 3 or more crotalaria seeds (Crotalaria spp.), 2 or more castor beans (Ricinus communis), 4 or more pieces of an unknown foreign substance(s) or a commonly recognized harmful or toxic substance(s), 10 or more rodent pellets, bird droppings, or an equivalent quantity of other animal filth in 1,000 grams of soybeans; or

(c) Have a musty, sour or commercially objectionable foreign odor (except garlic odor); or

(d) Are heating or otherwise of distinctly low quality.

[1] Soybeans which are purple mottled or stained shall be graded not higher than U.S. No. 3.

[2] Soybeans which are materially weathered shall be graded not higher than U.S. No. 4.

§ 810.607 Grade designation.

(a) *Grade designations for soybeans.* (See also § 810.608.) The grade designations for soybeans shall include in the following order: (1) The letters "U.S."; (2) The number of the grade or the words "Sample grade"; (3) The class; and (4) Each applicable special grade (See also § 810.609). In the case of Mixed soybeans, the grade designation shall also include, following the name of the class, the approximate percentages of Yellow soybeans and soybeans of other colors in the mixture.

[2] Requests for information concerning inspection and certification procedures, approved devices, criteria for approved devices, and requests for approval of devices should be directed to the Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, D.C. 20250.

(b) *Optional grade designations.* Soybeans may be certified (under certain conditions [2]) when supported by official analysis, as "U.S. No. 2 or better Soybeans," "U.S. No. 3 or better Soybeans," and the like. The optional grade designations for soybeans shall include the name of the applicable class immediately preceding the word "soybeans" on the grade designation. The special grade designation, when applicable, also shall be included (under certain conditions [2]) in the certification.

Special Grades, Special Grade Requirements, and Special Grade Designations

§ 810.608 Special grades and special grade requirements.

A special grade, when applicable, is supplemental to the grade assigned under § 810.606. Such special grades are established and determined as follows:

(a) *Garlicky soybeans.* Soybeans which contains 5 or more garlic bulblets in a 1,000 gram portion.

(b) *Infested soybeans.* Soybeans which are infested with live weevils or other insects injurious to stored grain as set forth in the Grain Inspection Handbook.[2]

§ 810.609 Special grade designations.

Special grade designations shall be made in addition to all other information prescribed in § 810.607. The grade designation for garlicky and infested soybeans shall include in the order listed, following the applicable class, the word "Garlicky" and "Infested," as warranted, and all other information prescribed in § 810.607.

§§ 810.901–810.903 [Removed]

* * * * *

Dated: April 17, 1985.

Dr. Kenneth A. Gilles,

Administrator, FGIS.

[FR Doc. 85–10347 Filed 4–30–85; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 1032

[Milk Order No. 32]

Milk in the Southern Illinois Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the month of April 1985 the provisions of the Southern Illinois milk order relating to how much milk may be moved directly from farms to nonpool plants and still be priced under the order. The suspension was requested by six cooperative associations that represent a substantial majority of the producers who supply the market. The suspension is needed to provide additional flexibility to allow efficient and orderly adjustments by market participants to changes in marketing conditions caused by the April 1, 1985, termination of the St. Louis-Ozarks order.

EFFECTIVE DATE: May 1, 1985.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued April 4, 1985; published April 9, 1985 (50 FR 13976).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to insure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southern Illinois marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on April 9, 1985 (50 FR 13976) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing the suspension were received.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice and other available information, it is hereby found and determined that for the month of April 1985 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1032.13(b)(2), the words "on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer".

Statement of Consideration

This action removes the limit on the amount of milk that may be diverted from pool plants to nonpool plants during the month of April 1985. The order now provides that during the month of April not more than 8 days of production of a producer may be diverted to nonpool plants. During the following months of May through July the order does not limit the amount of milk that may be diverted to nonpool plants.

The suspension was requested by six cooperative associations that represent a substantial majority of the producers who supply the market. The suspension is necessary to provide additional flexibility for market participants to adjust to changes in marketing conditions occurring as a result of the April 1, 1985, termination of the adjacent St. Louis-Ozarks order. As a result of that termination a number of fluid milk plants in the St. Louis metropolitan area, and a substantial volume of producer milk associated with such plants, will be regulated under the Southern Illinois order. Significant marketing adjustments will have to be made by the cooperative associations who supply the fluid milk needs of the market to accommodate the structural changes in the market.

In view of these circumstances, it is concluded that the aforesaid provisions should be suspended to ensure the orderly marketing of milk supplies. The suspension will provide greater flexibility in making adjustments to the changed marketing conditions. The April through July period of no limits on diversions of milk to nonpool plants (there are no diversion limitations during May–July) will allow for adjustments to the termination of the St. Louis-Ozarks order to be made in an efficient manner.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concening this suspension. No comments opposing the suspension were received.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1032

Milk marketing orders, Milk, Dairy products.

PART 1032—[AMENDED]

It is therefore ordered, That the following language in § 1032.13 of the order is hereby suspended for the month of April 1985:

In § 1032.13(b)(2), the words "on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer".

Effective date: May 1, 1985.

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

Signed at Washington, D.C. on: April 24, 1985.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 85–10527 Filed 4–30–85; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1106

[Milk Order No. 106]

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain standards for pooling plants that are operated by cooperative associations under the Southwest Plains order during the months of April through August 1985. The action removes the requirement that certain plants operated by cooperative associations need to be located in the marketing area or in a county adjacent to the marketing area. The suspension was requested by Mid-America Dairymen, Inc., a cooperative association that operates supply plants and represents producers who supply the fluid milk needs of distributing plants located in southwest Missouri that will be regulated under the Southwest Plains order because of the termination of the adjacent St. Louis-Ozarks order effective April 1, 1985. Without the suspension, costly and inefficient movements of milk would have to be made solely for the purpose of assuring that dairy farmers, who supply the fluid milk needs of southwest Missouri plants, will have their milk priced and pooled under the order.

EFFECTIVE DATE: May 1, 1985.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Proposed Suspension: Issued April 4, 1985; published April 9, 1985 (50 FR 13977).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to insure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the Federal Register on April 9, 1985 (50 FR 13977) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing the suspension were received.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice and other available information, it is hereby found and determined that for the months of April through August 1985 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1106.7(c), the words "located in the marketing area or in a county adjacent to the marketing area".

Statement of Consideration

The order currently provides for the pooling of cooperative association plants that are located in the marketing area or a county adjacent to the marketing area if 50 percent or more of the producer milk of members of cooperative associations that operate such plants is physically received at distributing plants. The suspension removes the requirement that cooperative association plants need to be located in the marketing area or in a county adjacent to the marketing area during the months of April through August 1985.

The action was requested by Mid-America Dairymen, Inc., (Mid-Am) a cooperative association that operates plants and represents producers who supply the fluid milk needs of distributing plants located in southwest Missouri. The distributing plants in this area were regulated under the St. Louis-Ozarks order. There is every indication that these distributing plants, and the supplies of producer milk associated with such plants, will become associated with the Southwest Plains order because of the termination of the St. Louis-Ozarks order effective April 1, 1985.

Mid-Am supply plants did supply fluid milk to the southwest Missouri distributing plants during the past fall and winter months and constitute a part of the reserve supply for these distributing plants. Mid-Am indicates that during the months of April through August, there are sufficient supplies of milk available to supply the fluid needs of southwest Missouri distributing plants on a direct-shipped basis. However, since Mid-Am's supply plants are not located in the Southwest Plains marketing area or in a county adjacent to the marketing area, Mid-Am will not be able to pool the milk of its member producers without making costly and inefficient shipments of milk from the supply plants to the distributing plants. With a suspension action, the milk can be pooled on the basis of Mid-Am's total performance in supplying 50 percent or more of its milk supply directly to pool distributing plants, thus eliminating the need to make costly and inefficient movements of milk solely for the purpose of pooling the milk of dairy farmers who supply the fluid milk needs of the southwest Missouri distributing plants.

Interested parties were given an opportunity to submit written data, views, or arguments concerning the suspension. Comments supporting the action were received from Associated Milk Producers, Inc., a cooperative association that represents a substantial majority of the producers who supply the Southwest Plains market, and Kraft, Inc., a handler who operates a supply plant pooled under the Southwest Plains order and a plant at Springfield, Missouri, that receives milk from producers who have been pooled under the former St. Louis-Ozarks order. These parties supported the suspension to promote transportation and handling efficiencies. No views in opposition to the suspension were received.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to assure the orderly marketing of milk in the marketing area in that without the suspension costly and inefficient movements of milk would be made solely for pooling purposes;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following language in § 1106.7 of the order is hereby suspended for the months of April through August 1985:

In § 1106.7(c), the words "located in the marketing area or in a county adjacent to the marketing area".

Effective date: May 1, 1985.

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

Signed at Washington, D.C. on: April 24, 1985.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 85–10528 Filed 4–30–85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 376 and 399

[Docket No. 50468–5068]

Hughes Helicopters, Model 500/530 Series, Civil Version; Licensing Requirement on Exports to All Country Groups

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Regulations prohibit the export and reexport of virtually all commodities and technical data to destinations in Country Group Z, which includes North Korea. Exports of certain Hughes helicopters have recently occurred in violation of these Regulations.

In this regard, on February 1, 1985, an order temporarily denying all export privileges to Kurt Behrens and Delta-Avia Fluggerate GmbH and certain named related parties was entered by the Department of Commerce (50 FR 5288, Feb. 7, 1985).

This rule imposes a licensing requirement on exports and reexports of Hughes helicopters, Model 500/530 series, civil version, including specially designed components, to all Country Groups to assure that further violations of the ban on exports to destinations in Country Group Z do not occur. This licensing requirement will expire in 90 days, unless modified or extended. During this time period, the Department, in consultation with other Government agencies, will review U.S. export policy regarding the exports of all commercial helicopters.

DATES: This rule is effective April 29, 1985 until July 29, 1985.

FOR FURTHER INFORMATION CONTACT: Bruce Webb, Capital Goods and Production Materials Division, Office of Export Administration, Telephone (202) 377–3806.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) are inapplicable because this regulation involves a foreign affairs function of the United States.

2. This rule contains a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Applicants for the validated export license required by this Notice will use Form ITA–622P. This form has been approved by the Office of Management and Budget under control number 0625–0001. Applicants for reexports will use Form ITA–699P. This form has been approved by the Office of Management and Budget under control number 0625–0009.

3. Because a notice of proposed rulemaking is not required to be published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Parts 376 and 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 368–399) are amended as follows:

1. The authority citation for 15 CFR Parts 368–399 continues to read as follows:

Authority: Secs. 203, 206, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704), E.O. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513, March 29, 1985).

PART 376—[AMENDED]

2. Section 376.5 is added to read as set forth below.

§ 376.5 Helicopters.

Under ECCN 4461B a validated license is required for the export of Huges Model 500/530 series civil version helicopters, including specially designed components, to all Country Groups. Subject to other applicable licensing policies, the policy is to approve license applications and reexport requests for these commodities to all Country Groups, except Groups S and Z, if OEA is satisfied that the restrictions on exports and reexports to Country Group Z will not be violated (see § 385.1).

PART 399—[AMENDED]

3. Supplement No. 1 to § 399.1 (the Commodity Control List) is amended by adding in Commodity Group 4, Transportation Equipment, entry 4461B to read as follows:

§ 399.1 [Amended]

4461B Hughes, Model 500/530 Series helicopters (civil versions); including specially designed components.

Controls for ECCN 4461B

Unit: Report helicopters in number; components in dollar value.

Validated License Required: Country Groups: Q S T V W Y Z.

GLV $ Value Limit: $0 for all destinations.

Processing Code: TE.

Reason for Control: Foreign Policy.

Special Licenses Available: None.

Technical Data: See 379.4(d).

Special Foreign Policy Controls: (1) This validated licensing requirement is maintained for all Country Groups to preclude diversion to S and Z destinations. (2) The licensing

requirement is this ECCN 4461B expires 90 days after its effective date. (3) For commodities defined in this entry, foreign policy controls apply to Libya, Iran, the Republic of South Africa and Namibia for both aircraft and helicopters regardless of value.

Dated: April 26, 1985.

William T. Archey,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 85-10619 Filed 4-29-85; 8:45 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 239

Guides Against Deceptive Advertising of Guarantees

AGENCY: Federal Trade Commission.

ACTION: Final Revision of Guides.

SUMMARY: The Commission has revised the Guides Against Deceptive Advertising of Guarantees, 16 CFR Part 239, which were adopted in 1960. The Guides, as presently constituted, call for extensive disclosure of warranty terms, particularly in advertising of warranties that promise a remedy in the event of product defects of malfunctions. The Guides also address a number of other topics including: savings guarantees (representations that certain savings will be realized), "satisfaction" or "money back" guarantees, "lifetime" guarantees, the obligation to perform advertised warranties, and the use of guarantees as misrepresentations about the attributes of products.

The Commission has revised the Guides to eliminate the provisions calling for disclosures of warranty terms in advertising of warranties and guarantees that promise a remedy in the event of product defects or malfunctions. In place of these extensive disclosures, the revised Guides call for a simple, brief disclosure that the actual warranty document is available for consumers to read before they buy the advertised product.

The basic concepts of the other provisions have been retained, except the provision dealing with savings guarantees, and the provision dealing with warranties as misrepresentations of material fact. These two provisions have been deleted. The wording of the Guides has been modified to be more consistent and direct throughout.

The Commission has been reviewing the existing Guides since the 1976 adoption, pursuant to the Magnuson-Moss Warranty Act, of the Rule on Disclosure of Written Consumer Product Warranty Terms and Conditions, 16 CFR Part 701 (the "Disclosure Rule") and the Rule on Pre-Sale Availability of Written Warranty Terms, 16 CFR Part 702 (the "Pre-Sale Availability Rule"). Among other things, the Act and the Rules assure that the terms of consumer product written warranties are clearly disclosed in a single document and that the warranty documents are made available for consumers to examine before they purchase warranted products. Thus, the current situation is dramatically different from that which prevailed when the Guides were adopted. At that time consumers may have had to depend upon warranty advertising as their primary source of pre-purchase information about warranties.

The revisions of the Guides are based upon public comments and survey research. Comments were received in response to the Commission's solicitation in the **Federal Register** on how the existing Guides might be revised to encourage non-deceptive warranty advertising, 45 FR 51836 (Aug. 5, 1980). There were two surveys conducted in conjunction with this matter, the Warranty Print Advertising Survey, conducted in 1981, and the Warranty Evaluation Survey, conducted in 1982–1983.

This notice explains the revisions, section by section, discusses the reasons for the revisions, and sets forth the revised and renamed Guides for the Advertising of Warranties and Guarantees.

DATE: The Revised Guides are effective as of May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Allen Hile, Attorney, Division of Marketing Practices, 6th Street at Pennsylvania Avenue, NW., Washington, D.C. (202) 523–3553.

SUPPLEMENTARY INFORMATION: The remainder of this announcement is divided into five sections. Section A describes the existing Guides. Section B summarizes the comments received in response to the August 5, 1980, **Federal Register** Notice. Section C sets forth relevant results of the surveys that were conducted in conjunction with this matter. Section D explains the revisions, provision by provision, and, finally, Section E sets forth the revised Guides for the Advertising of Warranties and Guarantees.

Section A—The Existing Guides Against Deceptive Advertising of Guarantees

In 1960, the Commission issued its *Guides Against Deceptive Advertising of Guarantees*, 16 CFR Part 239, based upon numerous Commission cases concerning the advertising of warranties and guarantees.

Section 239.0 of the existing Guides states that the Guides enunciate principles to be used by the Commission in determining whether representations about warranties or guarantees made in advertising or otherwise violate section 5 of the Federal Trade Commission Act.

Existing § 239.1 of the Guides pertains to representations made in advertising or otherwise and calls for any advertisement that mentions a guarantee or warranty on the advertised product to disclose the nature and extent of the warranty or guarantee, including: (1) What product or part of the product is guaranteed; (2) what characteristics or properties of the designated product or part are covered by, or excluded from, the guarantee; (3) what is the duration of the guarantee; and (4) what, if anything, any one claiming under the guarantee must do before the guarantor will fulfill its obligation under the guarantee (such as return the product or pay service or labor charges). Existing § 239.1 also calls for disclosure in warranty advertising of the manner in which the guarantor will perform, namely, a statement of exactly what the guarantor undertakes to do under the guarantee (for example, repair or replace the product, or refund the purchase price). Finally, existing § 239.1 calls for disclosure of the identity of the guarantor in advertising that mentions a guarantee or warranty.

Existing § 239.2 of the Guides pertains to pro rata guarantees, which are guarantees that provide a credit or refund that declines regularly according to some specified formula over some specified period of time. This section calls for disclosure of the basis upon which the remedy offered by such a guarantee or warranty is pro rated. The other disclosures in § 239.1 that apply generally to all defects guarantees also apply to pro rata warranties.

The other Guide sections cover a range of specific topics relating to warranties or guarantees.

Section 239.3 of the existing Guides provides that a "satisfaction," or "money back," or similar guarantee is to be interpreted to mean that the full purchase price will be refunded at the purchaser's option. The section also calls for disclosure of "any conditions or limitations whatsoever" that apply to the guarantee.

Existing § 239.4 deals with "lifetime" guarantees and calls for disclosure of the life to which the term "lifetime" refers if it is any life other than that of the purchaser. Section 239.6 of the

existing Guides provides that a guarantor should fulfill promises made in advertisements or other representations about warranties.

One of two Guide sections that have been deleted is existing § 239.5, which pertains to guarantees of savings. It calls for disclosure of what the guarantor will do if the promised savings are not realized, and of any time limitations that apply. The other section which has been deleted is § 239.7 of the existing Guides, which provides that a warranty should not be used as a misrepresentation of a product's attributes.

Section B—Summary of Comments

On August 5, 1980, the Commission published a notice in the **Federal Register** calling for comment on how the Guides might be revised to facilitate non-deceptive advertising of warranties [45 FR 51838]. The notice explained generally that the Guides were under review and set forth ten specific questions concerning what aspects of warranty advertising are deceptive and what approach the Commission should follow with regard to warranty advertising. The notice focused on the impact of the Warranty Act and Rules with respect to the Guides, and sought detailed comment with respect to those provisions of the Guides which called for disclosure of warranty terms in advertising. The notice did not specifically highlight or solicit comment on the other sections of the Guides, for example, those sections dealing with lifetime guarantees, savings guarantees, and satisfaction guarantees.

A total of 41 comments were received, including three that were received after the comment period ended and were retained because of the absence of prejudice resulting from their inclusion in this record.

The overwhelming majority of comments came from the industries affected by the Guides: Manufacturers, retailers, broadcasters, and their respective trade associations. Comments were also received from the American Association of Advertising Agencies, The Association of National Advertisers, the American Advertising Federation, and one advertising agency. A variety of other organizations also commented, including the Better Business Bureau of Cleveland, the Attorneys General of South Carolina and Puerto Rico, and the Antitrust Division of the United States Department of Justice. Only one consumer group, Consumer H.E.L.P., submitted comments.

Most comments did not address the specific questions posed in the Notice, but instead made general statements about regulation of warranty advertising. Therefore, the comments are summarized under those topics which most commenters addressed.

1. Effectiveness of Warranty Advertising in Promoting Sales

Many commenters felt that warranty advertising can be an effective means of promoting sales. Three commenters cited survey results tending to support the proposition that warranty adverstising is effective in promoting sales. One of these commenters noted that the results of its most recent consumer surveys showed that 29% of the respondents were strongly influenced by warranties in choosing replacement tires. Another of these commenters stated that, based upon a 1980 consumer test study it conducted which showed that the company's limited warranty "is held in high regard by the consuming public," it believes warranty advertising is effective. The third of these commenters cited a study showing that firms with smaller market shares are approximately twice as likely to rely on warranty advertising than their larger, better established competition.

Several commenters expressed the view that promoting on the basis of warranty coverage is not as effective as other kinds of promotion, while other commenters stated that warranty advertising is not *per se* ineffective but at present is made ineffective by the Guides.

2. Need for Revision of the Guides

Commenters overwhelmingly favored revising or rescinding the Guides. The majority of commenters argued that the Warranty Act and the Disclosure and Pre-Sale Availability Rules have obviated the need for the Guides. The National Automobile Dealers Association, for example, pointed out that every disclosure requirement of the Guides is covered by the Disclosure Rule, and that "in light of [the Pre-Sale Availability] Rule . . . consumers may obtain complete warranty information, prior to sale, without having to rely on a complete disclosure in warranty advertising."

More than half of the commenters stated that the Guides inhibit warranty advertising and a significant proportion of the commenters described their own particular negative experiences under the Guides. Most of these commenters cited the amount of space or time needed for the disclosures and the attendant increases in costs as the principal reason that the Guides discourage warranty advertising. For example, the American Association of Advertising Agencies stated:

> When time is precious, seconds spent providing excessively technical data about warranty provisions that are readily available at the point of sale often add relatively little to the advertisement's principal purpose.

Several commenters stated that they had been deterred from advertising their warranties because disclosure of the type required by the Guides would substantially dilute the primary message of their television, radio and short print advertising.

Several commenters contended that the Guides call for disclosure of more information than consumers can use in the context of an advertisement. The American Advertising Federation stated that studies and surveys reveal that consumers do not give the kind of attention to either written or broadcast advertisements that would be needed to understand complex legal documents like warranties, even if they were fully explained in advertising. The National Association of Broadcasters stated:

> Such complete [warranty] information [as the Guides call for] cannot be digested, understood and retained by consumers receiving the information in a 30 or 60-second announcement—which also must contain the main selling message . . . Information about the nature and extent of warranties, as well as the manner of performing a warranty, must be reviewed and carefully examined to be useful to consumers in purchasing decisions—not simply flashed across a screen or quickly recited.

3. Deceptive Words or Phrases in Warranty Advertising

A number of commenters addressed the specific question posed by the **Federal Register** Notice regarding whether certain words or phrases used in warranty advertising are inherently deceptive. No studies or surveys were presented on this issue; however, commenters identified certain words or phrases they felt were deceptive. Several commenters stated that the use of the term "lifetime" in warranty advertising is deceptive. Sears expressed the view that the term is "inherently deceptive if no other information to clarify what 'life' is referred to were supplied." The Consumer Electronics Group of the Electronic Industries Association stated that the term "extended warranty" could be deceptive without information that indicates whether it refers to a service contract or to warranty protection provided without consideration by a retailer to supplement a manufacturer's warranty. Volkswagen commented that

using the word "limited" in conjunction with the duration of the warranty "leads to the conclusion that the warranty is limited in time or mileage only". Volkswagen also argued that "the term 'full' is thought [by consumers] to be indicative of whether or not all or only some parts of the vehicle are covered by warranty." Three commenters stated that the phrase "full warranty" is deceptive if not all parts are covered by the warranty.

4. Commenters' Recommendations for Revision of the Guides

Although the commenters were overwhelmingly in favor of modifying the Guides, there was no clear consensus on what approach the Commission should take on the regulation of warranty advertising. Some commenters favored rescinding the Guides and regulating warranty advertising on a case-by-case basis. Others sought revision of the existing Guides to make them less burdensome. Some commenters (including some who supported rescission of the Guides) supported certain limited disclosures in all warranty advertising, such as a reference to pre-sale availability of disclosure of the warranty's limitations, its designation, or its duration. (The **Federal Register** Notice specifically sought comment on whether a disclosure of pre-sale availability or a limitations disclosure should be required. It also asked for suggestions as to other types of disclosures that might prevent warranty advertising from being deceptive.) Differing views were expressed as to whether the broadcast media should be treated in a different manner than print media.

Twenty-four commenters recommended that the Commission rescind the Guides and proceed against deceptive warranty advertising on a case-by-case basis under section 5. Commenters cited a number of reasons in support of this recommendation including: That there is no reason that the treatment of warranty advertising should be different from that of other forms of advertising, which are generally regulated on a case-by-case basis; that rules and guides are overbroad because they attempt to address potential deception prospectively; and that formulating guides appropriate to the advertising of complex, widely differing warranties on a myriad of consumer products is a very difficult and perhaps insurmountable problem.

On the other hand, seven commenters favored the issuance of revised, less restrictive Guides. Sears argued in favor of this approach:

> . . . Sears . . . want[s] to be certain of meeting the Commission's standards of what it considers not to be misleading or deceptive. The lack of guidance on what the Commission may consider proper disclosure could be as stifling to the advertising of warranties as the present burdensome requirements. Sears does not want to wait for guidance to be developed after years of case-by-case adjudication. To take full promotional advantage of less burdensome requirements, Sears needs quick clear guidance from the Commission.

Similarly, General Motors commented that a revised Guide, putting all competitors on notice of the Commission's requirements, would assist the industry in "avoiding objectionable practices which might otherwise occur over the relatively lengthy period necessary for the Commission to make its views known" by means of a case-by-case approach.

Several of the commenters who favored retaining but revising the Guides made specific recommendations as to what the contents of the revised Guides should be. The American Advertising Federation recommended that the existing Guides be retained and reorganized. They also urged that a new section be added that provided the failure to make the disclosures required in the Guides would not be deceptive as long as (1) the product were covered by the Pre-sale Availability Rule or the advertiser otherwise made the warranty available, and (2) the advertisement "invite[d] consumers to read the full text of the advertised guarantee" at the retailer's place of business. The National Retail Merchants Association urged the Commission to issue guides tracking staff's 1979 warranty advertising rulemaking proposal, with some modifications.[1] Sears recommended Guides calling for disclosure of (1) the identity of the warrantor, if different from the advertiser of if unclear from the context of the advertisement; (2) the product, part or characteristic covered; (3) the duration; and (4) pre-sale availability; or full disclosure of warranty terms as called for by the present Guides. Volkswagen recommended Guides calling for disclosure of the duration; the fact that only some parts are covered or that labor is not covered, if this were the case; and pre-sale availability. Zayre recommended disclosure of the "full" or "limited" designation, exclusions of any main components from the coverage of full warranty, and pre-sale availability.

Many commenters expressed the view that although the existing Guides' disclosures were unduly burdensome and unnecessary, some disclosures are needed to minimize the possibility that consumers will be deceived by warranty advertising. Fourteen commenters favored disclosure in warranty advertising of the fact that the warranty is available prior to sale.

Several commenters opposed mandatory disclosure of the fact of pre-sale availability. The reasons cited in support of this view included: that the disclosure would quickly lose its effectiveness; that the disclosure is unnecessary because the public should already be aware of the fact that warranties are required to be available and that the disclosure would be ineffective because few consumers take advantage of point-of-sale warranty information.

Several commenters supported disclosure of warranty limitations. Dunlop Tire Company supported a general disclosure that the warranty has limitations, along with a disclosure of pre-sale availability. A number of commenters made suggestions for more specific disclosures concerning warranty limitations, including: a disclosure of major limitations in a full warranty; a disclosure of any major restriction on the parts covered or the remedy offered in any warranty (such as an exclusion of labor charges); and a disclosure of identity of the warrantor. In addition, twelve commenters favored disclosure of the "full" or "limited" warranty designation required by the Warranty Act.

Five commenters addressed the issue of whether treatment of broadcast media should be different from that of print media (although the difficulty of complying with the Guides in the context of broadcast media was mentioned by many other commenters). Three commenters favored treatment tailored to the different media. On the other hand, two commenters expressed the view that print and broadcast advertising should be treated in the same manner. For example, Volkswagen commented that different treatment for broadcast advertising would "penalize small advertisers who cannot afford TV. Advertising is advertising, whatever the medium used."

Section C—Survey Results

Empirical data obtained from two surveys, the Warranty Print Advertising Study and the Warranty Evaluation Study, which were conducted for the

[1] The staff recommendation included detailed requirements for various types of disclosures, depending upon whether the advertised warranty was a "full" warranty or a "limited" warranty under the Magnuson-Moss Warranty Act, 15 U.S.C. 2301 *et seq.* The Commission rejected staff's recommendation in November, 1979.

Commission, demonstrate that potential deception arising from partial disclosure of warranty terms in warranty advertising is, in fact, a genuine problem. These surveys indicate that consumers' expectations about warranty coverage are enhanced by advertising that mentions the warranty on a product. The methodology and results of these surveys are described in greater detail below.

1. The Warranty Print Advertising Survey

This survey was conducted by interviewing shoppers in shopping malls. Interviews were conducted with 440 respondents from three locations: Philadelphia, Pennsylvania; Florence, Kentucky; and Seattle, Washington. To ensure that the sample was generalizable to the American public, quota sampling procedures were employed.

One section of the study required respondents to match one of several warranty advertising claims with a description of the warranty that was the subject of the claim. The question thus tested respondents' understanding of six different warranty claims with varying levels of disclosure, ranging from mere mention of the warranty and its duration at the lowest level, to total explication of virtually all of the terms of the warranty, pursuant to the existing Guides, at the highest level.

Interviewers read one of the claims to each respondent and then asked the respondent to select the best description of the warranty from a printed list. The list contained five different descriptions. For each claim the list contained one description which was correct; all other descriptions either overestimated or underestimated the warranty's coverage.

The general trend that the results of this question revealed is that the less information respondents receive about a warranty in an advertisment, the more likely they are to overestimate warranty coverage. For example, 54.2% of the respondents who were read the claim with only the fact that the product was "guaranteed" and that the duration of the guarantee was two years overestimated the coverage provided by the underlying warranty; by contrast, only 8.4% of the respondents who were read the claim which described all the terms of warranty as called for by the existing Guides overestimated the coverage.

It is noteworthy that unlike the portion of the survey described below (which was conducted at a point earlier in the interviews) this portion of the study tested warranty claims outside the context of specific advertisements. Analysis of the responses to other questions (described below) suggests generally that in the context of a print advertisement the level of disclosure has no significant impact upon respondents' expectations about coverage of an advertised warranty. However, when the respondents' attention was directed to a specific claim in the portion of the study described above, the amount of information in the claim did influence the respondents' estimation of coverage. This may suggest that when respondents focus on the warranty claim, as they might be expected to do when actually in the market for the advertised product, the amount of information contained in the claim does influence respondents' expectations about coverage of the advertised warranty.

Another portion of the study confirmed that the mention of a warranty raises expectations about coverage. The interviewer gave each respondent three fictitious advertisements, one for a car, one for a TV set, and one for an automatic coffeemaker. One of these three advertisements included no warranty claim. Each of the other two advertisements included one of the same five warranty claims used in the other part of the survey, described above. The warranty claims were different in each of the two advertisements containing warranty information.

Interviewers then asked respondents two questions regarding the likelihood that the product has a warranty with certain specific terms of coverage. Respondents gave their answers in terms of a five-point scale, with 1 as "not at all likely" and 5 as "extremely likely."

The results of this part of the survey showed that respondents had higher expectations about the warranty coverage offered on a product when the product's advertisement contained a warranty claim. However, respondents who received advertisements with the disclosure provided for by the existing Guides did not have any more accurate understanding of the warranty coverage on the advertised product than did respondents who received advertisements with the less detailed disclosures. Further, the limitations disclosures that were tested did not have a significant reducing effect on the tendency to ascribe greater warranty coverage to a product when the advertisement mentioned a warranty.

The Warranty Print Advertising Survey results described above indicate a tendency on the part of respondents to overestimate coverage when they receive advertisements with information, whether partial or complete, about the warranty underlying the claim. Thus, the survey supports the proposition that partial warranty information may be misleading to consumers. However, the survey results also indicate that the "full disclosure" remedial approach of the existing Guides is not effective to ensure that consumers accurately comprehend the warranty coverage provided by an advertised warranty.

2. The Warranty Evaluation Survey

The Warranty Evaluation Survey is a comprehensive study of consumer awareness, attitudes and behavior concerning warranties both before and after purchase. Thus, the scope of this survey was much broader than that of the Warranty Print Advertising Survey, which had only warranty advertising as its subject.

The mail panel method was employed in the Warranty Evaluation Survey. The questionnaire, which was developed by the Commission's staff, was sent to 8,691 panel members. Responses were received from 73.8 percent of those contacted. Each respondent was asked a series of general questions as well as product-specific questions.

To summarize the results of the Warranty Evaluation Survey as they relate to the revision of the Guides, there are three main points. First, and most important, the Warranty Evaluation Survey confirmed the results of the Warranty Print Advertising Survey with respect to the tendency of warranty advertising to raise expectations about warranty coverage. Second, the Warranty Evaluation Survey amplified this finding by showing nearly all respondents believe warranties are important to consider in some purchases, and about 20 percent think that warranties are one of the top three considerations in purchasing decisions in general. Finally, despite the importance of warranties to respondents, something less than a quarter of all respondents actually read warranties before buying.

a. Warranty Advertising Raises Expectations About Warranty Coverage

A significant proportion of respondents to the Warranty Evaluation Survey indicated that warranty advertising tends to raise their expectations about the warranty. Nearly half of all respondents agreed, either strongly or to some degree, with the statement that "when an ad mentions a

product's warranty, it usually means the warranty coverage is especially good." People who had lower incomes, who were less educated, or who were over 65 were more likely to agree.

Another question on the survey asked respondents whether they agreed or disagreed with the following statement: "I don't really think about a product's warranty unless I see it mentioned in an advertisement." Nearly one third of all respondents agreed.

Thus, the results of the Warranty Evaluation Survey are fully consistent with the results of the Warranty Print Advertising Survey in showing that warranty advertising tends to encourage enhanced expectations about warranty coverage on the part of a significant proportion of respondents.

b. Warranties Are Important to Consumers

Several questions probed the issue of the importance of warranties to consumers in making purchasing decisions. The responses to these questions support the conclusion that warranty advertising can be an effective way to promote a product. Eighteen percent of respondents said that warranties were among the top three factors in selection of a product. Over fifty percent counted warranties as important and more than three quarters said they would pay more for a product with a better warranty.

In a separate question, about 88 percent of respondents felt that the warranty was an important consideration, while just under twelve percent of respondents indicated that seeing the warranty prior to purchase was *not* important regardless of the price of the product.

c. Most Consumers Do Not Examine Warranties Before Buying Warranted Products

The survey probed the degree to which respondents actually used warranties in their purchasing decisions. Responses to several questions indicate that most consumers do not examine warranties before buying whether or not they are aware of the availability of warranties.[2] The results of the survey on this issue indicate that somewhere between 7.4 percent and 27 percent of consumers either read or look at warranties prior to purchase.

Section D—Explanation of the Revision of the Guides

Section 239.1 Purpose and scope of the Guides.

This Section supplants § 239.0 of the existing Guides. This section make five important points. First, it states that the Commission intends the Guides as an aid to advertisers in avoiding violations of the law. This general introductory statement is followed by important qualifying statements, described below.

Second, the section notes that the revised Guides are based upon Commission case law, but also reflect the changes in the legal landscape effected by the Magnuson-Moss Warranty Act. The revised Guides do not abrogate the case law. However, many of the cases were decided before the 1975 enactment of the Magnuson-Moss Warranty Act. The Guides generally are intended to retain the principles enunciated in the cases and interpret them in light of the Magnuson-Moss Warranty Act which assures availability of warranty information prior to sale.

Third, the section strongly cautions that section 5 of the FTC Act, and not the Guides, is the ultimate legal standard that applies to warranty advertising. The Commission's power to challenge warranty advertising that complies with the Guides, but is deceptive in some manner not addressed by the Guides, is not altered or diminished.

Fourth, the section notes that § 239.2 of the revised Guides, which calls for disclosure of pre-sale availability of warranties in warranty advertising, applies only to those products covered by the Pre-Sale Availability Rule, 16 CFR Part 702. The Commission has included this statement to clarify that it does not intend the pre-sale availability disclosure to be made in advertising of satisfaction guarantees or in advertising which promotes warranties on products that cost less than $15, or that are not consumer products within the scope of the Pre-Sale Availability Rule. The other sections of the revised Guides apply to such advertising. For guidance on subjects not addressed by the other sections of the revised Guides, advertisers of such products must look to the case law developed under Section 5 of the FTC Act and the Commission's recent Enforcement Policy Statement on Deception.

Finally, whereas the existing Guides expressly covered representations concerning warranties whether made in advertising or otherwise, this section makes it clear that the revised Guides pertain only to advertising of warranties or guarantees. Because the Magnuson-Moss Warranty Act and the Rules adopted under it require warranty documents to disclose the information called for by the existing Guides, it is unnecessary for the scope of the revised Guides to reach beyond warranty advertising.

Section 239.2 Disclosures in warranty advertising.

This section supplants the existing Guide provisions which call for extensive disclosure of warranty terms in advertising that mentions the warranty on the advertised product (Section 239.1, which applied generally to all guarantees or warranties, and § 239.2, which applied specifically to pro-rata guarantees or warranties).[3] In place of those extensive disclosures, the revised Guide §239.2(a) calls for disclosure in warranty advertising that promotes a product covered by the Pre-Sale Availability Rule, 16 CFR Part 702, of the fact that the warranty document is available for examination prior to purchase of the warranted product.[4]

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[2] The survey also probed consumer awareness of the availability of warranties prior to sale. It approached this issue in two different ways. The first question was very specific and dealt with the respondent's experience with a consumer product actually purchased within the twelve months previous to filling out the survey questionnaire. The second question probed the respondent's awareness in general about the availability of warranties prior to sale without reference to purchase of a specific product.

With regard to the respondent's experience with the availability of the warranty on a specific consumer product, the survey asked whether the written warranty on the specific product was available to him or her from the retailer before purchase. About 70 percent of the respondents indicated that the warranty was available for the specific product they had purchased, while 25 percent said they either did not look for the warranty or weren't sure whether it was available or not. The remaining respondents indicated that the warranty was not available.

The more general question about pre-sale availability yielded comparable results. Respondents were asked to agree or disagree with the following statement: "Generally, warranties are available to look at in the store before you make your purchase." Slightly more than 66 percent of the respondents agreed with this statement, while about 22 percent indicated that they believed warranties are generally *not* available prior to purchase. The remaining respondents did not know whether warranties are generally available.

Thus, the Warranty Evaluation Survey indicates that while a clear majority of consumers are aware that warranties are available prior to purchase, a significant minority generally lack awareness or knowledge about the availability of warranties prior to purchase.

[3] In replacing § 239.2 of the old guides with the new guide § 239.2 the note to old § 239.2 that "[pro rata] guarantees which provide for an adjustment based on a fictitious list price should not be used even where adequate disclosure of the price is made," has been dropped. Deletion of this note should not be interpreted to mean that such misrepresentations do not violate section 5 of the FTC Act.

[4] It is essential to note that the Commission intends the presale availability disclosure to convey to consumers that the actual warranty document is available at the point of sale, and not merely an oral summary of it, which may or may not accurately describe the warranty's terms and conditions.

Section 239.2(b) uses a similar approach for mail order and catalogue sales. This section is needed in addition to § 239.2(a) because the Pre-Sale Availability Rule provides for a different method of pre-sale availability for mail order and catalogue sales than for retail sales. The Pre-Sale Availability Rule provides that for catalogue or mail order sales either the warranty itself or a disclosure informing consumers that the warranty is available upon specific written request must be included in close conjunction to the description of the warranted product. Therefore, § 239.2(b) of the revised Guides provides that advertisements for mail order or catalogue sales should disclose "information sufficient to convey to consumers that they can obtain complete details on the written warranty free upon specific written request, or from the catalogue or solicitation (whichever is applicable)."

There are three basic reasons for eliminating those provisions of the existing Guides that call for warranty terms to be disclosed in advertising. First, the Warranty Act and Rules have significantly changed the manner in which warranty information is disclosed prior to sale. This change has obviated the need to disclose warranty information in advertising in order to provide this information to consumers prior to purchase. The Act and Rules require that complete warranty information be made available to consumers prior to sale. The Disclosure Rule, 16 CFR Part 701, requires disclosure of all warranty terms and conditions in the warranty document. The Pre-Sale Availability Rule, 16 CFR Part 702, requires that the warranty document be made available to consumers prior to purchase at the place where the warranted product is sold. The present situation of pre-sale availability of warranty terms is in marked contrast to the situation that existed when the existing Guides were promulgated. At that time, advertising disclosures in most cases may have been the only available source of information about warranty coverage prior to purchase. Thus, the implementation of the Warranty Act and Rules has made detailed disclosure of warranty terms in advertising unnecessary.

Second, the "full disclosure" approach of the Guides is not an effective means of providing consumers with complete and accurate warranty information. The Guides call for disclosure of lengthy and relatively complicated information. Both the comments and the research described in Section III, above, indicate that consumers are not able to use the comprehensive, detailed information made available by the existing Guides in the context of an advertisement. Examination of the warranty document prior to purchase, when there is an opportunity for detailed study and comparison, is a far more effective approach for obtaining information about warranty terms than are detailed disclosures in a print, radio or TV advertisement.

Third, the existing Guides tended to undercut two of the major goals of the Magnuson-Moss Warranty Act: promoting the availability of warranty information and encouraging competition on the basis of warranty coverage. As the comments described in Section II, above, indicate, the disclosure requirements of the existing Guides have discouraged advertisers from promoting their warranties in advertising. The lack of warranty advertising may also thwart competition on the basis of warranty coverage, since warrantors have less incentive to offer increased warranty protection if it is not economically feasible to advertise this feature.

Although a Guide calling for disclosure of virtually all warranty terms in warranty advertising is no longer appropriate, a limited disclosure concerning pre-sale availability of warranty information is necessary to prevent deception in warranty advertising and to achieve the goals of the Warranty Act. A disclosure urging consumers to examine the warranty document will act as an important qualifier of the warranty claim by drawing to the attention of consumers the fact that the advertisement neither contains nor purports to contain all of the material information concerning the warranty. The pre-sale availability disclosure is needed to counter expectations that consumers may form as a result of reasonably interpreting references to a warranty in advertising to contain complete and sufficient information obviating the need to examine the warranty before buying.

The Commission has recognized in numerous cases both prior to and since the publication of the Guides that advertising which promotes warranty coverage may be deceptive without additional disclosures.[5] Warranties frequently have significant conditions or limitations. It is unlikely that a warrantor will disclose all these conditions and limitations in an advertisement. The Commission has recognized that this partial disclosure of information (disclosure of certain features of a warranty but not all of its conditions and limitations) has great potential for deception. This conclusion is supported by the consumer research described in Section III, above, which indicates that if a warranty is mentioned, consumers tend to ascribe greater warranty coverage to the advertised product than if no warranty is mentioned, even if the advertisement indicates the warranty has significant limitations.

To remedy the possibility of deception in warranty advertising, the Commission has adopted revised Guide § 239.2, which encourages advertisers who refer to their warranties to disclose that complete details of the warranty can be seen where the product is sold. This disclosure will suffice to avoid the risk of deceiving consumers about the other conditions and limitations of the warranty when only certain warranty terms are discussed. It will not, however, avoid deception when an advertisement misrepresents, directly or by implication, the warranty's limitations or coverage (*e.g.*, when an advertiser describes the "complete protection" of a warranty that covers only some parts). In those cases advertisers may need to include additional information in their advertisements to dispel the misimpressions otherwise created, depending on the language of the advertisement and the coverage of the warranty. For most advertisements, compliance with the Guides should suffice.

The disclosure suggested in § 239.2 of the revised Guides is designed to encourage consumers to examine warranties prior to sale to correct misimpressions that may have been created by the advertisement. However, the disclosure does not specifically indicate to consumers *why* they should examine the warranty (*i.e.*, because there may be only partial information about the warranty coverage in the advertisement). A disclosure such as "limitations may apply," in conjunction with a reference to pre-sale availability might, therefore, be even more effective than the disclosure the Commission has adopted to remedy deception in warranty advertising. The Commission has not adopted this approach for two reasons. First, consumer research indicates that reference to warranty limitations does not significantly affect consumers' expectations of the warranty's limitations. Second, the Commission is unable to conclude that the benefits to consumers and to

[5] *See, e.g., Coro, Inc.* 63 F.T.C. 1164 (1963), 338 F.2d 149 (1st Cir. 1964).

competition that could result from a more detailed disclosure would outweigh the cost.[6] After a period of experimentation in the marketplace and with further information about consumer expectations, a more detailed disclosure may be found to be appropriate.

In adopting the disclosure concerning pre-sale availability the Commission has rejected three other possible approaches to warranty advertising: (1) Completely rescinding the Guides and proceeding solely on a case-by-case basis; (2) prohibiting specific language found to be deceptive in warranty advertising (*e.g.*, "X year limited warranty," or "lifetime guarantee"); or (3) requiring that if certain representations are made, certain disclosures should be included (*e.g.*, if the advertisement stressed benefits of the warranty, major limitations would have to be disclosed).

The Commission rejected rescinding the Guides entirely and proceeding solely on a case-by-case basis because, despite the Magnuson-Moss Warranty Act, there continues to be a significant potential for deception in warranty advertising. The existing Guides and the cases from which they are derived are based upon the principle that a potential for deception exists when warranties are promoted in advertising. This principle is supported by the research described in Section III, above. Thus, this same principle is the basis of the revisions of the Guides.

The potential for deception in warranty advertising proceeds from the fact that an accurate picture of the coverage provided by a warranty—which is a legal instrument—cannot be had without evaluating a number of interrelated provisions. Each provision of a warranty determines some aspect of coverage, but only taken all together do the provisions fully and accurately define total coverage. Information about only some of the terms of a warranty is an inadequate basis for drawing any conclusion about the overall coverage afforded by a warranty. Nevertheless, for a number of reasons, warranty advertising, if it mentions any specific provisions at all, is likely to mention only the duration provision, because that one is the simplest and quickest to convey.

It is reasonable for consumers to accept at face value the typical claim that the advertised product is "guaranteed" or "warranted" for a certain period, and to interpret this to mean that they will be made whole in the event the product fails after purchase. However, the extent to which this interpretation is accurate depends upon the overall coverage of the warranty, including its scope and the remedy it provides. Nevertheless, the research indicates that consumers may interpret warranty claims in this way, and, in the absence of a pre-sale availability disclosure, may rely upon this interpretation without reading the actual warranties.

The comments (and common sense) indicate that advertisers do not include information about the scope of coverage, the remedy offered, and other important terms and conditions mainly because of the high costs of doing so in terms of air time or print space. This is especially true of broadcast advertising. Also, because the effectiveness of an advertisement may be in many cases a function of the brevity and simplicity of its message, advertisers may be reluctant to risk diluting or distorting an advertisement's message by including lengthy disclosures about warranty provisions. Thus, warranty advertising is likely to provide only partial information which can, in some cases, mislead reasonable consumers about the extent of coverage provided by an advertised warranty. At any rate, the warranty Print Advertising Survey results indicate that even if advertisers included all the terms and conditions in advertisements, pursuant to the existing Guides, consumers would not be likely to have a more accurate understanding of the coverage offered.

The Commission has determined that the "full disclosure" remedial solution put forth by the existing Guides is no longer appropriate, largely because the Magnuson-Moss Warranty Act now assures that consumers have access to written warranties prior to purchase. Consumers no longer need to rely on advertising as their major, if not only, source of warranty information. Also, the Warranty Print Advertising Survey indicates that "full disclosure" of warranty terms is ineffective in dispelling the potential for deception in warranty advertising.

In the footnote to § 239.2 the Commission has covered a topic that the existing Guides did not address, namely, how an advertiser can ensure that the disclosure of warranty information (*i.e.* that warranties are available for inspection prior to sale) will be clear and prominent. The Commission has added this note because it has determined that to articulate a minimal standard for clarity and prominence of the pre-sale availability disclosure in television advertising is likely to encourage non-deceptive warranty advertising.

This note to § 239.2 states that television advertisements will be regarded as complying with the Guide provision calling for disclosure of the pre-sale availability of warranties if the advertisements make the necessary disclosure simultaneously with or immediately following the warranty claim. The disclosure can be presented either in the audio portion or in the video portion as a printed disclosure, provided that a video disclosure appears on the screen for at least five seconds. The Commission intends by means of this note to enhance the probability that consumers notice and understand the pre-sale availability disclosure, whether it appears in the audio or video portion of the advertisement.

This note pertains only to the pre-sale availability disclosure suggested in § 239.2. Assuring the disclosures called for by the other Guide provisions are clear and prominent may require other methods or additional emphasis. For example, it may be necessary for multiple disclosures of the material limitations on a satisfaction guarantee to be disclosed in the audio portion of an advertisement, or to be disclosed for a longer period of time than five seconds in order for the disclosures to be clear and prominent.

The Commission has determined that it is not necessary to attempt to provide more detailed and specific guidance with regard to other factors bearing on whether a disclosure is clear and prominent, such as the size of the letters in a video disclosure and the degree of contrast between the letters and the background against which they appear. Similarly, no note pertaining to disclosures in print or radio warranty advertising has been added. Advertisers can be guided by the general purpose of these Guides in resolving these issues.

Section 239.3 "Satisfaction Guarantees" and similar representations in advertising; disclosures in advertising that mentions "Satisfaction Guarantees" or similar representations.

Subsection (a) of this section of the revised Guides indicates that satisfaction guaranteed representations should be used by an advertiser only if it refunds the full purchase price at the purchaser's request. Subsection (b) provides that if such a representation is subject to material limitations or conditions (*e.g.*, an express limitation of duration, or a limitation to products returned in their original packaging),

[6] This is also the reason the Commission has rejected the various suggestions by commenters for more extensive disclosures.

then the advertisement should disclose that limitation or condition.

The revised section retains the essential points of existing Guide § 239.3 and revises the wording to make it more consistent with the other revised Guide provisions. The revised Guide section provides for disclosure of "material" conditions and limitations rather than "any conditions or limitations whatsoever" (as in the existing § 239.3) because the former phrase is a more accurate statement of the relevant principles under section 5 of the FTC Act. Material conditions or limitations are those likely to affect a consumer's choice or conduct regarding the product upon which the satisfaction guarantee is offered.

Satisfaction guarantees are extremely common in advertising, particularly TV and other mail order advertising, and consumers apparently place very high value upon satisfaction guarantees in purchases induced by such advertising. Nevertheless, the details of advertising satisfaction guarantees are frequently not required to be made available prior to purchase under the Magnuson-Moss Warranty Act and Rules.[7]

Disclosure of material limitations in advertising of satisfaction guarantees does not entail a significant burden on advertisers, and is the minimum necessary to prevent deception. Therefore, the Commission has determined that retaining these principles in the Guides is in the public interest.

The Commission has retained this specific and ready guidance rather than requiring advertisers to refer to section 5 case law in deciding whether and how to advertise a satisfaction guarantee. This low-cost Guide provision will promote nondeceptive advertising of such guarantees, through which consumers will realize a net benefit in the form of more information that they can rely upon in making their purchasing decision.

[7] Because many satisfaction guarantees are not offered in writing, they are not available for inspection prior to purchase. In addition, many satisfaction guarantees that are offered in writing cover products that do not actually cost consumers more than $15.00, and are thus not covered by the Disclosure and Pre-Sale Availability Rules. Some satisfaction guarantees are covered by the Magnuson-Moss Act and Rules. (The Magnuson-Moss Warranty Act and the Rules do not cover "representations which are similar to expressions of general policy concerning customer satisfaction and which are not subject to any specific limitations." Section 103(b) Magnuson-Moss Warranty Act, 15 U.S.C. 2303(b). *See also* Interpretations of Magnuson-Moss Warranty Act, 16 CFR 700.5.)

Section 239.4 "Lifetime" and similar representations.

This section replaces § 239.4 of the existing Guides. The Commission has retained the essential point of the existing section, which is that such terms as "lifetime," when used to describe the duration of a warranty or guarantee, have a potential to mislead or confuse consumers unless clarification is provided as to the "life" to which the term refers.

The Commission's revision is intended to make this provision more straightforward, providing for clarification of the life to which the representation refers whether or not it refers to the life of the purchaser. The existing Guide section called for disclosure of the life to which the term "lifetime" refers if the life is any other than that of the purchaser. The impact of this change is not significant, since the life of the purchaser is rarely the life to which the term refers. More often the term is used to mean "for as long as you own the product," or "for the life of the product (*e.g.*, a car) into which our product (*e.g.*, a muffler) is installed." Thus, the term is ambiguous. Without further clarification, one can only speculate as to whose life is referred to. The low costs entailed in clarifying what life is referred to is more than outweighed by the benefits consumers enjoy as a result of the elimination of ambiguity in the use of this term.

Section 239.5 Warranty performance.

This section retains the principle, stated in § 239.6 of the existing Guides, that a warrantor or guarantor should ensure performance on advertised warranties or guarantees. This is an obvious point, but one which merits an express statement in Guides designed to simplify the task of advertisers attempting to comply with the law. This is especially so in view of the fact that this principle, although implicit in the common law and the case law developed under section 5 of the FTC Act, is not expressly stated in the Magnuson-Moss Warranty Act or the rules adopted under it. This provision requires no affirmative disclosures and involves no other costs to advertisers. It is purely cautionary and, as such, it is appropriate for inclusion in the Guides.

Section 239.5 of the existing Guides (deleted).

The Commission has deleted the existing Guide section dealing with claims such as "guaranteed lowest price in town". The section called for advertising disclosures of what the advertiser will do if the promised savings are not realized, and of any limitations that apply. This section pertained to a species of representations unrelated to defects warranties (those that promise redress if a defect appears in a product) and "satisfaction" guarantees (which promise a refund if the product is unsatisfactory for any reason, not just if it is defective) which are the subject of the remainder of the Guides. Rather, savings guarantees are in the nature of general advertising representations, and are more appropriately handled under general deception in advertising concepts.

Moreover, a Guide provision calling for across-the-board disclosure of the remedy the advertiser will provide in the event promised savings are not realized may be unduly burdensome and unjustified. For these reasons the Commission has deleted this existing Guide section, and will deal with this problem in the future, if necessary, on a case-by-case basis.

Section 239.7 of the existing Guides (deleted).

The existing provision states that a guarantee can be used in a manner that constitutes a representation of material fact about a product, and that a guarantor must not only perform the warranty, but also take care that such representations are true. The essential point of this provision is that honoring a warranty does not cure any misrepresentations of material fact about the product made by means of or in conjunction with a warranty.

The existing provision is an accurate statement of Commission law about which there is no question or controversy. The language used to describe a warranty can convey misimpressions about product performance. For example, claims that a watch is "guaranteed to last ten years" are deceptive if the useful life of the watch is designed to be only one or two years. This is so even if the warrantor replaces the watch every year when it fails. Similarly, claims that shirts are "guaranteed not to shrink" are deceptive if the shirts in fact usually shrink, even if the warrantor provides the promised remedy. In both cases the warrantors can restate the warranties they offer in order to avoid misleading consumers about the performance of their products. In neither case is the misrepresentation permissible simply because it is made in conjunction with a reference to a warranty.

However, the Commission believes that it is possible to infer from the existing provision that a violation of Section 5 may occur simply because a

substantial number of warranted products fail in use—notwithstanding the fact that the warrantor fully performs all warranty obligations. Such an inference could discourage advertising of warranties, contrary to the Commission's purpose in revising the Guides.

The Commission has therefore determined that, in view of the potential for chilling warranty advertising that may be created by this provision, or by a revision of the provision that sets forth the same points as prospective guidance, there is no need to restate these settled principles of Commission law in the Guides. The Commission emphasizes, however, that deletion of this provision should in no way be interpreted as a reversal of the well settled fundamental principles of Commission law set forth in the existing provision.

List of Subjects in 16 CFR Part 239

Advertising, Trade practices, Warranties.

Section E—The Guide

For the reasons discussed above, the Commission hereby issues the following Guide, which amends Subchapter B, Guides and Trade Practices Rules, of 16 CFR Chapter I, by revising part 239, to take effect May 1, 1985, as follows:

PART 239—GUIDES FOR THE ADVERTISING OF WARRANTIES AND GUARANTEES

Sec.

Authority: Secs. 5, 6, 38 Stat. 719 as amended, 721; 15 U.S.C. 45, 46, unless otherwise noted.

§ 239.1 Purpose and scope of the guides.

The Guides for the Advertising of Warranties and Guarantees are intended to help advertisers avoid unfair or deceptive practices in the advertising or warranties or guarantees. The Guides are based upon Commission cases, and reflect changes in circumstances brought about by the Magnuson-Moss Warranty Act (15 U.S.C. 2301 *et seq.*) and the FTC Rules promulgated pursuant to the Act (16 CFR Parts 701 and 702). The Guides do not purport to anticipate all possible unfair or deceptive acts or practices in the advertising of warranties or guarantees and the Guides should not be interpreted to limit the Commission's authority to proceed against such acts or practices under section 5 of the Federal Trade Commission Act. The Commission may bring an action under Section 5 against any advertiser who misrepresents the product or service offered, who misrepresents the terms or conditions of the warranty offered, or who employs other deceptive or unfair means.

Section 239.2 of the Guides applies only to advertisements for written warranties on consumer products, as "written warranty" and "consumer product" are defined in the Magnuson-Moss Warranty Act, 15 U.S.C. 2301, that are covered by the Rule on Pre-Sale Availability or Written Warranty Terms, 16 CFR Part 702. The other sections of the Guides apply to the advertising of any warranty or guarantee.

§ 239.2 Disclosures in warranty or guarantee advertising.

(a) If an advertisement mentions a warranty or guarantee that is offered on the advertised product, the advertisement should disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, that prior to sale, at the place where the product is sold, prospective purchasers can see the written warranty or guarantee for complete details of the warranty coverage.[1]

Examples: The following are examples of disclosures sufficient to convey to prospective purchasers that, prior to sale, at the place where the product is sold, they can see the written warranty or guarantee for complete details of the warranty coverage. These examples are for both print and broadcast advertising. These examples are illustrative, not exhaustive. In each example, the portion of the advertisement that mentions the warranty or guarantee is in regular type and the disclosure is in boldface.

A. "The XYZ washing machine is backed by our limited 1 year warranty. For complete details, see our warranty at a dealer near you."

B. "The XYZ bicycle is warranted for 5 years. Some restrictions may apply. See a copy of our warranty wherever XYZ products are sold."

C. "We offer the best guarantee in the business. Read the details and compare wherever our fine products are sold."

D. "See our full 2 year warranty at the store nearest you."

E. "Don't take our word—take our warranty. See our limited 2 year warranty where you shop."

(b) If an advertisement in any catalogue, or in any other solicitation [2] for mail order sales or for telephone order sales mentions a warranty or guarantee that is offered on the advertised product, the advertisement should disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, that prospective purchasers can obtain complete details of the written warranty or guarantee free from the seller upon specific written request or from the catalogue or other solicitation (whichever is applicable.)

Examples: The following are examples of disclosures sufficient to convey to consumers how they can obtain complete details of the written warranty or guarantee prior to placing a mail or telephone order. These examples are illustrative, not exhaustive. In each example, the portion of the advertisement that mentions the warranty or guarantee is in regular typeface and the disclosure is in boldface.

A. "ABC quality cutlery is backed by our 10 year warranty. Write to us for a free copy at: (address)."

B. "ABC Power tools are guaranteed. Read about our limited 90 day warranty in this catalogue."

C. "Write to us for a free copy of our full warranty. You'll be impressed how we stand behind our product.

§ 239.3 "Satisfaction Guarantees" and similar representations in advertising; disclosure in advertising that mentions "satisfaction guarantees" or similar representations.

(a) A seller or manufacturer should use the terms "Satisfaction Guarantee," "Money Back Guarantee," "Free Trial Offer," or similar representations in advertising only if the seller or manufacturer, as the case may be, refunds the full purchase price of the advertised product at the purchaser's request.

(b) An advertisement that mentions a "Satisfaction Guarantee" or a similar representation should disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, any material limitations or conditions that apply to the "Satisfaction Guarantee" or similar representation.

Examples: These examples are for both print and broadcast advertising. These examples are illustrative, not exhaustive.

Example A: (In an advertisement mentioning a satisfaction guarantee that is conditioned upon return of the unused portion within 30 days) "We guarantee your

[1] In television advertising, the Commission will regard any disclosure of the pre-sale availability of warranties as complying with this Guide if the advertisement makes the necessary disclosure simultaneously with or immediately following the warranty claim and the disclosure is made in the audio portion, or, if in the video portion, it remains on the screen for at least five seconds.

[2] *See* note 1.

satisfaction. If not completely satisfied with Acme Spot Remover, return the unused portion within 30 days for a full refund."

Example B: (In an advertisement mentioning a money back guarantee that is conditioned upon return of the product in its original packaging) "Money Back Guarantee! Just return the ABC watch in its original package and ABC will fully refund your money."

§ 239.4 "Lifetime" and similar representations.

If an advertisement uses "lifetime," "life," or similar representations to describe the duration of a warranty or guarantee, then the advertisement should disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, the life to which the representation refers.

Examples: These examples are for both print and broadcast advertising. These examples are illustrative, not exhaustive.

Example A: (In an advertisement mentioning a lifetime guarantee on an automobile muffler where the duration of the guarantee is measured by the life of the car in which it is installed) "Our lifetime guarantee on the Whisper Muffler protects you for as long as your car runs—even if you sell it, trade it, or give it away!"

Example B: (In an advertisement mentioning a lifetime guarantee on a battery where the duration of the warranty is for as long as the original purchaser owns the car in which it was installed) "Our battery is backed by our lifetime guarantee. Good for as long as you own the car!"

§ 239.5 Performance of warranties or guarantees.

A seller or manufacturer should advertise that a product is warranted or guaranteed only if the seller or manufacturer, as the case may be, promptly and fully performs its obligations under the warranty or guarantee.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-10448 Filed 4-30-85; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 455

Used Car Trade Regulation Rule; Application to OMB for Review of Information Collection Requirements

AGENCY: Federal Trade Commission.

ACTION: Application to OMB for review of information collection requirements.

SUMMARY: Pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.), the FTC is requesting OMB review under 5 CFR 1320.14 of public disclosure requirements contained in its Used Car trade regulation rule. The request is for a three-year approval for the disclosure requirements of the rule, which is scheduled to take effect in the near future.

DATES: Comments on this request for OMB review must be submitted on or before May 31, 1985.

ADDRESS: Send comments to Mr. Don Arbuckle, Office of Information Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. Copies of the applications may be obtained from: Public Reference Branch, Room 130, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Christian S. White, Assistant General Counsel, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3776.

By direction of the Commission.

Dated: April 23, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 85-10449 Filed 4-30-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 556 and 558

Tolerances for Residues of New Animal Drugs in Food; New Animal Drugs for use in Animal Feeds; Amprolium for Pheasants

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., providing for use of an amprolium premix to make a complete feed for the prevention of coccidiosis in growing pheasants. FDA is also establishing a tolerance for amprolium residues in uncooked edible pheasant tissues.

EFFECTIVE DATE: May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065, filed supplemental NADA 12-350 providing for use of a 25-percent (113.5 grams per pound) amprolium premix to make a complete pheasant feed containing 0.0175 percent (159 grams per ton) amprolium. The feed is used for the prevention of coccidiosis in growing pheasants caused by *Eimeria colchici, E. duodenalis,* and *E. phasiani.* The supplement incorporates data and information in Public Master File (PMF) 3887. A notice of availability of certain safety, effectiveness, and environmental data in the public master file for use in support of NADA's providing for use of amprolium in pheasant feed published in the **Federal Register** of December 24, 1984 (49 FR 49940). The supplement is approved. The regulations are amended to reflect this approval and to establish a tolerance for amprolium residues in uncooked edible tissues derived from treated animals. The basis for approval is discussed in the freedom of information summary.

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

The Center for Veterinary Medicine 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 therefore will not be prepared. The Center's finding of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch (address above), filed under PMF 3887.

List of Subject

21 CFR Part 556

Animal drugs, Foods, Residues.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.83), Parts 556 and 558 are amended as follows:

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

1. The authority citation for Part 556 is revised to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b), unless otherwise noted.

2. In § 556.50 by adding new paragraph (c) to read as follows:

§ 556.50 Amprolium.

* * * * *

(c) In the edible tissues of pheasants:

(1) 1 part per million in uncooked liver.

(2) 0.5 part per million in uncooked muscle.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

3. The authority citation for Part 558 is revised to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b), unless otherwise noted.

4. In § 558.55 by adding new paragraph (e)(3) to read as follows:

§ 558.55 Amprolium.

* * * * *

(e) * * *

(3) *Pheasants.* It is used in complete feed as follows:

(i) *Amount.* 0.0175 percent (159 grams per ton).

(ii) *Indications for use.* For the prevention of coccidiosis in growing pheasants caused by *Eimeria colchici, E. duodenalis,* and *E. phasiani.*

(iii) *Limitations.* Feed continuously as sole ration. Use as sole source of amprolium. Fertility, hatchability, and other reproductive data are not available on amprolium in breeding pheasants. Do not use in feeds containing bentonite.

Effective date. May 1, 1985.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: April 24, 1985.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 85-10540 Filed 4-30-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 232 and 235

[Docket No. R-85-1238; FR-2120]

Mortgage Insurance; Changes in Interest Rates

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This change in the regulations decreases the maximum allowable interest rate on section 232 (Mortgage Insurance for Nursing Homes) and on section 235 (Homeownership for Lower Income Families) insured loads. This final rule is intended to bring the maximum permissible financing charges for these programs into line with competitive market rates.

EFFECTIVE DATES: April 19, 1985.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Chief Mortgage and Capital Market Analysis Branch, Office of Financial Management, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 755-7270. (This in not a toll-free number.)

SUPPLEMENTARY INFORMATION: The following amendments to 24 CFR Ch. II have been made to decrease the maximum interest rate which may be charged on loans insured by this Department under section 232 (fire safety equipment) and section 235 of the National Housing Act. The maximum interest rate on the HUD/FHA section 232 (fire safety equipment) and section 235 insurance programs has been lowered from 13.00 percent to 12.50 percent.

The Secretary has determined that this change is immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1.

As a matter of policy, the Department submits most of its rulemaking to public comment, either before or after effectiveness of the action. In this instance, however, the Secretary has determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this final rule effective immediately.

HUD regulations published at 47 FR 56266 (1982), amending 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule fall within the categorical exclusions set forth in paragraph (*l*) of § 50.20, the preparation of an Environmental Impact Statement or Finding of No Significant Impact is not required for this rule.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local governmental agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule provides for a small increase in the mortgage interest rate in programs of limited applicability, and thus of minimal effect on small entities.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 22, 1984 (49 FR 41684) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.108, 14.117, and 14.120.

List of Subjects

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs: housing and community development.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs, Health, Loan programs, Housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

Accordingly, the Department amends 24 CFR Parts 232 and 235 as follows:

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

1. The authority citation for 24 CFR Part 232 continues to read as follows:

Authority: Secs. 211, 232(i) and 235(i), National Housing Act, (12 U.S.C. 1715b, 1715w(i), and 1715z(i)); sec. 7(d) of the Department of HUD Act, (42 U.S.C. 3535(d)).

2. In § 232.560, paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.50 percent per annum, except that where an application for commitment was received by the Secretary before April 19, 1985, the loan may bear interest at the maximum rate in effect at the time of application.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

3. The authority citation for 24 CFR Part 235 continues to read as follows:

Authority: Secs. 211, 232(i) and 235(i), National Housing Act, (12 U.S.C. 1715b, 1715w(i) and 1715z(i)); sec. 7(d) of the Department of HUD Act, (42 U.S.C. 3535(d)).

4. In § 235.9, paragraph (a) is revised to read as follows:

§ 235.9 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 12.50 percent per annum, except that where an application for commitment was received by the Secretary before April 19, 1985, the loan may bear interest at the maximum rate in effect at the time of application.

* * * * *

5. In § 235.540, paragraph (a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) On or after April 19, 1985, the loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 12.50 percent per annum, with the exception of applications submitted pursuant to feasibility letters, or outstanding conditional or firm commitments, issued prior to the effective date of the new rate. In these instances, applications will be processed at a rate not exceeding the applicable previous maximum rates, if the higher rate was previously agreed upon by the parties. Notwithstanding these exceptions, the application will be processed at the new lower rate if requested by the mortgagee.

Dated: April 18, 1985.

Shirley McVay Wiseman,

General Deputy Assistant Secretary for Housing—Deputy FHA Commisssioner, HD.

[FR Doc. 85-10491 Filed 4-30-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 5 and 602

[T.D. 8022]

Qualified Discount Coupons

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to a method of accounting for the redemption costs of qualified discount coupons. Changes to the applicable law were made by the Revenue Act of 1978. The regulations provide the public with the guidance needed to comply with the law and affect all taxpayers who elect to use this method of accounting for qualified discount coupons.

DATES: The regulations are effective for taxable years beginning after December 31, 1978.

FOR FURTHER INFORMATION CONTACT: Alice M. Bennett of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3238, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On August 3, 1984, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 466 of the Internal Revenue Code of 1954 (49 FR 31080). The amendments were proposed to reflect the addition of section 466 to the Code by section 373 of the Revenue Act of 1978 (92 Stat. 2863). In general, section 466 permits certain taxpayers who issue qualified discount coupons to elect to use a special method of accounting for the redemption costs of those coupons.

The proposed amendments also reflected the special election provided under section 373(c) of the Act for certain taxpayers who used a method of accounting for discount coupons in prior taxable years that is reasonably similar to the method of accounting for premium coupons and trading stamps in § 1.451-4. Those taxpayers generally may elect to have that method of accounting treated as a valid method of accounting for certain taxable years ending before January 1, 1979.

The proposed amendments provided rules and definitions relating to the method of accounting under section 466 and the special election provided under section 373(c) of the Act. The proposed amendments also incorporated the provisions contained in temporary regulations § 5.466-1 and § 5.466-2 (T.D. 7653, 44 FR 63522), relating to the time and manner of making the elections under section 466 of the Code and section 373(c) of the Act. Those temporary regulations are superseded by the publication of this Treasury decision in the **Federal Register**.

No written comments were received with respect to the proposed amendments. A public hearing was neither requested nor held. Therefore, this Treasury decision adopts those proposed amendments without change.

Special Analyses

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required. The Secretary of the Treasury has certified that this rule will not have a significant impact on a substantial number of small entities because the economic and any other secondary or incidental impact flows directly from the underlying statute. A regulatory flexibility analysis therefore is not required under the Regulatory Flexibility Act (5 U.S.C. chapter 6).

The collection of information requirements contained in this regulation have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

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

List of Subjects

26 CFR 1.441–1—1.483–2

Income taxes, Accounting, Deferred compensation plans.

26 CFR Part 5

Income taxes, Revenue Act of 1978.

26 CFR Part 602

OMB control numbers under the Paperwork Reduction Act.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1, 5, and 602 are amended by adopting, without change, except for the addition of a technical amendment to 26 CFR Part 602 for the purpose of displaying the OMB control number, the regulations proposed as a notice of proposed rulemaking published in the **Federal Register** on August 3, 1984 (49 FR 31080).

This Treasury decision is issued under the authority contained in sections 466 and 7805 of the Internal Revenue Code of 1954 (92 Stat. 2864, 26 U.S.C. 466; 68A Stat. 917, 26 U.S.C. 7805).

Approved by the Office of Management and Budget under control number 1545–0512.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 27, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

PART 1—[AMENDED]

Income Tax Regulations

Paragraph 1. The following new §§ 1.466–1 through 1.466–4 shall be added in the appropriate places as follows:

§ 1.466–1 Method of accounting for the redemption cost of qualified discount coupons.

(a) *Introduction.* Section 466 permits taxpayers who elect to use the method of accounting description in section 466 to deduct the redemption cost (as defined in paragraph (b) of this section) of qualified discount coupons (as defined in paragraph (c) of this section) outstanding at the end of the taxable year and redeemed during the redemption period (within the meaning of paragraph (d)(2) of this section) in addition to the redemption cost of qualified discount coupons redeemed during the taxable year which were not deducted for a prior taxable year. For the taxable year in which the taxapayer first uses this method of accounting, the taxpayer is not allowed to deduct the redemption costs of qualified discount coupons redeemed during the taxable year that would have been deductible for the prior taxable year had the taxpayer used this method of accounting for such prior year. (See paragraph (e) of this section for rules describing how this amount should be taken into account.) A taxpayer must use the accrual method of accounting for any trade or business for which an election is made under section 466. Furthermore, the taxpayer must make an election in accordance with the rules in section 466(d) and § 1.466–3 for that trade or business. The method of accounting in section 466 is applicable only to the taxpayer's redemption of qualified discount coupons. Section 466 does not apply to trading stamps or premium coupons, which are subject to the method of accounting in § 1.451–4, or to discount coupons that are not qualified discount coupons.

(b) *Redemption costs*—(1) *Costs deductible under section 466.* The deduction allowed by section 466 applies only to the redemption cost of qualified discount coupons. The term "redemption cost" means an amount equal to:

(i) The lesser of:

(A) The amount of the discount stated on the coupon, or

(B) The cost incurred by the taxpayer for paying the discount; plus

(ii) The amount payable to the retailer (or other person redeeming the coupon from the person receiving the price discount) for services in redeeming the coupon.

The amount payable to the retailer or other person for services in redeeming the coupon is allowed only if the amount payable is stated on the coupon.

(2) *Costs not deductible under section 466.* The term "redemption cost" includes only the amounts stated in paragraph (b)(1) of this section. Amounts other than those mentioned in paragraph (b)(1) of this section cannot be deducted under the method of accounting described in section 466 even though such amounts are incurred in relation to the redemption of qualified discount coupons. Therefore, those amounts must be taken into account as if section 466 did not apply. Examples of such amounts are fees paid to the redemption center or clearinghouse and amounts payable to the retailer in excess of the amount stated on the coupon.

(c) *Qualified discount coupons*—(1) *General rule.* In order for a discount coupon (as defined in paragraph (c)(2)(i) of this section) to be considered a qualified discount coupon, all of the following requirements must be met:

(i) The coupon must have been issued by and must be redeemable by the taxpayer;

(ii) The coupon must allow a discount on the purchase price of merchandise or other tangible personal property;

(iii) The face amount of the coupon must not exceed five dollars;

(iv) The coupon, by its terms, may not be used with other coupons to bring about a price discount reimbursable by the issuer of more than five dollars with respect to any item; and

(v) There must exist a redemption chain (as defined in paragraph (c)(2)(ii) of this section) with respect to the coupon.

(2) *Definitions*—(i) *Discount coupon.* A discount coupon is a sales promotion device used to encourage the purchase of a specific product by allowing a purchaser of that product to receive a discount on its purchase price. The term "discount coupon" does not include trading stamps or premium coupons, which are subject to the method of accounting in § 1.451–4. A discount coupon may or may not be issued as part of a prior purchase. A discount coupon normally entitles its holders to receive nothing more than a reduction in the sales price of one of the issuer's products. The discount may be stated in terms of a cash amount, a percentage or fraction of the purchase price, a "two for the price of one" deal, or any other similar provision. A discount coupon need not be printed on paper in the form usually associated with coupons; it may be a token or other object so long as it functions as a coupon.

(ii) *Redemption chain.* A redemption chain exists when the issuer redeems the coupon from some person other than the customer who used the coupon to receive the price discount. Thus, in order to be treated as a qualified discount coupon, the coupon must not be issued by the person that initially redeems the coupon from the customer. For purposes of determining whether a redemption chain exists, corporations that are members of the same controlled group of corporations (as defined in section 1563(a)) as the issuer of the coupon shall be treated as the issuer. Thus, if the issuer of the coupon and the retailer that initially redeems the coupon from the customer are members of the same controlled group of corporations, the coupon shall not be treated as a qualified discount coupon.

(d) *Deduction for coupons redeemed during the redemption period*—(1) *General rule.* Two special conditions must be met before the cost of redeeming qualified discount coupons during the redemption period can be deducted from the taxpayer's gross income for the taxable year preceding the redemption period. First, the

qualified discount coupons must have been outstanding at the close of such taxable year. Second, the qualified discount coupons must have been received by the taxpayer before the close of the redemption period for that taxable year.

(2) *Redemption period.* The taxpayer can select any redemption period so long as the period does not extend longer than 6 months after the close of the taxapayer's taxable year. A change in the redemption period so selected shall be treated as a change in method of accounting.

(3) *Coupons received.* The deduction provided for in section 466(a)(1) is limited to the redemption costs associated with coupons that are actually received by the taxpayer within the redemption period. For purposes of this paragraph, if the issuer uses a redemption agent or clearinghouse to group, count, and verify coupons after they have been redeemed by a retailer, the coupons received by the redemption agent or clearinghouse will be considered to have been received by the issuer. Nothing in section 466, however, allows deductions to be made on the basis of estimated redemptions, whether such estimates are made by either the issuer or some other party.

(e) *Transitional adjustment*—(1) *In general.* An election to change from some other method of accounting for the redemption of discount coupons to the method of accounting described in section 466 is a change in method of accounting that requires a transitional adjustment. Unless the taxpayer can qualify for a waiver of the suspense account requirement as provided for in section 373(c) of the Revenue Act of 1978 (92 Stat. 2865), the taxpayer should compute the transitional adjustment described in section 481(a)(2) according to the rules contained in this section. This adjustment should be taken into account according to the special rules in subsections (e) and (f) of section 466.

(2) *Net increase in taxable income.* In the case of a transitional adjustment that would result in a net increase in taxable income under section 481(a)(2) for the year of change, that increase should be taken into income over a ten-year period consisting of the year of change and the immediately succeeding nine taxable years. For example, assume that A, a calendar year taxpayer, makes an election to use the method of accounting described in section 466 for the year 1980 and for subsequent years. Assume further that the amount of the transitional adjustment computed under section 481(a)(2) would result in a net increase in taxable income of $100 for 1980. Under these facts, A should increase taxable income for 1980 and each of the next nine taxable years by $10.

(3) *Suspense account*—(i) *In general.* In the case of a transitional adjustment that would result in a net decrease in taxable income under section 481(a)(2) for the year of change, in lieu of applying section 481, in taxpayer must establish a separate suspense account for each trade or business for which the taxpayer has made an election to use section 466. The computation of the initial opening balance in the suspense account is described in paragraph (e)(3)(ii)(A) of this section. An initial adjustment to gross income for the year of election is described in paragaph (e)(3)(ii)(B) of this section. Annual adjustments to the suspense account are described in paragraph (e)(3)(iii)(A) of this section, and gross income adjustments are described in paragraph (e)(3)(iii)(B) of this section. Examples are provided in paragraph (e)(4) of this section. The effect of the suspense account is to defer some part of, or all of, the deduction of the transitional adjustment until the taxpayer no longer redeems discount coupons in connection with the trade or business to which the suspense account relates.

(ii) *Establishing a suspense account*—(A) *Initial opening balance.* To compute the initial opening balance of the suspense account for the first taxable year for which the election to use section 466 is effective, the taxpayer must determine the dollar amount of the deduction that would have been allowed for qualified discount coupon redemption costs during the redemption period for each of the three immediately preceding taxable years had the election to use section 456 been in effect for those years. The initial opening balance of the suspense account is the largest such dollar amount reduced by the sum of the adjustments attributable to the change in method of accounting that increase income for the year of change.

(B) *Initial year adjustment.* If, in computing the initial opening balance, the largest dollar amount of deduction that would have been allowed in any of the three prior years exceeds the actual cost of redeeming qualified discount coupons received during the redemption period following the close of the year immediately preceding the year of election, the excess is included in income in the year of election. Section 481(b) does not apply to this increase in gross income.

(iii) *Annual adjustments*—(A) *Adjustment to the suspense account.* Adjustments are made to the suspense account each year to account for fluctuations in coupon redemptions. To compute the annual adjustment, the taxpayer must determine the amount to be deducted under section 466(a)(1) for the taxable year. If the amount is less than the opening balance in the suspense account for the taxable year, the balance in the suspense account is reduced by the difference. Conversely, if such amount is greater than the opening balance in the suspense account for the taxable year, the account is increased by the difference (but not to an amount in excess of the initial opening balance described in paragraph (e)(3)(ii) of this section). Therefore, the balance in the suspense account will never be greater than the initial opening balance in the suspense account determined in paragraph (e)(3)(ii) of this section. However, the balance in the suspense account after adjustments may be less than this initial opening balance in the suspense account.

(B) *Gross income adjustments.* Adjustments to the suspense account for years subsequent to the year of the election also produce adjustments in the taxpayer's gross income. Adjustments which reduce the balance in the suspense account reduce gross income for the year in which the adjustment to the suspense account is made. Adjustments which increase the balance in the suspense account increase gross income for the year in which the adjustment to the suspense account is made.

(4) *Examples.* (i) The provisions of paragraph (e)(3) of this section may be illustrated by the following examples:

Example (1). Assume that the issuer of qualified discount coupons makes a timely election under section 466 for its taxable year ending December 31, 1979, and does not select a coupon redemption period shorter than the statutory period of 6 months. Assume further that the taxpayer's qualified discount coupon redemption costs in the first 6 months of 1977, 1978, and 1979 were $7, $13, and $8 respectively, and that the accounting change adjustments that increase income for 1979 are $10. Since the accounting change adjustment that increases income for 1979, ($10), is greater than the taxpayer's discount coupon redemptions during the first 6 months of 1979 ($8), the net section 481(a)(2) adjustment for the year of change results in a positive adjustment. Because of this, a suspense account is not required. The taxpayer should instead follow the rules in section 466(f) and in paragraph (e)(2) of this section in order to take this positive transitional adjustment into account.

Example (2). Assume the same facts as in example (1), except that the sum of the accounting change adjustments that increase income for 1979 is equal to $2. Under these facts the initial opening balance in the suspense account on January 1, 1979 would be $11 (that is, the largest dollar amount of

qualified coupon redemption costs in the pertinent years ($13), reduced by the sum of the accounting change adjustments that increase income in the year of change ($2)). Since the coupon redemption costs taken into account in determining the initial opening balance ($13 in 1979) exceed the actual redemption costs in the first 6 months of the taxable year for which the election is first effective ($8 in 1979), the excess of $5 is added to gross income for the year of election (1979).

Example (3). Assume, in addition to the facts of example (2), that coupon redemption costs during the redemption period for the 1979 taxable year are $7. Since the qualifying redemption costs ($7) during the redemption period for the taxable year are less than the opening balance in the suspense account ($11) the taxpayer must reduce the suspense account balance by the difference ($4). The taxpayer is also allowed to take a deduction equal to the amount of this adjustment to the suspense account. Thus, the net amount deductible for the 1979 taxable year after taking into account the coupon redemptions during the redemption period, the amount deductible because of the decrease in the suspense account, and the initial year adjustment determined in example (2) is $6 ($7 + $4 − $5).

Example (4). Assume, in addition to the facts of example (3), that coupon redemption costs during the redemption period for the 1980 taxable year are $10. Since the qualifying redemption costs during the redemption period for the taxable year ($10) exceed the opening balance of the suspense account at the beginning of the taxable year ($7), the suspense account must be increased by the difference ($3). The taxpayer must also include $3 in gross income for the taxable year. Thus, the net amount deductible for the 1980 taxable year is $7 ($10 − $3).

Example (5). Assume, in addition to the facts of example (4), that coupon redemption costs during the redemption period for the 1981 taxable year are $12. Since the qualifying redemption costs for the 1981 taxable year ($12) exceed the opening balance of the suspense account at the beginning of the taxable year ($10), the suspense account must be increased by the difference ($2) but not above the initial opening balance ($11). Thus, the taxpayer will increase the balance by $1. The taxpayer must also include $1 in gross income for the taxable year. Thus, the net amount deductible for the 1981 taxable year is $11 ($12 − $1).

(ii) The following table summarizes examples (2) through (5):

	Years ending Dec. 31—					
	1977	1978	1979	1980	1981	1982
Facts:						
Actual coupon redemption costs in first six months	$7	$13	$8	$7	$10	$12
Accounting change adjustments that increase income in year of change			2			
Net adjustment decreasing income in year of change under sec. 481(a)(2)			6			
Adjustment to suspense account:						
Opening balance			11	7	10	11
Addition to account				3	1	
Reduction to account			(4)			
Opening balance for next year			7	10	11	
Amount deductible:						
Initial year adjustment			(5)			
Amount of deductible as actual coupon redemptions during redemption period			7	10	12	
Adjustment for increase in suspense account				(3)	(1)	
Adjustment for decrease in suspense account			4			
Net amount deductible for the year for coupons redeemed during the redemption period			6	7	11	

(f) *Subchapter C transactions)*—(1) *General rule.* If a transfer of substantially all the assets of a trade or business in which discount coupons are redeemed is made to an acquiring corporation, and if the acquiring corporation determines its bases in these assets, in whole or part, with reference to the basis of these assets in the hands of the transferor, then for the purposes of section 466(e) the principles of section 381 and § 1.381(c)(4)–1 will apply. The application of this rule is not limited to the transactions described in section 381(a). Thus, the rule also applies, for example, to transactions described in section 351.

(2) *Special rules.* If, in the case of a transaction described in paragraph (f)(1) of this section, an acquiring corporation acquires assets that were used in a trade or business that was not subject to a section 466 election from a transferor that is owned or controlled directly (or indirectly through a chain of corporations) by the same interests, and if the acquiring corporation uses the acquired assets in a trade or business for which the acquiring corporation later makes an election to use section 466, then the acquiring corporation must establish a suspense account by taking into account not only its own experience but also the transferor's experience when the transferor held the assets in its trade or business. Furthermore, the transferor is not allowed a deduction for qualified discount coupons redeemed after the date of the transfer attributable to discount coupons issued by the transferor before the date of the transfer. Such redemptions shall be considered to be made by the acquiring corporation.

(3) *Example.* The provisions of paragraph (f)(2) of this section may be illustrated by the following example:

Example. Corporation S, a calendar year taxpayer, is a wholly owned subsidiary of Corporation P, a calendar year taxpayer. On December 31, 1982, S acquires from P substantially all of the assets used in a trade or business in which qualified disount coupons are redeemed. P had not made an election under section 466 which respect to the redemption costs of the qualified discount coupons issued in connection with that trade or business. S makes an election to use section 466 for its taxable year ending December 31, 1983, for the trade or business in which the acquired assets are used, and selects a redemption period of 6 months. Assume that P's qualified discount coupon redemption costs in the first 6 months of 1981 and 1982 were $120 and $140 respectively. Assume further that S's qualified discount coupon redemption costs in the first 6 months of 1983 were $130, and that there are no accounting change adjustments that increase income with respect to the election. S must establish a suspense account by taking into account the largest dollar amount of deductions that would have been allowed under section 466(a)(1) for the 3 immediately preceding taxable years of P, including both P's and S's experience with respect to costs actually incurred during the redemption periods relating to those years. Thus, the initial opening balance of S's suspense account is $140. S must also make an initial year adjustment of $10 ($140–$130), which S must include in income for S's taxable year ending December 31, 1983. P may not take a deduction for the qualified coupon redemptions made after December 31, 1982, that are attributable to coupons issued by P before December 31, 1982. Thus, none of the $130 qualified discount coupon redemption costs incurred by S during the first six months of 1983 may be deducted by P.

§ 1.466–2 Special protective election for certain taxpayers.

(a) *General rule.* Section 373(c) of the Revenue Act of 1978 (92 Stat. 2865) allows certain taxpayers, who in prior years have accounted for discount coupons under a method of accounting reasonably similar to the method described in § 1.451–4, to elect to treat that method of accounting as a proper one for those prior years. There are several differences between this protective election and the section 466(d) election. First, the protective election applies only to a single continuous period of taxable years the last year of which ends before January 1, 1979. Second, an otherwise qualifying protective election may apply to

coupons which are discount coupons but which would not be treated as qualified discount coupons under Code section 466. Third, certain expenses such as the cost of redemption center service fees, and amounts that are payable to the retailer (or other person redeeming the coupons from the person receiving the price discount) for services in redeeming the coupons but that are not stated on the coupon, can be subtracted from gross receipts for prior years covered by a protective election (if treated as deductible under the accounting method for such years), even though such expenses would not be deductible under Code section 466.

(b) *Requirements.* In order to qualify for this special protective election, the following conditions must be met:

(1) For a continuous period of one or more prior taxable years, (the last year of which ends before Jan. 1, 1979), the taxpayer must have used a method of accounting for discount coupons that is reasonably similar to the method provided in § 1.451–4 or its predecessors under the Internal Revenue Code of 1954;

(2) The taxpayer must make an election under section 466 of the Internal Revenue Code of 1954 according to the rules contained in § 1.466–3 for its first taxable year ending after December 31, 1978; and

(3) The taxpayer must make an election under section 373(c) of the Revenue Act of 1978 according to the rules contained in § 1.466–4 for its first taxable year ending after December 31, 1978.

(c) *Amount to be subtracted from gross receipts.* The amount the taxpayer may subtract under this section for the redemption costs of coupons shall include only:

(1) Costs of the type permitted by § 1.451–4 to be included in the estimated average cost of redeeming coupons, plus

(2) Any amount designated or referred to on the coupon payable by the taxpayer to the person who allowed the discount on a sale by such person to the user of the coupon.

Nothing in this paragraph shall allow an item to be deducted more than once.

(d) *Right to amend prior tax returns.* This paragraph applies only to those taxpayers who have agreed in a prior year to discontinue the use of the method of accounting described in § 1.451–4 for discount coupon redemptions. If the taxpayer used such method of accounting on the original return filed for the prior taxable year, and if any such year is not closed under the statute of limitations or by reason of a closing agreement with the Internal Revenue Service, a taxpayer who has made a protective election may file an amended return and a claim for refund for such years. In this amended return, the taxpayer should account for its discount coupon redemptions, according to the method of accounting described in § 1.451–4. This is not to be construed, however, to abrogate in any way the rules regarding the close of taxable years due to the statute of limitations or a binding closing agreement between the Internal Revenue Service and the taxpayer.

(e) *Suspense account not required.* If the following three conditions are satisfied, the taxpayer need not establish the suspense account otherwise required by section 466(e). First, the taxpayer must make a timely election under these rules to protect prior years. Second, the method of accounting used in those years must have been used for all discount coupons issued by the taxpayer in those years in all the taxpayer's separate trades or businesses in which coupons were issued. Third, either before or after an amendment to the taxpayer's tax returns as described in paragraph (d) of this section, a method of accounting reasonably similar to the method of accounting described in § 1.451–4 must have been used for the taxable year ending on or before December 31, 1978. If these conditions are met, the taxpayer will treat the election of the method under section 466 as a change in method of accounting to which the rules in section 481 and the regulations thereunder apply.

(f) *Definition: reasonably similar.* For purposes of paragraphs (b)(1) and (e) of this section, a taxpayer will be considered to have used a method of accounting for discount coupons that is "reasonably similar" to the method of accounting provided in § 1.451–4 if the taxpayer followed the method of accounting described in § 1.451–4 as if that method were a valid method of accounting for discount coupon redemptions.

§ 1.466–3 Manner of and time for making election under section 466.

(a) *In general.* Section 466 provides a special method of accounting for accrual basis taxpayers who issue qualified discount coupons (as defined in section 466(b)). In order to use the special method under section 466, a taxpayer must make an election with respect to the trade or business in connection with which the qualified discount coupons are issued. If a taxpayer issues qualified discount coupons in connection with more than one trade or business, the taxpayer may use the special method of accounting under section 466 only with respect to the qualified discount coupons issued in connection with a trade or business for which an election is made. The election must be made in the manner prescribed in this section. The election does not require the prior consent of the Internal Revenue Service. An election under section 466 is effective for the taxable year for which it is made and for all subsequent taxable years, unless the taxpayer secures the prior consent of the Internal Revenue Service to revoke such election.

(b) *Manner of and time for making election*—(1) *General rule.* Except as provided in paragraph (b)(2) of this section, an election is made under section 466 and this section by filing a statement of election containing the information described in paragraph (c) of this section with the taxpayer's income tax return for the taxpayer's first taxable year for which the election is made. The election must be made not later than the time prescribed by law (including extensions thereof) for filing the income tax return for the first taxable year for which the election is made. Thus, the election may not be made for a taxable year by filing an amended income tax return after the time prescribed (including extensions) for filing the original return for such year.

(2) *Transitional rule.* If the last day of the time prescribed by law (including extensions thereof) for filing a taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978, falls before December 3, 1979, and the taxpayer does not make an election under section 466 with respect to such taxable year in the manner prescribed by paragraph (b)(1) of this section, and election is made under section 466 and this section with respect to such taxable year if—

(i) Within the time prescribed by law (including extensions thereof) for filing the taxpayer's income tax return for such taxable year, the taxpayer has made a reasonable effort to notify the Commissioner of the taxpayer's intent to make an election under section 466 with respect to such taxable year, and

(ii) Before January 2, 1980, the taxpayer files a statement of election containing the information described in paragraph (c) of this section to be associated with the taxpayer's income tax return for such taxable year.

For purposes of paragraph (b)(2)(i) of this section, a reasonable effort to notify the Commissioner of an intent to make an election under section 466 with respect to a taxable year includes the timely filing of an income tax return for

such taxable year if the taxable income reported on the return reflects a deduction for the redemption costs of qualified discount coupons as determined under section 466(a).

(c) *Required information.* The statement of election required by paragraph (b) of this section must indicate that the taxpayer (identified by name, address, and taxpayer identification number) is making an election under section 466 and must set forth the following information:

(1) A description of each trade or business for which the election is made;

(2) The first taxable year for which the election is made;

(3) The redemption period (as defined in section 466(c)(2)) for each trade or business for which the election is made;

(4) If the taxpayer is required to establish a suspense account under section 466(e) for a trade or business for which the election is made, the initial opening balance of such account (as defined in section 466(e)(2)) for each such trade or business; and

(5) In the case of an election under section 466 that results in a net increase in taxable income under section 481(a)(2), the amount of such net increase.

The statement of election should be made on a Form 3115, which need contain no information other than that required by this paragraph or paragraph (c) of § 1.466–4.

§ 1.466–4 Manner of and time for making election under section 373(c) of the Revenue Act of 1978.

(a) *In general.* Section 373(c)(2) of the Revenue Act of 1978 (92 Stat. 2865) provides an election for taxpayers who satisfy the requirements of section 373(c)(2)(A) (i) and (ii) of the Act. The election is made with respect to a method of accounting for the redemption costs of discount coupons used by the electing taxpayer in a continuous period of one or more taxable years ending before January 1, 1979. The election must be made in the manner prescribed by this section. The election does not require the prior consent of the Internal Revenue Service.

(b) *Manner of and time for making election*—(1) *General rule.* Except as provided in paragraph (b)(2) of this section, the election under section 373(c) of the Revenue Act of 1978 is made by filing a statement of election containing the information described in paragraph (c) of this section with the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978. The election must be made not later than the time prescribed by law (including extensions thereof) for filing the income tax return for the taxpayer's first taxable year ending after December 31, 1978. Thus, the election may not be made with an amended income tax return for such year filed after the time prescribed (including extensions) for filing the original return.

(2) *Transitional rule.* If the last day of the time prescribed by law (including extensions thereof) for filing a taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978, falls before December 3, 1979, and the taxpayer does not make an election in the manner prescribed by paragraph (b)(1) of this section, an election is made under section 373(c) of the Act and this section with respect to a continuous period if—

(i) Within the time prescribed by law (including extensions thereof) for filing the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978, the taxpayer has made a reasonable effort to notify the Commissioner of the taxpayer's intent to make election under section 373(c) of the Act with respect to the continuous period, and

(ii) Before January 2, 1980, the taxpayer files a statement of election containing the information described in paragraph (c) of this section to be associated with the taxpayer's income tax return for the taxpayer's first taxable year ending after December 31, 1978.

(c) *Required information.* The statement of election required by paragraph (b) of this section must indicate that the taxpayer (identified by name, address, and taxpayer identification number) is making an election under section 373(c) of the Revenue Act of 1978 and must set forth the taxable years in the continuous period for which the election is made. The statement of election should be made on the same form 3115 on which the taxpayer has made a statement of election under section 466. The Form 3115 need contain no information other than that required by this paragraph or paragraph (c) of § 1.466–3.

PART 5—[AMENDED]

Temporary Income Tax Regulations Under the Revenue Act of 1978

Par. 2. Part 5 of 26 CFR is amended by removing § 5.466 and § 5.466–2.

PART 602—[AMENDED]

§ 602.101 [Amended]

Par. 3. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.466–3 and 1.466–4 . . . 1545–0512" and by removing from the table § 5.466–1 . . . 1545–0123" and § 5.466.2 . . . 1545–0123".

[FR Doc. 85–10490 Filed 4–30–85; 8:45 am]

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Office of the Secretary

31 CFR Part 103

Amendments To Implementing Regulations Currency and Foreign Transactions Reporting Act

AGENCY: Office of the Secretary, Treasury.

ACTION: Final rule.

SUMMARY: The Department of Treasury is amending 31 CFR Part 103 to conform those regulations to recently enacted amendments to the Currency and Foreign Transactions Reporting Act.

EFFECTIVE DATE: May 31, 1985.

FOR FURTHER INFORMATION CONTACT: Robert J. Stankey, Jr., Office of the Assistant Secretary (Enforcement and Operations), Department of the Treasury, Room 1458, Main Treasury Building, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220, (202) 566–8022.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 1984, the Comprehensive Crime Control Act of 1984 was signed into law. (Pub. L. 98–473). As part of that bill, Congress enacted certain amendments to the Currency and Foreign Transactions Reporting Act (Act), (Pub. L. 91–508, Title II, as amended, codified at 31 U.S.C. 5311 *et seq.*).

These amendments increase the maximum civil and criminal penalties that can be imposed for violations of the Act or of the regulations promulgated pursuant to the Act; require the reporting of attempts to transport currency, or to cause currency to be transported, into or outside the United States; increase the threshold amount of monetary instruments required to be reported under the Act and implementing regulations from $5,000 to $10,000; permit customs officers to stop and search certain conveyances without search warrants if the officers have reasonable cause to believe that monetary instruments are being transported in violation of the Act; and provide for the payment of rewards to informants.

Part 103 of 31 CFR is hereby amended to reflect these changes in the law.

Notice and Comment

The Department of the Treasury for good cause has determined that a notice of proposed rulemaking pursuant to 5 U.S.C. 553(b) is not required because it is unnecessary. The amended regulations are necessitated by, and are in conformity with, a federal statute. There is no discretion vested in, or exercised by, the Secretary in implementing the statutory provisions; they are incorporated into the regulations without substantive change.

Special Analyses

The Department of the Treasury has determined that this regulatory amendment is not a "major rule" within the meaning of Executive Order 12291. The rule merely conforms existing regulations to changes in the statute. It will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, state or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment activity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Consequently, a Regulatory Impact Analysis has not been prepared.

Because no notice of proposed rulemaking is required for this final rule, it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Authority and Issuance

The Department of the Treasury issues this rule under the authority of the Currency and Foreign Transactions Reporting Act, Pub. L. 91-508, Title II (Oct. 26, 1970), as amended, codified at 31 U.S.C. 5311 *et seq.*; and the Comprehensive Crime Control Act of 1984, Pub. L. 98-473 (Chapter IX) (Oct. 12, 1984).

List of Subjects in 31 CFR Part 103

Financial institutions, Reporting and recordkeeping requirements, Currency transactions, Monetary instruments, Rewards, Informants, Banks and banking, Penalties.

31 CFR Part 103 is amended as follows:

PART 103—[AMENDED]

The table of contents in Part 103 of 31 CFR is amended to add to Subpart D a new section, § 103.52 Rewards for informants.

§ 103.23 Reports of transportation of currency or monetary instruments. [Amended]

Paragraph (a) in § 103.23 is amended by inserting in the first sentence, after "physically transports, mails or ships, or causes to be physically transported, mailed or shipped", the words "or attempts to physically transport, mail or ship, or attempts to cause to be physically transported, mailed or shipped".

Paragraph (a) in § 103.23 is further amended by striking out "$5,000" and inserting in lieu thereof "$10,000".

§ 103.47 Civil Penalty. [Amended]

Paragraph (a) in § 103.47 is amended by striking out "$1,000" and inserting in lieu thereof "$10,000".

§ 103.49 Criminal Penalty. [Amended]

Paragraph (a) in § 103.49 is amended by striking out of the first sentence "of this part" and by inserting, in lieu thereof, "of title I of Pub. L. 91-508, or of this part authorized thereby".

Section 103.49 is amended by redesignating paragraphs (b) and (c) as paragraphs (c) and (d), and by inserting the following new paragraph (b):

(b) Any person who willfully violates any provision of title II of Pub. L. 91-508, or of this part authorized thereby, may, upon conviction thereof, be fined not more than $250,000 or be imprisoned not more than 5 years, or both.

§ 103.50 Enforcement authority with respect to transportion of currency or monetary instruments. [Amended]

Section 103.50 is amended by redesignating pargraphs (a) and (b) as paragraphs (b) and (c), and by inserting the following new paragraph (a):

(a) If a customs officer has reasonable cause to believe that there is a monetary instrument being transported without the filing of the report required by §§ 103.23 and 103.25 of this chapter, he may stop and search, without a search warrant, a vehicle, vessel, aircraft, or other conveyance, envelope or other container, or person entering or departing from the United States with respect to which or whom the officer reasonably believes is transporting such instrument.

A new section 103.52 is added to Part 103, Subpart D, to read as follows:

§ 103.52 Rewards for informants.

(a) If an individual provides original information which leads to a recovery of a criminal fine, civil penalty, or forfeiture, which exceeds $50,000, for a violation of the provisions of the Act or of this part, the Secretary may pay a reward to that individual.

(b) The Secretary shall determine the amount of the reward to be paid under this section; however, any reward paid may not be more than 25 percent of the net amount of the fine, penalty or forfeiture collected, or $150,000, whichever is less.

(c) An offer or employee of the United States, a State, or a local government who provides original information described in paragraph (a) in the performance of official duties is not eligible for a reward under this section.

Dated: April 19, 1985.

John M. Walker, Jr.,

Assistant Secretary, (Enforcement and Operations).

[FR Doc. 85-10301 Filed 4-30-85; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-85-01]

Drawbridge Operation Regulations; Bush River, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Interim rule.

SUMMARY: At the request of the Bush River Yacht Club, the Coast Guard is issuing an interim rule amending the regulations that govern the operation of the railroad drawbridge across the Bush River, mile 6.8, at Perryman, Maryland and requesting comments on the rule. This is being done to improve navigation through the bridge and keep interruptions to rail traffic at a minimum. The drawbridge has been a constant source of discontent between the two modes of transportation in the past. Implementation of the rule should alleviate the problem to the satisfaction of all concerned.

DATE: This interim rule is effective May 1, 1985. Comments must be received on or before June 14, 1985.

ADDRESS: Comments should be mailed to Commander (oan), 5th Coast Guard District, 431 Crawford Street, Portsmouth, Virginia, 23705-5000. The comments received will be available for inspection and copying at Room 609 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, (804) 398-6227.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the interim rule. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action. The interim regulation may be changed in light of comments received.

Drafting Information

The drafters of this notice are CAPT M. J. Moynihan, Project Officer, and LCDR W. J. Brudzinski, Project Attorney.

Discussion of Proposed Rule

At the request of the Bush River Yacht Club, the Coast Guard is issuing an interim rule amending its regulation governing the operation of the Amtrak railroad drawbridge across the Bush River in Maryland. The Yacht Club members, virtually the only users of the draw, would like to have certain additional opening dates during the boating season and to have the operating procedures for the draw more expressly detailed in the regulation. This interim rule is the result of the combined efforts of representatives of the Yacht Club, Amtrak, and Coast Guard. Amtrak has agreed to implement the rule for the 1985 boating season.

The existing regulation requires two openings a day on each Saturday and Sunday from June 1 through September 30. The interim rule extends the period during which the draw shall open by one month, from May 1 through September 30, and adds one weekend (two days) in October. In addition, Federal holidays falling on Fridays and Mondays between May 1 and September 30 are added to the list of days on which the draw shall open.

Under the existing regulation, Amtrak sets the exact times for each opening but both openings must fall between 10 a.m. and 5 p.m. Under the interim rule, Amtrak will still determine the time of each opening but must limit the openings to daylight hours and separate them by six to ten hours with one opening before noon and one after noon. This change permits earlier and later openings and ensures that there will be a reasonable period of time between openings.

The existing rule does not clearly indicate that openings will be scheduled if requested by the Yacht Club. The revised rule clarifies the existing practice.

This interim rule is being made effective in less than 30 days because the boating season affected by the rule begins on May 1. Under this interim action, a comment period is provided which extends to June 14, 1985. This allows interested parties an opportunity to evaluate the regulations during the first month and a half of the boating season. Therefore, the Coast Guard finds that notice and public procedure thereon are unnecessary and contrary to the public interest and that the rule may be made effective in less than 30 days under 5 U.S.C. 553(d).

Economic Assessment and Certification

This interim regulation is considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this rule is expected to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that the interim regulation is not substantially different from the present regulation governing operation of this bridge, and the increase in the number of drawbridge openings for navigation is so minimal that it will not place a significant economic burden on Amtrak. Since the impact of this interim rule is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by revising § 117.547 to read as follows:

§ 117.547 Bush River.

The draw of the Amtrak bridge, mile 6.8 at Perryman, operates as follows:

(a) When notice under paragraph (b) of this section is given, the draw shall open twice a day—

(1) From May 1 through September 30, on each Saturday, Sunday, and Federal holiday falling on a Friday or a Monday; and

(2) In October, on the Saturday and Sunday of one weekend.

(b) Notice of the need for an opening is given to the Amtrak Assistant Transportation Superintendent at 301-291-4278 by an authorized representative of the Bush River Yacht Club by noon on the Friday just preceding the day of opening or, if that Friday is a Federal holiday, by noon on the preceding Thursday.

(c) Amtrak determines the times for openings and shall schedule the times—

(1) During daylight hours;

(2) Six to ten hours apart; and

(3) One opening before noon and one after noon.

(d) Amtrak shall notify a representative of the Yacht Club of the times of all openings for the weekend (or extended weekend) in question by 6 p.m. on the Friday just preceding the weekend or, if that Friday is a Federal holiday, by 6 p.m. on the preceding Thursday.

(e) Each opening shall be of sufficient duration to pass waiting vessels.

(33 U.S.C. 499; 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: April 3, 1985.

James C. Irwin,

Rear Admiral, U.S. Coast Guard, Commander Fifth Coast Guard District.

[FR Doc. 85-10612 Filed 4-29-85; 3:48 pm]

BILLING CODE 4910-14-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 308

[Docket No. CRT-85-2CC]

1985 Inflation Adjustment for Cable Copyright Royalty Rates

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: The Copyright Royalty Tribunal is adjusting the cable copyright royalty rates for inflation as set forth in the Copyright Act of 1976. This action is pursuant to a petition filed by parties with a significant interest in the cable royalty rate. This is the second inflation adjustment. This first adjustment was made in 1980.

This action does not affect the cable copyright royalty rates adopted by the Tribunal in 1982 after deregulation of the cable carriage rules by the FCC, nor does it affect the syndicated exclusivity surcharges. The Tribunal will consider those rates later this year.

EFFECTIVE DATE: May 31, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Cassler, General Counsel, Copyright Royalty Tribunal, Suite 450, 1111 20th Street NW., Washington, D.C. 20036, (202) 653-5175.

SUPPLEMENTARY INFORMATION: On March 19, 1985, the Copyright Royalty Tribunal (Tribunal) published a notice proposing to adjust cable television copyright royalty rates for inflation. *Notice Commencing 1985 Cable Royalty Inflation Adjustment Proceeding and Setting Procedural Dates*, 50 FR 10989 (1985).

In the notice, the Tribunal stated that sections 801(b)(2) (A) and (D) of the Copyright Act of 1976 (Act) authorizes the Tribunal to adjust the cable television royalty rates and the gross receipts limitations for inflation as set forth in sections 111(d)(2)(B)–(D) of the Act. The Tribunal also stated that it had received on March 8, 1985 a joint petition from the National Cable Television Association, Community Antenna Television Association, the Motion Picture Association of America, Major League Baseball, National Basketball Association, North American Soccer League, National Hockey League, National Collegiate Athletic Association, American Society of Composers, Authors, and Publishers, Broadcast Music, Inc., SESAC, Inc., and National Association of Broadcasters stating that they had reached an agreement regarding the 1985 inflation adjustment. The parties urged the Tribunal to adopt this agreement.

Pursuant to section 804 of the Act, the Tribunal gave notice of the commencement of the 1985 Cable Inflation Adjustment Proceeding and directed all interested parties to notify the Tribunal by April 17, 1985 of their intent to participate in the proceeding. The Tribunal further directed anyone interested in the proposed inflation adjustment to file their comments by April 17, 1985. The Tribunal asked for comments as to whether good cause existed to make the final rules effective with the publishing of the final rulemaking order in the **Federal Register**, pursuant to section 553(d)(3) of the Administrative Procedure Act.

Comments

The Tribunal received a comment filed jointly by the National Cable Television Association, Community Antenna Television Association, the Motion Picture Association of America, Inc., Major League Baseball, National Basketball Association, North American Soccer League, National Hockey League, National Collegiate Athletic Association, American Society of Composers, Authors and Publishers, Broadcast Music, Inc., SESAC, Inc., and National Association of Broadcasters. The Tribunal also received a comment from National Public Radio. Both comments supported the inflation adjustment proposed by the Tribunal.

More specifically, the comment filed jointly by the National Cable Television Association *et al.* supported the modification made by the Tribunal to the settlement agreement filed by the joint petitioners in which the Tribunal adjusted the $76,000 cut-off figure for Form 1 cable systems downward to $75,800. The comment agreed that the $75,800 figure was more accurate than $76,000 and that it was in keeping with the intent of the adjustment proposed by the joint petitioners.

The joint commenters also believed that good cause exists to make the final rules effective with the publishing of the final rulemaking order in the **Federal Register**. They cited the lead time needed by the Copyright Office to revise its statement of account forms to reflect the changes to be effected by the proposed rulemaking. However, the Tribunal, in researching this question on its own, has determined that it cannot make these rules effective on the date of publication in the **Federal Register**. Section 803 of the Act states that the Tribunal shall be subject to the provisions of the Administrative Procedure Act, "*except as otherwise provided in this chapter. . . .*" (emphasis ours). Section 809 states, "Any final determination by the Tribunal under this chapter shall become effective thirty days following its publication in the **Federal Register** as provided in section 803(b), unless prior to that time an appeal has been filed pursuant to section 810, to vacate, modify, or correct such determination, and notice of such appeal has been served on all parties who appeared before the Tribunal in the proceeding in question. . . ." It is the determination of the Tribunal that when sections 803 and 809 of the Act are read together, the "good cause" provision of section 553(d)(3) of the Administrative Procedure Act is not available to the Tribunal in the context of final determinations.

However, the Tribunal does not believe that delaying the effective date of its proposed inflation adjustment will cause any undue harm. It is the understanding of the Tribunal that the Copyright Office will be able to make the appropriate changes necessary for the first accounting period of 1985 which ends June 30, 1985 if the proposed rules are effective by June 1, 1985. Accordingly, the Tribunal is making the effective date of the final rules May 31, 1985.

Conclusion

The Tribunal reiterates that it is pleased that all the parties who participated in the 1980 inflation adjustment proceeding have been able to reach an agreement concerning the 1985 inflation adjustment. The Tribunal has also made a separate determination based on the comments it has received and upon its own experience that the inflation adjustment proposed by the joint petitioners is in the public interest. The Tribunal reminds the public that this inflation adjustment does not affect the cable royalty rates adopted in 1982 after deregulation of the cable carriage rules by the FCC, nor does it affect the syndicated exclusivity surcharges. The Tribunal will consider those rates later this year to the extent it is petitioned. Accordingly, and pursuant to section 801 of the Act. (17 U.S.C. 801) the Tribunal hereby adopts the rule changes proposed on March 19, 1985, as follows.

List of Subjects in 37 CFR Part 308

Cable television, Copyright.

PART 308—[AMENDED]

37 CFR Chapter III Part 308 is amended by revising § 308.2 (a) and (b) as follows:

§ 308.2 Royalty fee for compulsory license for secondary transmission by cable systems.

(a) Commencing with the first semiannual accounting period of 1985 and for each semiannual accounting period thereafter, the royalty rates established by 17 U.S.C. 111(d)(2)(B) shall be as follows:

(1) .893 of 1 per centum of such gross receipts for the privilege of further transmitting any nonnetwork programming of a primary transmitter in whole or in part beyond the local service area of such primary transmitter, such amount to be applied against the fee, if any, payable pursuant to paragraphs (a) (2) through (4);

(2) .893 of 1 per centum of such gross receipts for the first distant signal equivalent;

(3) .563 of 1 per centum of such gross receipts for each of the second, third and fourth distant signal equivalents; and

(4) .265 of 1 per centum of such gross receipts for the fifth distant signal equivalent and each additional distant signal equivalent thereafter.

(b) Commencing with the first semiannual accounting period of 1985 and for each semiannual accounting period thereafter, the gross receipts limitations established by 17 U.S.C.

111(d)(2) (C) and (D) shall be adjusted as follows:

(1) If the actual gross receipts paid by subscribers to a cable system for the period covered by the statement for the basic service of providing secondary transmission of primary broadcast transmitters total $146,000 or less, gross receipts of the cable system for the purpose of this paragraph shall be computed by subtracting from such actual gross receipts the amount by which $146,000 exceeds such actual gross receipts, except that in no case shall a cable system's gross receipts be reduced to less than $5,600. The royalty fee payable under this paragraph shall be 0.5 of 1 per centum regardless of the number of distant signal equivalents, if any; and

(2) If the acutal gross receipts paid by the subscribers to a cable system for the period covered by the statement, for the basis service of providing secondary transmissions of primary broadcast transmitters, are more that $146,000 but less than $292,000, the royalty fee payable under this paragraph shall be: (i) 0.5 of 1 per centum of any gross receipts up to $146,000 and (ii) 1 per centum of any gross receipts in excess of $146,000 but less than $292,000, regardless of the number of distant signal equivalents, if any.

* * * * *

Marianne Mele Hall,

Chairman, Copyright Royalty Tribunal.

April 25, 1985.

[FR Doc. 85-10446 Filed 4-30-85; 8:45 am]

BILLING CODE 1410-09-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2828-1]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: USEPA announces final approval of a revision to the Indiana State Implementation Plan (SIP) for sulfur dioxide (SO_2). The revision consists of the removal of the SO_2 self-monitoring requirement for Public Service Indiana's (PSI) Edwardsport Generating Station, Knox County, Indiana, as allowed by Indiana Rule 325 IAC 7-1, Section 4(b). This revision becomes effective once the Station achieves an annual operating capacity of no greater than 10%. USEPA's action is based upon a SIP revision request that was submitted by the Indiana Air Pollution Control Board (IAPCB) on February 23, 1984. A notice proposing approval of this revision appeared in the October 29, 1984, **Federal Register** (49 FR 43479).

EFFECTIVE DATE: This final rulemaking action becomes effective on May 31, 1985.

ADDRESS: Copies of this revision to the Indiana SIP are available for review at: The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

Copies of this SIP revision and other materials related to this rulemaking are available for review at the following addresses: (It is recommended that you telephone Colleen W. Comerford, at (312) 886-6034, before visiting the Region V office.)

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, D.C. 20460.

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT: Colleen W. Comerford, (312) 886-6034.

SUPPLEMENTARY INFORMATION: Indiana Rule 325 IAC 7-1 Section 4(a) requires all fuel combustion sources with a total plant capacity greater than 500 million British Thermal Units (MMBTU) heat input to maintain an ambient air quality monitoring network. However, Section 4(b) of this same rule allows the IAPCB to modify or remove the requirements of Section 4(a), if the source demonstrates to the Board's satisfaction that self-monitoring is not necessary to achieve the purposes of the rule.

On February 23, 1984, Indiana submitted, as a revision to its SO_2 SIP, a revised monitoring requirement for PSI's Edwardsport Generating Station, Knox County. This revision requires PSI to maintain the Edwardsport air quality monitors in place until such time as the Edwardsport Station is operated at a total annual operating capacity of 10% or less. When this occurs, PSI can discontinue running the Edwardsport monitors, but it must notify the State of its action. If the Station is ever operated again at an annual rate greater then 10%, the State must be notified for the possible reinstatement of the monitoring requrements. A detailed description of this SIP revision is given in the October 29, 1984, notice of proposed rulemaking (49 FR 43479), as well as the associated technical support document.

USEPA has reviewed this SIP submittal and concludes that the Edwardsport Station self-monitoring requirements go beyond what is presently required under the Clean Air Act to assure attainment and maintenance of the SO_2 NAAQS in the vicinity of the Station. USEPA proposed to approve this revision to the Indiana SO_2 SIP on October 29, 1984 (49 FR 32865). No public comments were received. Thus, USEPA takes final action to approve this revision to the Indiana SIP.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals of the appropriate circuit by 60 days from today. This action may not be challenged later in proceeding to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by Reference, Sulfur oxides, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

Authority Citation

This notice is issued under authority of Section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: April 25, 1985.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

INDIANA

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 is amended as follows:

Section 52.770 is amended by adding new paragraph (c)(52) as follows:

§ 52.770 Identification of plan.

* * * * *

(c) * * *

(52) On February 23, 1984, the Indiana Air Pollution Control Board submitted a revision to Indiana's SO_2 SIP waiving the self-monitoring requirement for Public Service Indiana's Edwardsport Generating Station, as set forth in section 4(a) of Rule 325 IAC 7-1. See (c)(19). This revision becomes effective once the Edwardsport Station achieves

an annual operating capacity of no greater than 10%.

* * * * *

[FR Doc. 85-10532 Filed 4-30-85; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 52

[A-1-FRL-2828-3]

Approval and Promulgation of Implementation Plans; Maine; Lincoln TSP Attainment Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan revisions submitted by the State of Maine. These revisions will reduce emissions of Total Suspended Particulate (TSP) matter at the Lincoln Pulp and Paper Company, Inc., in Lincoln. The intended effect of this action is to provide for attainment of the primary TSP National Ambient Air Quality Standards (NAAQS) as required under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will be effective June 10, 1985 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2313, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2313, JFK Federal Bldg., Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St., SW., Washington, D.C., Office of the Federal Register, 1100 L St., NW., Room 8401, Washington, D.C. and the Maine Department of Environmental Protection, Ray Building, Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Stephen Perkins, (617) 223-4866.

SUPPLEMENTARY INFORMATION: On December 18, 1984, the Commissioner of the Maine Department of Environmental Protection (DEP) submitted revisions to the Maine State Implementation Plan (SIP). The revisions provide for attainment of the primary NAAQS for TSP in Lincoln by requiring controls on sources of particulate emissions at the Lincoln Pulp and Paper Company, Inc. (the Company).

Background

The Town of Lincoln was redesignated as a nonattainment area for the primary and secondary NAAQS for TSP on December 20, 1983 (48 FR 56219). A ban on the construction or modification of major sources automatically applies to Lincoln eighteen months after the date of the redesignation unless an approved or conditionally approved attainment plan is in effect (40 CFR 52.24(k)). The redesignation was challenged in the U.S. Court of Appeals for the First Circuit by the Company and the Town of Lincoln on February 17, 1984. *Lincoln Pulp & Paper Co., et al.* v. *USEPA*, No. 84-1124 (1st Cir.) That challenge has been temporarily stayed pending rulemaking action to resolve the issues.

These revisions will satisfy the requirement for an approved attainment plan. Further, approval of this plan will also allow EPA to proceed with a forthcoming request to redesignate the area to secondary nonattainment for TSP.

Control Strategy

The Lincoln Pulp and Paper Company is the only major source of TSP in the nonattainment area. Under the requirements of an emission license issued to the Company on March 9, 1983 by the Maine DEP, pollution control systems have been installed and are operating on all significant point and fugitive sources of particulate emissions. The emission controls which have been submitted as part of the attainment plan require the Company to:

1. Operate an electrostatic precipitator and in-stack opacity monitors on the recovery boiler,
2. Operate a venturi scrubber on the lime kiln,
3. Operate fuel viscosity controls and oxygen monitors on certain oil-fired power boilers,
4. Restrict operation of certain powerboilers or combinations of boiler operation,
5. Operate a wet scrubber on the lime slaker vent,
6. Operate a wash demister pad scrubber on the lime causticizer vent,
7. Operate a baghouse on the lime silo vent,
8. Operate a wet scrubber on the starch slaker tank vent,
9. Use specified procedures in the handling of sawdust,
10. Pave and sweep weekly certain millyard areas,
11. Chemically stabilize certain unpaved roads, and
12. Limit emissions from the smelt tank.

These controls have resulted in a 284 TPY (37%) reduction in point source emissions and additional, though unquantified, reductions in fugitive emissions. There have been no primary TSP violations since the implementation of these reductions.

The State's submission also included an air quality analysis. All significant emission points at the mill were modeled using EPA's Industrial Source Complex (ISC) Model. Impacts on nearby elevated terrain were evaluated using EPA's Valley Model. The modeling results show attainment of both the 24-hour and annual primary NAAQS for TSP.

EPA has reviewed the State's submission and conducted independent analyses. We find that the emission reductions are federally enforceable and will provide for attainment and maintenance of the primary NAAQS expeditiously and effectively.

Final Action

EPA is approving the plan to attain the primary NAAQS for TSP in Lincoln, Maine submitted by the State on December 18, 1984.

The U.S. Court of Appeals for the District of Columbia has remanded portions of EPA's stack height regulations for promulgation of new regulations. *Sierra Club* v. *EPA*, 719 F2D 436 (1983). EPA has since proposed new stack height rules, on November 9, 1984 (49 FR 44878). Combined gas flows at the Company were evaluated for possible conflict with portions of the proposed regulation concerning "dispersion techniques," 40 CFR 51.1(hh). The combined gas flows were evaluated as though they were dissociated gas flows through separate stacks, in a manner consistent with the proposed regulation. The analysis showed that predicted impacts still would not violate the primary NAAQS. While EPA believes the action taken today to be consistent with the court decision, this action may be subject to modification when the final regulations are promulgated. This may result in a revised emission limitation.

EPA is approving these SIP revisions without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. This action will be effective 40 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no

such comments are received, the public is advised that this action will be effective June 10, 1985.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (see 46 FR 8709).

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 1, 1985. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Intergovernmental relations, Air pollution control agency, Particulate matter, and Incorporation by reference.

Authority: Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

Note.—Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 25, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart U—Maine

Section 52.1020 is amended by adding paragraph (c)(20) as follows:

§ 52.1020 Identification of plan.

* * * * * *

(c) * * *

(20) A plan to attain the primary TSP standard in Lincoln, consisting of particulate emission limitations contained in an air emission license issued to the Lincoln Pulp and Paper Company, Inc., submitted by the Commissioner of the Maine Department of Environmental Protection on December 18, 1984.

[FR Doc. 85-10534 Filed 4-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL-2828-2]

Approval and Promulgation of Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is today removing its conditional approval of Michigan's State Implementation Plan (SIP) Rule 336.1606. The condition of approval of Michigan's Rule 336.1606 for Stage I control of volatile organic compounds (VOC) emissions, required that the State either promulgate a rule with a 120,000 gallon per year throughput exemption for gasoline dispensing facilities and submit it to USEPA or demonstrate that allowable emissions resulting for the application of its existing rule with a 250,000 gallon per year throughput exemption for gasoline dispensing facilities are less than five percent greater than the allowable emissions resulting from the application of reasonably available control technology (RACT) as defined by USEPA's guidelines. USEPA has determined that the State of Michigan has demonstrated that emission limits in Rule 336.1606 are equivalent to RACT for the Detroit Urban nonattainment areas consisting of Wayne, Oakland, and Macomb Counties.

EFFECTIVE DATE: The final rulemaking is effective July 1, 1985.

ADDRESSES: Copies of this SIP revision and USEPA's evaluation are available for review at the following addresses:

U.S. Environmental Protection Agency, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48821.

Copies of the state submittal are available at:

Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C.

Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Toni Lesser, (312) 886-6037.

SUPPLEMENTARY INFORMATION: On November 1, 1984 (49 FR 43976), USEPA published a notice of proposed rulemaking proposing to remove its conditional approval of Michigan's Rule 336.1606 and to fully approve the rule. During the 30-day comment period no comments were received. For further information on the specifics of USEPA's analysis, see USEPA's Technical Support Document (TSD) dated June 1, 1984. That TSD also contains a detailed review of Michigan's RACT comparison study.

Michigan's Rule 336.1606 requires all gasoline dispensing facilities having a throughout of greater than 250,000 gallons per year which are located in the Detroit metropolitan area, as defined in Table 61 of Rule 336.1606, to install and operate vapor balance equipment for use in controlling VOC emissions during storage tank loadings. Additionally, the Rule requires that facilities which have a throughput greater than 250,000 gallons per year and are located anywhere in Wayne, Oakland, or Macomb Counties install submerged fill equipment.

On March 8, 1984, the State of Michigan submitted a report which was designed to demonstrate that the emission reductions required by Rule 336.1606 in the total three county area are equivalent to the emission reductions which would result from, application of USEPA's recommended RACT limits in the urbanized portion of the three county area.

Under Michigan's analysis, the total VOC emission allowed under Rule 336.1606 in the three county area are 1,146 tons per year, compared with allowed emissions of 1,191 tons VOC per year based on USEPA's recommended RACT requirements.

USEPA believes that Michigan has adequately demonstrated that its Rule 336.1606 emissions limits are equivalent to RACT for Wayne, Oakland and Macomb Counties. Therefore, USEPA removes its conditional approval of Rule 336.1606 and fully approves this rule.

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.)

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challanged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur dioxide, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Incorporation by Reference.

This notice is issued under authority of section 110 of the Clean Air Act, as amended (42 U.S.C. 7410).

Dated: April 25, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Part 52 of Chapter 1, Title 40, Code of Federal Regulations is amended as follows:

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraph (c)(77) as follows:

§ 52.1170 Identification of plan.

* * * * *

(c) * * *

(77) On March 8, 1984, the State of Michigan submitted a report which demonstrated that Rule 336.1606 contains emission limits equivalent to Reasonable Available Control Technology (RACT) for Wayne, Oakland and Macomb Counties. Therefore, USEPA removes its conditional approval of Rule 336.1606 and fully approves the State's rule.

* * * * *

§ 52.1174 [Amended]

2. Section 52.1174 is amended by removing Paragraph (a)(2).

[FR Doc. 85-10531 Filed 4-30-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[TN-016; A-4-FRL-2827-1]

Designation of Areas for Air Quality Planning Purposes; Tennessee: Redefinition of TSP and SO_2 Attainment Areas; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction in final rule.

SUMMARY: The portion of the Tennessee-SO_2 attainment status table published on page 30188 of the issue of July 27, 1984, was incorrect for Roane County. This document corrects that error.

EFFECTIVE DATE: September 25, 1984.

FOR FURTHER INFORMATION CONTACT: Ray Gregory, EPA Region IV Air Management Branch, at 404/881/3286 (FTS 257-3286).

In § 81.343, in the Table "Tennessee-SO_2", Roane County's attainment status is correctly listed as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * *	*	*	*	*
That portion of Roane County surrounding TVA's Kingston plant			X [1]	
Rest of Roane County				X
* * *	*	*	*	*

[1] EPA designation replaces state designation.

Dated: April 18, 1985.

John A. Little,

Acting Regional Administrator.

[FR Doc. 85-10364 Filed 4-30-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 1F2508/R760; FRL-2824-7]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Triclopyr

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide triclopyr and its metabolites in or on various raw agricultural commodities. This regulation to establish maximum permissible residues of the herbicide in or on the raw agricultural commodities was requested, pursuant to a petition, by Dow Chemical Corp.

EFFECTIVE DATE: Effective on May 1, 1985.

ADDRESS: Written objections, identified by the document control number [PP 1F2508/R760], 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:

Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of July 20, 1981 (46 FR 37323), that announced that Dow Chemical Co., P.O. Box 1706, Midland, MI 48640, had filed pesticide petition 1F2508 with the Agency proposing to amend 40 CFR Part 180 by establishing tolerances for the combined residues of the herbicide triclopyr [(3,5,6-trichloro-2-pyridinyl)oxy]acetic acid and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities grasses, forage at 1,000 parts per million (ppm); grasses, hay at 300 ppm; milk at 0.1 ppm; meat, fat, meat by-products (except kidney and liver) of cattle, sheep, and goats at 0.1 ppm; kidney and liver of cattle, sheep, and goats at 1.0 ppm.

No comments were received in response to the notice of filing.

The petitioner later amended the petition by proposing the establishment of tolerances for combined residues of the herbicide triclopyr [(3,5,6-trichloro-2-pyridinyl)oxy] acetic acid and its metabolites 3,5,6-trichloro-2-pyridinol and 2-methoxy-3,5,6-trichloropyridine on grasses, forage at 500 ppm and grasses, hay at 500 ppm and tolerances for the combined residues of the herbicide triclopyr [(3,5,6-trichloro-2-pyridinyl)oxy) acetic acid and its metabolite 3,5,6-trichloro-2-pyridinol in or on milk at 0.01 ppm; meat fat and meat by-products (except liver and kidney) of cattle, goats, hogs, horses, and sheep at 0.05 ppm; liver and kidney of cattle, goats, hogs, horses, and sheep at 0.5 ppm. Because these tolerances are less than previously proposed, no period for public comment is necessary.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicology data considered in support of the tolerances include several acute toxicology tests; a 90-day rat feeding study with a no-effect-level (NEL) of 30 milligrams/kilogram/day (mg/kg/day); a 6-month dog feeding study with a no-observable-effect level (NOEL) of 2.5 mg/kg/day; a 3-generation rat reproduction study with an NEL greater than 30 mg/kg/day; a mouse oncogenicity study with no observed oncogenic effects at all levels tested (24, 80, 240 ppm); a rabbit teratology study with a NOEL of $\geq$25.0 mg/kg/day; a rat teratology study with a NOEL $>$200 mg/kg (HDT); and several mutagenic studies (rec-assay and reversion, host-mediated

assay, Ames test, dominant lethal and mammalian cytogenetic study) all negative for mutagenic effects.

The provisional acceptable daily intake (PADI) based on the 6-month feeding study (NOEL) of 2.5 mg/kg/day) and using a 100-fold safety factor is calculated to be 0.025 mg/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 1.500 mg/day. The theoretical maximum residue contribution (TRMC) for these tolerances is 0.0129 mg/day (1.5kg). This action will utilize 0.86% of the ADI. No tolerances have previously been established for this chemical.

Data lacking are a repeat of the 2-year chronic feeding oncogenicity study in rats. The company has been required to perform the study and to submit it by July 31, 1987.

The herbicide is considered useful for the purpose for which the tolerances are sought. There are no regulatory actions pending against the continued registration of the herbicide. The nature of the residues is adequately understood, and an adequate analytical method, gas chromatography with an electron capture detector, is available for enforcement purposes. Residues are expected to occur in milk, liver, kidney, meat, fat, and meat by-products of cattle, sheep, and goats but will not exceed the proposed tolerance. Residues are not expected to occur in poultry or eggs.

Based on the information cited above, the Agency has determined that the establishment of the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document 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 procedure, Agricultural commodities, Pesticides and pests.

Dated: April 16, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. By adding § 180.3(d)(11), to read as follows:

§ 180.3 Tolerances for related pesticide chemicals.

* * * * *

(d) * * *

(11) Where a tolerance is established for triclopyr, chloropyrifos, and chlorpyrifos-methyl having the common metabolite 3,5,6-trichloro-2-pyridinol on the same raw agricultural commodity, the total amount of such residues shall not exceed the highest established tolerance for any of the pesticides having the metabolites.

* * * * *

2. By adding new § 180.417, to read as follows:

§ 180.417 Triclopyr; tolerances for residues.

(a) Tolerances are established for the combined residues of the herbicide triclopyr [(3,5-trichloro-2-pyridnyl)oxy]acetic acid and its metabolites 3,5,6-trichloro-2-pyridinol and 2-methoxy-3,5,6-trichloropyridine in or on the following raw agricultural commodities:

Commodity	Parts per million
Grasses, forage	500
Grasses, forage, hay	500

(b) Tolerances are established for the combined residues of the herbicide triclopyr [(3,5,6-trichloro-2-pyridinyl)oxy]acetic acid and its metabolite 3,5,6-trichloro-2-pyridinol in or on the following raw agricultural commodities:

Commodity	Parts per million
Milk	0.01
Meat, fat and meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, and sheep	0.05
Liver and kidney of cattle, goats, hogs, horses and sheep	0.5

[FR Doc. 85-9991 Filed 4-30-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 439

[OW-FRL-2286-7]

Pharmaceutical Manufacturing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Technical Amendment.

SUMMARY: In the preamble to Pharmaceutical Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards, 40 CFR Part 439, **Federal Register** October 27, 1983 and 48 FR 49808, EPA noted that the information collection requirements were under review at the Office of Management and Budget (OMB). In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), those provisions are not effective until OMB approval has been obtained. The Agency is announcing today the approval of these information requirements by OMB. In conformance with this approval, the Agency will include the OMB control number in the body of the rule.

EFFECTIVE DATE: January 31, 1985.

FOR FURTHER INFORMATION CONTACT: Frank H. Hund at (202) 382-7182.

Dated: April 19, 1985.

Henry Longest II,

Acting Administrator for Water.

PART 439—[AMENDED]

§ 439.15 [Amended]

At the end of CFR 439.15, and OMB control number is added to read as follows:

(Information collection requirements in paragraph (a) were approved by the Office of Management and Budget under control number 2040-0033)

[FR Doc. 85-10367 Filed 4-30-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6602

[I-15306, I-15307]

Idaho; Modification of Stock Driveway Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order establishes a 20-year term for two Bureau of Land Management Orders which withdrew 10,846.34 acres of land for stock driveway purposes. The lands have been and remain open to mining and mineral leasing, but closed to surface entry.

EFFECTIVE DATE: May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, BLM, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83724 208-334-1735.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Bureau of Land Management Orders of July 28, 1955, and March 23, 1956, which withdrew the following described lands, are hereby modified to expire 20 years from the effective date of this order unless as a result of a review conducted before the expiration date, pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended. The lands aggregate 10,846.34 acres in Bingham County.

Robert N. Broadbent,

Assistant Secretary of the Interior.

[FR Doc. 85-10559 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 55, 56, and 57

Riot Reinsurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule removes regulations implementing the riot reinsurance program. In November 1983, Congress amended the Urban Property Protection and Reinsurance Act of 1968 to terminate the Federal Insurance Administration's authority to offer further policies of Federal riot reinsurance and to periodically review each State's FAIR Plan in its entirety for conformity to statutory criteria. Consequently, no offer to extend or write new policies of riot reinsurance was made after September 30, 1984.

EFFECTIVE DATE: May 31, 1985.

FOR FURTHER INFORMATION CONTACT: Robert J. DeHenzel, Federal Emergency Management Agency, Federal Insurance Administration, Donohoe Building, 500 C Street SW., Room 433, Washington, DC 20472. Telephone number (202) 646-3440.

SUPPLEMENTARY INFORMATION: No written comments were received during the comment period which were due by April 1, 1985.

List of Subjects in 44 CFR Parts 55-57

Civil orders, Insurance.

Accordingly, Subchapter B of Chapter I, Title 44, Code of Federal Regulations, is hereby amended by removing and reserving Parts 55, 56, and 57 as follows:

PART 55—[REMOVED]

By removing and reserving Part 55 in its entirety.

PART 56—[REMOVED]

By removing and reserving Part 56 in its entirety.

PART 57—[REMOVED]

By removing and reserving Part 57 in its entirety.

Authority: 12 U.S.C. 1749bbb-17.

Issued: April 26, 1985.

Jeffrey S. Bragg,

Federal Insurance Administrator.

[FR Doc. 85-10495 Filed 4-30-85; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 85-197]

Delegation of Authority to the Chief, Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action delegates to the Chief, Common Carrier Bureau, the Commission's authority to approve the disclosure of commercial information obtained by the Commission during an examination of books or accounts.

This action is taken by the Commission in order to facilitate joint and cooperative activities with state public utility commissions.

This action is intended to generate regulatory and fiscal efficiencies by promoting the efficient utilization of limited federal and state staff resources.

EFFECTIVE DATE: April 24, 1985.

ADDRESS: FCC, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael R. Wack, Common Carrier Bureau, (202) 632-6917.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 0

Delegations of authority, Freedom of information.

Memorandum Opinion and Order

In the matter of amendment of Part 0 of the Commission's rules with respect to delegation of authority to the Chief, Common Carrier Bureau, CC, FCC 85-197, 35753.

Adopted: April 19, 1985.

Released: April 24, 1985.

By the Commission.

1. Telecommunications products and services in the United States are provided pursuant to a system of concurrent, complementary federal and state regulation. In recent years, due to rapid and substantial changes in the telecommunications industry, the complexity and pace of federal and state common carrier regulation have increased significantly. This has occurred at a time when fiscal pressures on the states and the federal government preclude major funding increases to support staff activities. In view of our shared regulatory responsibilities, and the similar nature of many of our activities, we believe substantial regulatory and fiscal efficiencies can be achieved by closer cooperation between state and federal regulators on matters of common interest and jurisdiction. Therefore, we act today (1) to highlight and emphasize those portions of the Communications Act, 47 U.S.C. 151, *et seq.*, which both empower and encourage the Commission to cooperate with the States on matters of common interest; and, (2) to facilitate such cooperation by making certain minor changes in our rules regarding delegations of authority to the Chief, Common Carrier Bureau.

2. There can be no doubt that the dynamic nature of the telecommunications undustry in recent years has increased significantly the magnitude and scope of the federal and state common carrier regulatory workload. For example, technological advances have created markets, such as cellular telephone service, which existed

only in infant form ten years ago.[1] Moreover, AT&T's divestiture of its local operating companies, pursuant to the Modification of Final Judgment (MFJ) in *United States v. AT&T*,[2] has altered substantially the telecommunications industry. The MFJ has, among other things, led to the establishment of seven large regional holding companies. The creation of these companies and their various subsidiaries has generated a host of policy issues, including issues related to the entry of these new companies into unregulated telecommunications and nontelecommunications markets.[3] In addition, the Commission's own activities during this period have generated significant amounts of work, as our policies and rules have been reshaped to accommodate outside events and to implement our own initiatives. For purposes of illustration, we point to the accounting and reporting activities relating to our decisions involving the Uniform System of Accounts,[4] and to the compliance and enforcement activities arising out of the *Computer II* decision and its progeny.[5] While the policy trend is toward less regulation, the transition period associated with opening telecommunications markets to new entrants, products, and services imposes significant short-to-medium-term burdens on regulators.

3. The impact on state utility and public service commissions of these events is at least equal to their impact on this Commission. Divestiture has fundamentally altered the corporate structure, as well, as the nature and degree of activities, of the Bell operating companies (BOCs), which have been regulated primarily by the states. The new industries generated by technological advances also have had an impact on state regulatory activities (e.g., policies and activities related to the rate regulation of cellular services). Moreover, state commissions are subject to the same fiscal pressures which exist at the federal level and preclude any major funding increases to support staff activities.

4. At the federal level, these staff activities are performed by the Commission's Common Carrier Bureau. Pursuant to our rules, the Bureau develops, recommends, and administers policies and programs for the regulation of entities furnishing interstate of foreign communications and ancillary operations relating to the provision or use of such services. 47 CFR 0.91. In so doing, the Bureau performs certain specific functions, including (1) the administration of the Commission's accounting and reporting requirements; and, (2) conducting and coordinating compliance and enforcement activities. 47 CFR 0.91(a). To a substantial degree, these activities overlap—and in some instances, duplicate—activities performed at the state level. For instance, in performing its accounting responsibilities, the Bureau frequently audits the same carrier materials that are examined by the states in the course of a rate case.

5. As noted previously, we believe significant fiscal and regulatory efficiencies can be achieved by working more closely with the states on matters of common interest and jurisdiction. It is in our mutual interest to avoid duplication of our activities wherever possible and thereby enhance and efficiently utilize our limited resources. Examples of cooperation might include, *inter alia*, (1) joint audits of the accounts, records, and memoranda of carriers subject to our concurrent jurisdiction; (2) joint investigations of carrier activities in areas of common interest; and, (3) sharing information gathered in the course of separate audits and investigations.

6. The Communications Act specifically authorizes the Commission "to avail itself of such cooperation, services, records, and facilities as may be afforded by any State Commission." 47 U.S.C. 410(b); *see also* 47 U.S.C. 410(a), 410(c) (Joint Boards). This clear congressional approval of joint federal and state activities is supplemented by our own authority under sections 4(i) and 5(c) of the Act, 47 U.S.C. 154(i), 155(c). Pursuant to this authority, we have already directed the Common Carrier Bureau to collaborate with representatives of state regulatory commissions and the National Association of Regulatory Utility Commissioners in cooperative studies of common carrier and related matters. 47 CFR 0.91(c).

7. We find no prohibition in the Communications Act or elsewhere which would bar the joint activities or information sharing outlined above or contemplated by this order. Out of an abundance of caution, however, we note that section 220(f) of the Act, 47 U.S.C. 220(f), may inhibit the Bureau from cooperating with the states without Commission approval. Section 220(f) provides:

> No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts, as hereinbefore provided, except insofar as he may be directed by the Commission or by a court.

8. The legislative history of the Communications Act indicates that section 220(f) is based upon a substantially similar provision of the Interstate Commerce Act; specifically, section 20. H.R. Rep. No 1850, 73rd Cong., 2nd Sess. 7 (1934); S. Rep. 781, 73rd Cong., 2nd Sess. 5 (1934). The provision is intended to serve as a limited barrier against disclosure to the public of commercial information obtained by the Commission during an examination of accounts and records. *See, e.g. Hearings on H.R. 8301 Before the Committee on Interstate and Foreign Commerce, House of Representatives*, 73rd Cong., 2nd Sess. 94 (1934) (statement of Frank McManamy, Chairman of the Legislative Committee, Interstate Commerce Commission); *Id.* at 227 (statement of Sosthenes Behn, President, International Telephone and Telegraph Company).

9. There is no indication that Congress intended section 220(f) to be a barrier to the sharing of FCC-acquired information with the states. On its face, the provision merely requires that disclosure be approved by the Commission or by a court. As the prompt and orderly conduct of the Commission's business would be significantly disrupted if each cooperative venture or information release demanded full Commission review and approval, we hereinafter delegate the authority to make such determinations to the Chief, Common Carrier Bureau. We wish to make the limited scope of this authority absolutely clear, however, by emphasizing that it shall relate exclusively to information which may be (1) disclosed during the course of an

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[1] *See generally* Policy and Rules Concerning the Furnishing of Customer Premises Equipment, Enhanced Services and Cellular Communications Services by the Bell Operating Companies, FCC 85-54, CC Docket No. 84-637 (released February 12, 1985) and orders cited therein.

[2] United States v. AT&T, 552 F. Supp. 131 (D.D.C. 1982), *aff'd sub nom.* Maryland v. United States, 460 U.S. 1001 (1983).

[3] *See, e.g.*, Capitalization Plans for the Furnishing of Customer Premises Equipment and Enhanced Services, FCC 85-28 (released Feb. 4, 1985) and orders cited therein.

[4] *See, e.g.*, Uniform System of Accounts, 64 FCC 2d 1 (1977) (CC Docket 19129, Final Decision and Order); Uniform System of Accounts, 85 FCC 2d 818 (CC Docket 79-105, First Report and Order); *see generally* Further Notice of Proposed Rulemaking, FCC 85- , CC Docket 78-196 (released January 3, 1985) and orders cited therein.

[5] Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom.* Computer & Communications Industry Ass'n v. FCC, 693 F.2d 198 (D.C. Cir. 1982), *cert. denied*, 103 S. Ct. 2109 (1983).

audit or investigation; or, (2) contained in audit reports prepared by the Bureau.

10. We can foresee instances in which the joint and cooperative activities contemplated by this order will entail sharing with the states commercial information of a confidential nature. The companies from which such information is obtained have a legitimate interest in ensuring that it is protected against unwarranted disclosure. As such, we make note of the fact that the sharing of confidential business information by this Commission with the states is not a release of such information to the "public" within the meaning of the Freedom of Information Act (FOIA), as long as the states provide reasonable assurances that the information will not be generally released to the public. *INTERCO Inc.* v. *F.T.C.*, 478 F.Supp. 103, 106 (1979); *accord Jaymar-Ruby, Inc.* v. *F.T.C.*, 651 F.2d 506 (7th Cir. 1981); *see generally Fleming* v. *F.T.C.*, 670 F.2d 311 (D.C. Cir. 1982). In view of the case law, Commission participation in joint and cooperative activities engaged in pursuant to this order is conditioned upon a requirement that state participants are willing and able to treat commercial information according to our confidentiality rules and guidelines.[6] The regulatory efficiencies we hope to achieve through joint activities will not be reduced by such a requirement. It is merely a means of ensuring that joint federal and state activities do not have the unintended consequence of automatically triggering the release of confidential commercial information to third parties, pursuant to an FOIA request.

11. Notice and comment are not required prior to enactment of this rule change because it relates to internal Commission organization, procedure, and practice. 5 U.S.C. 553(b). As the immediate implementation of these changes will expedite the transaction of public business and advance the public interest, compliance with the effective date provisions of the Administrative Procedures Act is also not required. 5 U.S.C. 553(d).

12. Accordingly, it is ordered, on the Commission's own motion, pursuant to sections 4(i), 4(j), and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 155(c), that the rules are amended, effective April 24, 1985 by substituting for § 0.291(b) the revised language which appears as Appendix A to this Order.

13. It is further ordered, pursuant to section 5(c)(1) of the Act 47 U.S.C. 155(c)(1), and § 0.201(d)(1) of our rules, 47 CFR 0.201(d)(1), that the Secretary shall cause this order to be published in the **Federal Register.**

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Rule Revision

Subpart B of Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—[AMENDED]

1. In § 0.291, paragraph (b) is revised to read as follows:

§ 0.291 Authority delegated.

* * * * *

(b) *Authority concerning sections 219 and 220 of the Act.* The Chief, Common Carrier Bureau shall not have authority to promulgate regulations or orders pursuant to section 219 or section 220 of the Communications Act of 1934, as amended, except that the Chief, Common Carrier Bureau shall have authority to (1) approve depreciation charges to operating expenses on an interim basis subject to commission prescription prior to the end of January of the year following that in which interim approval is given; and, (2) approve the release to state public utility commissions such information as the Bureau may obtain during the course of its audit activities which falls within the common interest and jurisdiction of the Commission and the states.

* * * * *

[FR Doc. 85-10592 Filed 4-30-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 83

[PR Docket No. 84-759; FCC 85-198]

Implementation of the Second Set of Amendments to the Safety of Life at Sea Convention of 1974

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the rules governing the radio equipment carried by ships subject to the Safety of Life at Sea (SOLAS) Convention and Title III, Part II of the Communications Act of 1934, as amended. The purpose of these amendments is to provide for emergency position indicating radiobeacons and two-way radiotelephones in survival craft. This action will improve the safety of ships' crews and passengers.

EFFECTIVE DATE: June 3, 1985.

FOR FURTHER INFORMATION CONTACT: Robert C. McIntyre, Private Radio Bureau, Washington, D.C. 20554, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Communication equipment, Marine safety, Vessel, Distress.

Report and Order; Proceeding Terminated

In the matter of amendment of Part 83 of the Commission's rules to implement the second set of amendments to the Safety of Life at Sea Convention of 1974, PR Docket No. 84-759.

Adopted: April 22, 1985.
Released: April 25, 1985.

By the Commission.

1. This Report and Order amends Part 83 of the Commission's rules to implement the second set of amendments to the Safety of Life at Sea (SOLAS) Convention of 1974 adopted by the International Maritime Organization (IMO).[1] The amendments will improve the safety of ships' crews and passengers by providing for the use of emergency position indicating radiobeacons (EPIRB's) and two-way radiotelephones for use in survival craft.[2]

2. These rules will apply to vessels which are subject to the Communications Act of 1934, as amended, as well as to vessels which are subject to the 1974 SOLAS Convention.[3] The proposed rules

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[6] The Commission's guidelines for the treatment of confidential commercial information may be found in §§ 0.457, 0.459, and 0.461 of our rules, 47 CFR 0.457, 0.459, 0.461. To the extent that the FOIA imposes a higher standard of confidentiality than a particular state law, our action today will require all participants to adhere to the higher federal standard.

[1] The expanded Maritime Safety Committee (MSC) at its Forty-Eighth Session (June 6-17, 1983) adopted the second set of amendments. The amendments apply to new vessels after July 1, 1986. Other compulsorily fitted vessels constructed prior to July 1, 1986, must comply no later than July 1, 1991. These amendments are scheduled to come into force on January 1, 1986, provided the required number of objections stipulated in the Convention have not been notified to IMO.

[2] A survival craft is a craft capable of sustaining the lives of persons in distress from the time of abandoning the ship (Chapter III, Regulation 4, 1974 SOLAS Convention, as amended).

[3] Vessels operating on national voyages, subject only to the Communications Act, often travel on the high seas and, consequently, are exposed to the same dangers as vessels engaged on international voyages. The Communications Act and the SOLAS Convention have similar provisions governing ship's radio equipment. The Commission maintained this similarity when the first set of amendments to the 1974 SOLAS Convention was implemented (PR Docket No. 83-429, Adopted October 19, 1983, FCC

Continued

providing for the use of survival craft EPIRB's and two-way radiotelephones include technical standards, testing provisions, equipment approval procedures and licensing provisions.

3. Comments were filed in this proceeding by Amoco Transport Company (AMOCO), ITT Telecom Products Company (ITT), Lake Carriers Association (LCA) and Shell Oil Company (SHELL). The proposed rules were coordinated with the U.S. Coast Guard (U.S.C.G.) and the National Transportation Safety Board. The comments generally supported the Commission's proposals, and recommendations were received concerning specific technical problems on which we solicited views. Late comments were received from the U.S.C.G. and have been considered in this proceeding. No reply comments were filed.

Discussion

4. The Commission's Notice was based on the "Report of the Maritime Safety Committee on Its Forty-eighth Session (July 12, 1983)" which approved the second set of amendments to the 1974 SOLAS Convention. We proposed rules which provided for the use of the equipment (including technical standards, equipment approval and licensing arrangements) and specified the survival craft equipment to be carried on compulsorily fitted vessels.[4] The U.S.C.G. in their comments has indicated that they intend to incorporate the equipment carriage requirements in Title 46 of the Code of Federal Regulations and have requested that this aspect of the amendments not be included in our rules. While there are advantages to placing all radio equipment carriage requirements in one rule part, we can honor this request since the life saving appliance requirements (46 U.S.C. 3306(a)) are under U.S.C.G. cognizance. The proposed rules have been modified to reference the U.S.C.G. regulations for the survival craft EPIRB's and two-way radiotelephone carriage requirements and to delete such requirements from our rules.[5] Except as noted in the remaining discussion, the rules related to technical standards, equipment approval, testing and licensing remain substantially as proposed.

5. No objections were raised to the carriage of a survival craft EPIRB (Class S) as proposed by the Commission. The U.S.C.G. pointed out that "IMO is planning a future global maritime distress and safety system (FGMDSS) which will ultimately replace the current distress and safety system now mandated by the SOLAS Convention. Two new features of the FGMDSS are the use of satellite EPIRB's for alerting and use of (VHF/FM) radiotelephones by survival craft personnel for communicating to the rescue ship and to other survival craft." The U.S.C.G. wishes to draw attention to the ongoing FGMDSS planning [6] and the fact that the Class S EPIRB, in addition to alerting aircraft which fly over the area, may be detected by the COSPAS/SARSAT polar orbiting satellite system currently being tested by a number of administrations, including the United States.[7]

6. We proposed in the Notice that the Class S EPIRB "must be stowed in the radio room, on the bridge or in a location readily accessible for transfer to a survival craft." Recognizing that the EPIRB would be well protected if it were stowed in the survival craft and that this method would obviate the need for transfer of the device during an emergency situation, we also solicited comments in this regard. U.S.C.G. and ITT supported the stowing of the EPIRB in the survival craft. SHELL preferred that the location be kept flexible to accommodate various types of vessels but stated that stowage in the survival craft itself should be given consideration when choosing a location. LCA prefers that the storage location be left to the discretion of the owner/operator appropriate to the configuration of his vessels. If this recommendation is not accepted then LCA would prefer that the Commission's proposal stated in the Notice be adopted.[8] We agree with the U.S.C.G. and ITT to require stowage of the EPIRB in the survival craft because of the protection afforded the device and its availability during a distress situation.

7. The rules we proposed would require that the EPIRB be capable of floating in accordance with the newly amended Regulation 14-1, Chapter IV of the SOLAS Convention. The U.S.C.G. points out in some installations the EPIRB will be permanently mounted to the survival craft and in such cases the EPRIB itself need not be capable of floating since flotation will be provided by the survival craft. We have eliminated the requirement for the device to have the capability of floating for those cases where the device is permanently installed in the survival craft. This interpretation will permit this type of EPIRB to be made physically smaller and at a lower cost to the user. We have modified the rules to accommodate this application.

8. The proposed rules would permit UHF transceivers currently carried for on-board communication purposes to be used to satisfy the carriage requirement for a two-way portable radiotelephone apparatus.[9] AMOCO supports our proposal permitting currently used UHF on-board apparatus to be used until 1993. LCA and ITT recommend that a VHF two-way radiotelephone operating on the maritime mobile bands be used to satisfy this requirement. The U.S.C.G. also recommends that VHF two-way radiotelephone be permitted as an alternative to the UHF equipment. Several reasons are put forth to support this recommendation to use VHF including:

—In an emergency the occupants of a survival craft could communicate with other vessels on the disaster scene and not just vessels fitted with UHF on-board equipment;
—VHF homing equipment on U.S. Coast Guard vessels would permit location of a survival craft during periods of low visibility; and
—VHF portable hand held transceivers are readily available.

83-475, 48 FR 21599); the amendments were made applicable to vessels subject only to the Communications Act.

[4] Compulsorily fitted vessels in the context of this proceeding pertain to vessels subject to Part II of Title III of the Communications Act and to the 1974 SOLAS Convention.

[5] In the case of the survival craft nonportable radiotelegraph installation (§ 83.469) and the portable radiotelegraph equipment (§ 83.472) the carriage requirements are in Title 46 of the Code of Federal Regulations and the Commission's rules provide for the technical standards, equipment approval and station licensing.

[6] Information concerning the proposed FGMDSS system can be found in following Commission proceedings: Docket 82-395, Notice of Inquiry, adopted August 23, 1982, FCC 82-595, 47 FR 40227. Docket 83-430, Notice of Inquiry, adopted April 27, 1983, FCC 83-205, 48 FR 22632.

[7] The U.S.C.G. further points out that the COSPAS/SARSAT organization is planning to finalize specifications for a 406 MHz EPIRB in the next few months and will enter into an initial operational phase in 1985. Additionally, IMO is developing the FGMDSS in which this 406 MHz EPIRB will be a major element. They urge substitute fitting of a 406 MHz EPIRB, as soon as this device is available and before being mandated by IMO, because of the enhanced alerting capability and increased search and rescue efficiency which will be realized.

[8] With regard to LCA comments, we note that vessels which sail only on the Great Lakes are not subject to the requirements of the SOLAS Convention or Title III, Part II of the Communications Act of 1934, as amended and, consequently, are not specifically subject to the regulations under consideration in this proceeding.

[9] Portable radiotelephone transceivers now type for on-board communications purposes may be used to satisfy the survival craft radiotelephone requirement provided the licensee make a determination that the device meets the technical requirements of § 83.603 a, b, e and f.

9. The majority of large vessel operators currently use UHF transceivers for on-board communication purposes and have supported the U.S. position to IMO recommending the use of this equipment to satisfy the survival craft two-way radiotelephone requirements. The equipment is in daily use on these vessels and, consequently, has a high probability of being in working order when carried into a survival craft. We recognize, however, that smaller vessels may not be currently fitted with UHF equipment and that, in light of the expected FGMDSS requirement for a survival craft VHF/FM radiotelephone, it may be advantageous for these vessels to fit with a VHF two-way radiotelephone. For this reason and those stated in paragraph 8 we agree that use of a two-way radiotelephone operating in the VHF band, as an alternative to the UHF band, provides increased flexibility and should be permitted. We have modified the proposed rules to include this flexibility.

10. SHELL requests that we clarify the applicability of the rules to ensure that the requirements only apply to self-propelled vessels in international trade. Paragraph 1 of the Notice declares the Commission's intention to implement the second set of amendments to the 1974 SOLAS Convention and the rules proposed apply to compulsorily fitted vessels subject to the SOLAS Convention as well as Part II of Title III of the Communications Act. It is further stated in paragraph 3 of the Notice that the proposed rules are additionally applicable to vessels subject only to the Communications Act of 1934, as amended. Thus, the proposed rules are applicable to all compulsorily fitted vessels leaving U.S. ports whether or not they are engaged on an international voyage.[10] However, it should be noted that the specific carriage requirement for survival craft equipment will be included in U.S.C.G. rules and SHELL's concerns, including those related to carriage of EPIRB's in the Gulf of Mexico, should be addressed in the context of the U.S.C.G. proceeding.

11. Recognizing that two-way radiotelephones include in some cases the use of a removable external antenna, we invited comments as to whether the Commission should require that the units have a permanently affixed antenna or that the antenna be stowed with the equipment when not in normal use. AMOCO recommended that the equipment normally be "kept with the self-contained antenna in place and in use." We agree with this recommendation and are further of the view that the antenna can only be kept in place if it is required to be permanently fixed to the equipment or requires use of a special tool for removal from the equipment. Section 83.603 of our rules is modified to require this feature on new equipment installed after October 1, 1988.

12. The proposed rules require weekly tests of the survival craft two-way radiotelephones when the equipment is not in routine use. We requested comments on the type of operational check to be performed on this equipment. AMOCO recommends that the operational checks be conducted between two vessels at a distance to be specified by the Commission. We agree that tests with another vessel, separated, for example, by a distance of 2 miles or greater, would provide a clear indication of satisfactory operation.

However, we foresee cases where it may be difficult, especially on the high seas, to contact vessel in order to conduct such weekly tests. Considering this fact, and noting that routine use of the radiotelephone has been agreed to provide an adequate indication that the equipment is operating properly, we will accept tests conducted between units on-board the same vessel. The tests should be conducted with equipment physically separated as far as practical to provide the most stringent test conditions realizable under the circumstances.

13. Our proposals required that the survival craft two-way UHF radiotelephone equipment operate on the frequency 457.525 MHz in the simplex mode (transmission alternately in each direction). Use of the simplex mode assues a communication capability in the event that the repeater, usually employed in such systems, fails. Since several frequencies are available for on-board communications, specifying a particular frequency ensures interoperability of stations when communicating for distress purposes. AMOCO recommends that we discusss this concept with other administrations to ensure wide spread acceptance of this frequency. We are planning to introduce this concept into the IMO forum and will consider this matter further in conjunction with our 1987 Mobile WARC proposals.

Conclusion

14. In view of the above, we conclude that is in the public interest to implement the provisions of the 1974 SOLAS Convention in the rules. The survival craft radio equipment described in this proceeding will substantially improve the safety of passengers and crew in distress situations. Accordingly, we are adopting the rules as proposed except for those changes described in the discussion.

15. In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), we certify that these rules will not, if promulgated, have a significant economic impact on a substantial number of small entities. Vessels subject to these rules are operated by large concerns rather than small businesses.

16. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burden upon the public. Implementation of any new or modified requirements or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

17. Accordingly, it is ordered, that under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), Part 83 of the Commission rules is amended as set forth in the attached Appendix, effective June 3, 1985.

18. 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.

19. It is further ordered, that this proceeding is terminated.

20. Regarding questions on matters covered in this document, contact Robert C. McIntyre (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

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

1. In § 83.139 paragraph (h) is revised to read as follows:

§ 83.139 Acceptability of transmitters for licensing

* * * * *

(h) Each emergency position indicating radiobeacon (EPIRB) transmitter acceptable for licensing under this part must be type accepted by the Commission. In order to obtain type acceptance for a Class S EPIRB, the applicant must submit a sample unit for

[10] See paragraph 2 of this Report and Order providing additional discussion of this subject.

testing with the application for type acceptance.

* * * * *

2. In § 83.473 paragraph(a) is revised to read as follows:

§ 83.473 Tests of survival craft radio equipment.

(a) Tests of survival craft radio equipment, except emergency position indicating radiobeacons and two-way radiotelephone equipment, must be conducted at weekly intervals while the ship is at sea or within 24 hours prior to departure from a port when a test has not been conducted within a week of the departure.

(1) When the ship is in a foreign port, transmitter tests are subject to any limitations imposed by the nation having jurisdiction.

(2) The tests must include operation of the transmitter connected to an artificial antenna and determination of the specific gravity in the case of lead-acid batteries or determination of the voltage under normal load for other types of batteries.

* * * * *

§ 83.474 [Redesignated as § 83.479]

3. Section 83.474 is redesignated as § 83.479.

4. A new § 83.474 is added to read as follows:

§ 83.474 Survival craft emergency position indicating radiobeacons, Class S.

(a) Survival craft emergency position indicating radiobeacons, Class S, required to comply with the Title 46 of the Code of Federal Regulations must be type accepted to meet the provisions of § 83.601.

(b) The Class S EPRIB must be stowed in the survival craft.

(c) The Class S EPIRB must be tested at intervals not to exceed twelve months.

(d) Batteries must be replaced after the date specified in § 83.144(h), or after the transmitter has been used in an emergency situtation, whichever, is earlier.

5. A new § 83.475 is added to read as follows:

§ 83.475 Survival craft portable two-way radiotelephone apparatus.

(a) Survival craft portable two-way radiotelephone transceivers required to comply with Title 46 of the Code of Federal Regulations must be approved by the Commission to meet the provisions of § 83.603.

(b) The equipment must be stowed in the radio room on the bridge or in a location readily accessible for transfer to life boats when not being used by shipboard personnel to satisfy the vessel's operational requirements.

(c) When not in routine use the survival craft two-way radiotelephone transceivers must be operationally tested once a week. Operational tests should be conducted with equipment separated as far as practical and must in the case of UHF equipment include tests on the frequency 457.525 MHz.

(d) All survival craft two-way radiotelephone apparatus associated with a vessel must operate in the same frequency band (VHF or UHF).

6. A new § 83.504 is added to read as follows:

§ 83.504 Survival craft radio equipment.

(a) A survival craft emergency position indicating radiobeacon, Class S, required to comply with Title 46 of the Code of Federal Regulations must meet the provisions of § 83.474.

(b) A survival craft two-way radiotelephone apparatus required to comply with Title 46 of the Code of Federal Regulations must meet the provisions of § 883.475.

§ 83.651 [Redesignated from § 83.601]

7. Section 83.601 is redesignated as § 83.651. The heading, Subpart W-Violations, is relocated to precede § 83.651.

8. A new § 83.601 is added to read as follows:

§ 83.601 Requirements for survival craft emergency position indicating radiobeacons.

To be type accepted by the Commission pursuant to § 83.474, survival craft emergency position indicating radiobeacons must comply with the following general requirements in addition to the applicable specific requirements in §§ 83.134(i), 83.137(l) and 83.144 (a) and (c) through (m):

(a) Be capable only of manual activation by an on-off switch protected by a guard or other suitable means to prevent accidental activation of the radiobeacon;

(b) Provide either continuous or intermittent operation with a 50 percent duty cycle having a total period of two minutes ± 12 seconds. The radiobeacon must transmit for one minute followed by a one minute period without transmission if designed for intermittent operation;

(c) Be marked with the manufacturer's name, with the type number and with the indication "Class S";

(d) Be watertight and float in calm water with at least the upper 5 centimeters of the EPIRB body and the base of the antenna above the water. If the device is intended to be permanently secured to the survival craft, the EPRIB need not be capable of floating. A report attesting to the capability of the device to meet this requirement must be provided.

(e) Meet the technical requirements of this section after a free fall from a height of 20 meters into water. A report attesting to the capability of the device to meet this requirements must be provided.

§ 83.653 [Redesignated from § 83.602]

9. Section 83.602 is redesignated as § 83.653.

10. A new § 83.603 is added to read as follows:

§ 83.603 Requirements for survival craft two-way radiotelephone apparatus.

Survival craft two-way radiotelephone equipment may operate in the maritime mobile VHF band or the UHF band used for on-board communications. To be approved by the Commission, survival craft two-way radiotelephone transceivers must comply with the following requirements and in the case of UHF equipment to the specific requirements is Subpart Z of this chapter:

(a) UHF equipment must receive and transmit on the frequency 457.525 MHz.

(b) VHF equipment must be capable of operating on the frequencies specified in § 83.106.

(c) Be type accepted as to the transmitter section [1] by the Commission. A sample unit must be submitted with the application for type acceptance.

(d) Be certified as to the receiver section by the Commission pursuant to Part 15, Subpart C of this chapter. The receiver portion of the sample unit will be tested.

(e) Provide a minimum effective radiated power of at least 0.1 watts.

(f) Have a usable sensitivity of 2 microvolts maximum. The Commission will use the measurement procedure for receiver sensitivity in RTCM Special Committee No. 66 Report MMS–R2.

(g) Be battery powered and operate for four hours with a transmit to receive ratio of 1:9.

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[1] Portable radiotelephone transceivers now type accepted may be used to satiafy the survival craft rediotelephone requirement until October 1, 1993, provided the licensee has determined that the device meets the technical requirements of § 83.603 (a), (b), (e) and (f). Survival craft radiotelephone equipment first installed after October 1, 1988, must be type accepted to meet Section 83.603. After October 1, 1993, portable radiotelephone transceivers used to satisfy the survival craft radiotelephone requirement must be type accepted to meet § 83.603. Portable radiotelephone transceivers type accepted to meet the requirements of § 83.603 will be identified by an appropriate note in the Commission's Radio Equipment List.

(h) Have a permanently attached waterproof label with the statement "Complies with the FCC requirements for survival craft two-way radiotelephone equipment."

(i) The antenna shall be permanently affixed to the equipment or require the use of a special tool for removal from the equipment.

[FR Doc. 85-10598 Filed 4-30-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 23

[Docket No. 64e]

Participation by Minority Business Enterprise in Department of Transportation Programs

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule is a technical amendment to the Department's minority business enterprise regulation. It specifically references the applicability of the Department's recently-published regulation on suspension and debarment of participants in DOT financial assistance programs to misconduct by participants in the Department's minority, disadvantaged, and women's business enterpirse programs.

EFFECTIVE DATE: May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of the Assistant General Counsel for Regulation and Enforcement, Room 10105, 400 7th Street, SW, Washington, DC 20590, (202) 426-4723.

SUPPLEMENTARY INFORMATION: At the present time, § 23.87 of the Department's minority business enterprise (MBE) regulation provides as follows:

> If, at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, it shall refer the matter to the General Counsel of the Department. He/she may initiate debarment procedures in accordance with 41 CFR 1-1.604 and 12-1.602 and/or refer the matter to the Department of Justice under 18 U.S.C. 1001, as he/she deems appropriate.

In March 1980, when this provision was promulgated, the Department did not have a suspension and debarment regulation of its own. In addition, the Department anticipated publishing additional regulations in 49 CFR Part 23 concerning the Department's direct procurement activities. Consequently, § 23.87 made reference to debarment procedures in the Federal Procurement Regulations which apply to direct procurement.

Because of the development of an effective program, under the provisions of Pub. L. 95-507, to assist the participation of small and disadvantaged business in the Department's direct procurement activities, the Department no longer intends to publish regulations in Part 23 concerning direct procurement. In addition, the Department recently published a rule entitled "Suspension and Debarment of Participants in DOT Financial Assistance Programs" (49 CFR Part 29; 49 FR 15197; April 18, 1984). This regulation establishes, for the first time, a Department-wide procedure to suspend or debar contractors and other parties for misconduct in DOT financial assistance programs.

49 CFR Part 29 applies to all participants in DOT financial assistance programs, including contractors involved with the Department's minority, disadvantaged, and women's business enterprise programs. In addition to conviction or indictment for a criminal offense, § 29.23(a)(4) makes the following conduct subject to suspension and debarment action:

> Commission or omission of an act of such serious or compelling nature that the act indicates a serious lack of business integrity or honesty. Such commissions or omissions include, but are not limited to—
>
> (i) The violation of any applicable law, regulation, or obligation relating to the performance of obligations incurred pursuant to an agreement with a recipient under a DOT financial assistance program; or
>
> (ii) Making, or procuring to be made, any false statement or using deceit for the purpose of influencing in any way any action of the Government.

Among the kinds of misconduct to which 49 CFR Part 29 applies are fraud, deceit, or other actions indicating serious lack of business integrity or honesty with respect to the eligibility of firms to participate as minority, disadvantaged, or women's business enterprises. For example, a firm may be suspended or debarred if it acts as or knowingly makes use of a "front" company (i.e., a firm which is not really owned and controlled by minority, disadvantaged individuals or women, but poses as such in order to participate as a minority, disadvantaged, or women's business enterprise in a DOT-assisted program). Even in the absence of a specific false statement that would subject a party to criminal liability under 18 U.S.C. 1001 (the Federal "false statements" statute), a firm which acts as or uses a "front" may justifiably be viewed as acting so as to indicate a serious lack of business integrity or honesty.

49 CFR Part 29 would apply to the Department's minority, disadvantaged, and women's business program even without this amendment to § 23.87. However, in order to ensure that § 23.87 contains the correct suspension and debarment reference and to avoid any confusion to parties involved with programs under 49 CFR Part 23, the Department has decided to publish this amendment. The amendment simply removes the reference to the Federal Procurement Regulations and substitutes appropriate references to 49 CFR Part 29.

Regulatory Process Matters

This rule is not a major rule under Executive Order 12291 or a significant rule under the Department's Regulatory Policies and Procedures. The Department certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule is a technical change that will have no economic impact. Consequently, no Relgulatory Impact Analysis, Regulatory Evaluation, or Regulatory Flexibility Analysis has been prepared in connection with this rule.

This rule is a technical amendment that, for purposes of clarity, changes a reference in 49 CFR Part 23 to another regulation already applicable to all participants in DOT financial assistance programs. The amendment relates solely to practice and procedure before the Department of Transportation. Consequently, under 5 U.S.C. 553(b)(A), a notice of proposed rulemaking is not required. In addition, under the Department's Regulatory Policies and Procedures, the Department has determined that the receipt of useful public comment on this technical amendment would be unlikely.

Under 5 U.S.C. 553(d), the required publication of a substantive rule must be made not less than 30 days before its effective date, unless the agency determines that there is good cause for making the rule effective immediately. This regulation is a purely procedural rule, rather than a substantive rule. In addition, 49 CFR Part 29 already applies to participants in the Department's MBE/DBE/WBE program. This amendment is merely a conforming change to 49 CFR Part 23 to avoid confusion and to avoid potential technical problems in any suspension or debarment actions that may be brought in the future. Even if this rule were a substantive rule, however, there would be good cause for making it effective

upon publication, in that a delay in the effective date could result in technical problems in pending or future suspension or debarment actions or otherwise impede such actions. Consequently, the Department is making this rule effective immediately upon publication.

Issued at Washington, D.C. this 24th day of April, 1985.

Elizabeth Hanford Dole,

Secretary of Transportation.

List of Subjects in 49 CFR Part 23

Government contracts, Minority business, Mass transportation.

PART 23—[AMENDED]

The Authority Citation for Part 23 continues to read as follows:

Authority: Sec. 905 of the Railroad Revitalization and Regulatory Reform Act of 1978 (45 U.S.C. 803); sec. 30 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1730); sec. 19 of the Urban Mass Transportation Act 1964, as amended (Pub. L. 95–599); Title 23 of the U.S. Code (relating to highways and highway safety); Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*); The Federal Property and Administrative Services Act of 1949 (49 U.S.C. 471 *et seq.*); Executive Order 11625; Executive Order 12138, unless otherwise noted.

Accordingly, in Title 49, Part 23 of the Code of Federal Regulations, the Department of Transportation revises § 23.87 to read as follows:

§ 23.87 Suspension and Debarment; Referral to the Department of Justice.

(a) If, at any time, any person has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, or otherwise acted in a manner subjecting that person or firm to suspension or debarment action under 49 CFR Part 29, he or she may contact the appropriate DOT element concerning the existence of a cause for suspension or debarment, as provided in 49 CFR 29.17.

(b) Upon the receipt of information indicating a violation of 18 U.S.C. 1001, or any other Federal criminal statute, the Department may refer the matter to the Department of Justice for appropriate legal action.

[FR Doc. 85–10536 Filed 4–30–85; 8:45 am]

BILLING CODE 4910-62-M

Proposed Rules

Federal Register
Vol. 50, No. 84
Wednesday, May 1, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1124

Milk in the Oregon-Washington Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rules.

SUMMARY: This notice invites written comments on a proposal to suspend certain provisions relating to how much milk may be moved directly from farms to nonpool plants and still be priced under the order. The proposed suspension would remove the limits on such movements of milk for the months of May through August 1985. The action was requested by a federation of three cooperative associations that represent a substantial number of the producers who supply the market. The cooperatives contend that the suspension is necessary to assure that the milk of dairy farmers long associated with the market will continue to be priced and pooled under the order.

DATE: Comments are due not later than May 8, 1985.

ADDRESS: Comments (two copies) should be sent to: Dairy Division, AMS, Room 2968, South Building; U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to insure that dairy farmers would continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Oregon-Washington marketing area is being considered for the months of May through August 1985.

In § 1124.11(a), the words "The aggregate quantity diverted may not exceed 60 percent of the producer milk which the association or its agent causes to be delivered to pool plants, or diverted therefrom. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers if each association has filed such a request in writing with the market administrator on or before the first day of the month such agreement is effective. This request shall specify the basis for assigning any over-diverted milk to the producer members of each cooperative association according to a method approved by the market administrator."

In § 1124.11(b), the words "The aggregate quantity diverted may not exceed 60 percent of the producer milk received at or diverted from such handler's pool plant(s) and for which the operator of such plant(s) is the handler during the month."

All persons who want to send written data, views, or arguments about the proposed suspension should send two copies of them to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the **Federal Register**. The period for filing comments is limited because a longer period would not provide the time needed to complete the required procedures to make the suspension effective for May 1985.

The comments that are received will be made available for public inspection in the Dairy Division during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

The proposed suspension would remove the limit on the amount of milk that may be diverted from pool plants to nonpool plants during the months of May through August 1985. The order now provides that the aggregate quantity of milk diverted to nonpool plants may not exceed 60 percent of the producer milk handled by a cooperative association or proprietary handler.

The suspension was requested by a federation of three cooperative associations that represent a substantial number of the producers who supply the market. The cooperatives indicate that the suspension is necessary to continue to include in the marketwide pool the milk of producers who have long been associated with the market. The cooperative associations requesting the suspension expect that seasonal increases in milk production, combined with the end of the paid diversion program, will result in a surge of milk production in the market that will displace some of their milk from their usual fluid accounts. In addition, the end of the school year is expected to reduce fluid use in the market. The cooperative associations expect the suspension of the diversion limits for the months of May through August 1985 will make it unnecessary to move milk in a costly and inefficient manner solely for the prupose of assuring that dairy farmers supplying the fluid needs of the market will have their milk priced and pooled under the order.

List of Subjects in 7 CFR Part 1124

Milk marketing order, Milk, Dairy products.

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

Signed at Washington, D.C., on: April 25, 1985.

William T. Manley,
Deputy Administrator, Marketing Programs.

[FR Doc. 85–10529 Filed 4–30–85; 8:45 am]

BILLING CODE 3410–02–M

FEDERAL TRADE COMMISSION

16 CFR Part 702

Pre-Sale Availability of Written Warranty Terms

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: This Notice announces a rulemaking proceeding to consider an amendment to the Rule regarding the

Pre-Sale Availability of Written Warranty Terms and seeks comments on the proposed changes to the rule. The Magnuson-Moss Warranty Act requires the Federal Trade Commission to promulgate a Rule to ensure that consumer product warranties are made available to consumers prior to purchase. The current Rule, which was promulgated on December 31, 1975, with an effective date of December 31, 1976, requires retailers of consumer products costing more than $15.00 to make warranty texts available to customers prior to purchase by placing the warranty text in one or a combination of four specified locations: (1) On or "in close conjunction to" the warranted product, (2) in a binder (if this option is used, the retailer must also display the binder or post a sign advising consumers of the availability of warranties), (3) on the package containing the warranted product, or (4) on a sign. The proposed amendment would reduce the costs of complying with the Rule by providing retailers with a choice of displaying the warranty text near the product or making the warranty text readily available to any customer upon request. The Commission seeks comment on the merits of this approach and the possible need to publicize the availability of warranties prior to sale and to define more precisely standards for retailer compliance with an upon request approach.

This proposed amendment is based on an investigation conducted by the Commission staff into the operation and impact of the Pre-Sale Availability Rule. The investigation indicated that the goals of the Pre-Sale Availability Rule could be attained with equal effectiveness at lower compliance costs by modifying retailers' obligations under the current Rule.

The FTC additionally seeks comment on whether to include explicit directives in the Rule to require sellers who make television solicitations of mail or telephone order sales to disclose clearly and prominently the pre-sale availability of the warranty and how it can be obtained. Certain other revisions to the Rule are proposed to clarify the Rule's language and improve its organization.

The Commission is requesting public comment on the proposed amendments to the Pre-Sale Availability Rule. The public will be afforded an opportunity to make oral presentations regarding the proposed amendments.

DATES: Written comments should be received on or before June 17, 1985. Written rebuttals should be received on or before July 1, 1985. A hearing will be held upon request. Requests to make oral presentations should be made no later than June 17, 1985. A hearing date, if any, and instructions for those who desire to make oral presentations will be announced in the **Federal Register** following the comment period.

ADDRESSES: Comments and requests for an opportunity to make oral presentations should be sent to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

Additional Material Available for Review: The Final Report on the Warranty Evaluation Study conducted under contract with the FTC staff in 1982 has been placed on the rulemaking record. The study is available for public examination in the Public Reference Room, Federal Trade Commission, 6th Street and Pennsylvania Avenue NW., Room 130, Washington, D.C. 20580, 202–523–3598. A limited number of copies are also available.

FOR FURTHER INFORMATION CONTACT: Joseph Kattan, 202–523–3860, or Rebecca Johnson 202–523–3357, attorneys, Division of Marketing Practices, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

A. Background

The Magnuson-Moss Warranty Act, 215 U.S.C. 2301 *et seq.*, directs the FTC to establish rules requiring that the terms of written warranties for consumer products be made available to consumers prior to purchase. 15 U.S.C. 2302(b)(1)(A). In 1975, the FTC promulgated the Pre-Sale Availability Rule, 16 CFR Part 702, which provides retailers with four permissible methods of making warranties available prior to sale: (1) Displaying the text of the warranty on or "in close conjunction to" the product (on a tag, for example); (2) maintaining a copy of the warranty in a binder and either displaying the binder in a readily accessible areas or posting a sign advising consumers of the availability of warranties for examination prior to sale; (3) displaying the warranty text on the package of the warranted product; or (4) posting a notice disclosing the warranty text near the product. Manufacturers may make warranty texts available to retailers through one of four methods: (1) Providing a copy of the warranty with every product; (2) attaching to the product a tag or a label containing the warranty text; (3) affixing the warranty text to the product package; or (4) providing a sign disclosing the warranty text.

In July 1980, the Commission received a petition from the National Mass Retailing Institute ("NMRI"), a trade association representing discount mass merchandise retailers, requesting modification of the Pre-Sale Availability Rule. The NMRI petition described problems encountered by NMRI's members in complying with the Rule and requested that the Commission amend the rule by requiring manufacturers to affix the warranty text to the packaging of all products covered by the Rule. In February, 1981, the Commission considered the issues raised by the NMRI Petition and concluded that additional information was needed before it could determine whether a modification of the Rule was necessary. The Commission therefore instructed staff to undertake an investigation into the operation of the Pre-Sale Availability Rule and its impact on manufacturers, retailers, and consumers.

To obtain information concerning the impact of the Pre-Sale Availability Rule on regulated industries, in 1981 Commission staff interviewed interested parties and surveyed compliance in retail stores subject to the Rule. The staff conducted informal interviews with manufacturers, retailers, and consumer organizations concerning their experience with the Rule and solicited their opinions concerning possible modifications of the Rule. In late 1982 and 1983, staff conducted additional interviews with retailers. Although these discussions do not provide a statistically valid measure of affected parties' experience with the Rule, they do provide useful information about the impact of the Rule on diverse elements of the manufacturing and retail industries and on consumers.

In general, the 1981 interviews indicated that most industry members had not encountered significant difficulties in complying with the requirements of the current Rule, but that most questioned the Rule's effectiveness in conveying warranty information to consumers. The costs associated with compliance were generally reported to be low. The interviews also revealed that many retailers are unaware of the Rule and are not in strict compliance with its requirements. However, most retailers said that they generally would provide a warranty for consumers prior to sale if so requested.

Commission staff also investigated the level of compliance with the Pre-Sale Availability Rule through an informal survey of retail stores. The staff visited 194 retail stores throughout the country and recorded whether warranties were available to consumers

prior to purchase and the method used by stores to make them available to consumers. The stores surveyed did not represent a random sample but included national and regional chains, discount, department, and variety stores. In general, the survey showed a low level of compliance with the terms of the Pre-Sale Availability Rule. However, when the staff investigators specifically requested copies of written warranties, they usually were produced by store employees.

To measure the impact of the Rule on consumers, Commission staff procured the services of an independent contractor who conducted a survey of consumer knowledge of and attitudes toward warranties. The Warranty Evaluation Study, which was conducted in 1982, obtained information from 6,418 households on a variety of topics related to warranties. A copy of the Warranty Evaluation Study has been placed on the public record of this proceeding.

The Warranty Evaluation Study contains information concerning consumer attitudes toward warranties and the impact of Rule 702 on consumers. The study demonstrated that consumers consider warranty information an important factor in making purchase decisions and that warranties are usually available to consumers prior to purchase, in spite of the widespread technical noncompliance with the provisions of the Pre-Sale Availability Rule revealed in staff's industry survey.

The Warranty Evaluation Study showed that a majority of consumers consider warranty information in making purchase decisions and that a sizable minority, 18.3 percent, consider the warranty to be one of the three most important factors in the purchase decision. The study also disclosed that an overwhelming majority of the respondents did not experience any problems in obtaining warranty information from retailers, although many did not attempt to obtain such information. Only 3.6 percent of respondents indicated that a written warranty was not available for examination prior to sale, while 71.2 percent indicated that the warranty was available, and 25.3 percent did not look for a warranty prior to making a purchase.

The survey also attempted to determine the proportion of consumers who actually read warranties prior to purchase. While the evidence is inconclusive, it shows that between 7.4 percent and 27 percent of all consumers read or examined the warranty prior to the purchase of a consumer product. The Warranty Evaluation Study also examined the relationship between product price and the importance of warranties to consumers. The study found that no correlation existed between those two factors.

On the basis of the interviews and surveys, Commission staff has proposed an amendment to the Pre-Sale Availability Rule to provide that retailers must make warranties readily available to consumers prior to purchase by displaying the warranty text near the product or by making the warranty text available to any customer upon request. The complete text of the proposed Rule amendments is located at the end of this Notice.

B. Analysis

Under the current version of Rule 702.3(a), retailers may make applicable product warranties available to consumers prior to sale through one of four methods. Three of those methods involve the open display of the warranty text on or near the product. The fourth method relies on binders containing warranty texts, accompanied by notices or signs informing consumers of the availability of the binders. The proposed Rule would continue the requirement that retailers make warranties available to consumers prior to the sale of any consumer product. Rather than specify the form in which the warranty is to be made available, however, the proposed Rule would create a general requirement that retailers make warranties "readily available" to consumers, either by displaying their text or by making them available for examination by consumers upon request. Any of the methods of disclosure specified in the current Rule would satisfy the requriements of the proposed Rule. In addition, however, retailers could discharge their obligations under the proposed Rule by making warranties readily available to consumers upon request.

Of the various modifications discussed with manufacturers and retailers, the "upon request" modification received the greatest support. The results of the store surveys indicate that the proposed Rule amendments will offer retailers a method for making warranties available prior to sale that is consistent with present practices. The survey results suggest that warranties are made available to consumers who ask for them. This is confirmed by the Warranty Evaluation Study, which showed that a very small number of consumers who responded to the survey (less than one percent) were denied copies of warranty texts by merchants from whom they requested warranty information. In addition, the proposed Rule would authorize other methods of disclosure that would benefit consumers but may be prohibited or discouraged by the strict language of the present Rule. For example, the present Rule may discourage merchants from displaying warranty information together with other information by requiring that any binder containing warranties be entitled "Warranties." Under the proposed amendment, merchants would be permitted to display warranties together with other product information, in binders or otherwise.

The Commission anticipates that the proposed Rule will lead to disclosure methods that will benefit the consumer. The staff's research shows the binder method of disclosure is the option most commonly used by retailers to comply with the Pre-Sale Availability Rule but that consumers rarely use the warranty binders. Affording retailers greater latitude in choosing the manner of disclosure would allow them to select the optimal form of warranty disclosure to meet the demands of consumers and the dictates of the Rule. The Commission anticipates that methods of disclosure will vary among different products and among different types of stores. Thus, warranties for major appliances might be displayed inside floor samples of the appliances while warranties for smaller products, such as watches, might be retained by the merchant and shown upon request. Stores that compete on the basis of price only might display warranties in close proximity to the warranted products while stores that compete on the basis of shopping environment might show warranties only upon request. In any event, warranties will be readily available prior to purchase to any consumer who wishes to examine them. Retailers will be required to make warranty information readily available to consumers by maintaining warranties in reasonable proximity to the warranted products and by producing warranties to consumers who request them without unreasonable delays.

Although the Commission is proposing the "upon request" standard as an acceptable way to provide consumers with ready access to warranties prior to sale, the Commission is concerned that this approach may subject consumers to unreasonable delays and difficulties in obtaining warranties prior to sale. Because the ease with which consumers may obtain warranties upon request is crucial to the proposed approach to warranty availability, the Commission welcomes any data or comments describing the circumstances under which retailers would make warranties

available when requested to do so. In addition, the Commission seeks comments on whether a more specific performance standard for retailers should be set out in the Rule to ensure that warranties are made available to consumers who request them without unreasonable delays and whether there should be other requiremetns to assist consumers in exercising their rights (*e.g.*, signs to publicize the pre-sale availabilty of warranties).

The Commission also seeks comment on whether Rule 702 should impose on all advertisers an obligation to disclose the pre-sale availability of warranties in those advertisements that mention warranties. A similar requirement appears in the Commission's revised Guides Against Deceptive Advertising of Guarantees, 16 CFR Part 239, which are being published in the **Federal Register** contemporaneously with this Notice.[1] Disclosures of pre-sale availability in warranty advertisements could be required of manufacturers, retailers, or other sellers in order to enhance consumer awareness of warranty availability. Comments on this proposal should address, in particular, whether a warranty advertising disclosure requirement would advance the purpose of the Pre-Sale Availability Rule by increasing consumer awareness of and access to warranties. Comments should also consider what effect such advertising disclosures would have, what they would cost, and what form of disclosure would have the greatest effect at the lowest expense.

The FTC additionally seeks comment on whether to include explicit directives in the Rule to require sellers to make television solicitations of mail or telephone order sales to disclose clearly and prominently in such solicitations that warranties are available for examination prior to sale upon request and how they may be obtained. The current Rule does not impose any explicit obligations on sellers with respect to television solicitations of mail or telephone order sales. Section 702.3(c) governs catalogue and mail order sales, but the disclosures required by this section are limited to disclosures in print solicitations. Given the proliferation of product solicitations on television in the last decade, the Commission questions whether it may be necessary to provide explicit directions for television advertisers to use in informing consumers how to obtain copies of their product warranties prior to sale.

Certain revisions are proposed to clarify the Rule's language and organization. First, the FTC proposes to delete the definition of "binder" in § 702.1(g) because under the amendments proposed in this Notice retailers will no longer be required to use binders. Second, the FTC proposes to correct a typographical error by reformulating the definition of "written warranty" in § 7.02.1(c) to clarify that the final clause in that definition modifies both subparts of the definition.

The Commission does not propose any substantive changes in the options available to manufacturers to ensure that warranties are available to retailers because it appears from the staff's investigation that manufacturers have not experienced significant burdens in complying with the present Rule. The Commission is not seeking comments on NMRI's proposal to require manufacturers to affix the warranty to every product package because we believe the upon request proposal to be a more efficient and less burdensome means to achieve pre-sale disclosure of warranty information. If this approach proves unworkable, however, the Commission may consider other alternatives, including NMRI's suggestion that manufacturers shoulder some additional burden.

The Commission has not proposed changes to the Rule provisions concerning mail order, catalogue, and door-to-door sales. The FTC does, however, seek comment on whether Rule 702 should specify how television advertisers of mail or telephone order merchandise should make warranties available to consumers prior to sale. The information gathered during the staff's investigation indicated that these industries have not experienced significant burdens as a result of the Pre-Sale Availability Rule.

C. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act provides for analysis of the potential impact on small businesses of Rules proposed by federal agencies. *See* 5 U.S.C. 603, 605(b). Staff has researched the composition of the industries affected by the Pre-Sale Availability Rule and has found that a very high percentage of businesses subject to the Rule are "small" based upon Small Business Administration size standards. Unfortunately, the data obtained during the staff investigation do not provide a precise measurement of the economic impact the proposed Rule amendments would have on small businesses. The information gathered does indicate, however, that the proposed changes will have an impact on a large number of small manufacturers and retailers to some degree, by reducing their compliance costs. This section of the Notice of Proposed Rulemaking describes the small businesses which are covered by the Pre-Sale Availability Rule, discusses the compliance measures called for by the proposed amendments to the Rule, and considers whether any alternatives to the proposal could minimize the impact on small businesses.

Commission staff has developed an estimate of the number of small businesses potentially affected by the proposed amendment to the Pre-Sale Availability Rule. Based upon staff's research, nearly all retailers (952,916 companies or 99.3 percent) and manufacturers (11,365 companies or 97 percent) that will be affected by the proposed Rule are considered "small" using the size standards promulgated by the Small Business Administration. If the companies are compared according to annual receipts, small retailers represent approximately 47 percent and small manufacturers represent approximately 23 percent of gross annual receipts in their respective industries.

Staff believes that the proposed amendments to the Rule will reduce retailers' compliance costs by increasing their flexibility to select the disclosure approach that best suits their individual operations. Although the current Pre-Sale Availability Rule gives retailers four options for compliance, staff's investigation showed that most retailers elect the binder options because it is the only one of the four which easily makes use of the copies of warranties submitted by manufacturers. Many retailers complained that the binder option requires allocation of personnel and resources to update and monitor warranty binders, which consumers rarely use. Our store surveys have shown that binders are often difficult for consumers to locate and use because they are incomplete or poorly organized. Thus, although the current Rule attempted to provide flexibility, many retailers have found themselves restricted, in practice, to one approach that is cumbersome and of questionable efficacy.

The industry discussions with FTC staff indicated that larger retail organizations with numerous branch stores compile the binders at a main office and distribute them to their branches. This centralized compliance

[1] The Guides impose this disclosure obligation on sellers whose advertisements mention warranties in order to prevent an inaccurate or deceptive representation of warranty coverage. This Notice seeks comment on whether a pre-sale availability disclosure requirement is needed in Rule 702 to further the Rule's goal of widespread consumer access to warranty information.

approach appears to afford lower costs for large retailers, per store, than for a smaller retailer with fewer stores and a decentralized system. The proposed amendment should reduce or eliminate this disparity between large and small enterprises by permitting retailers to replace the binder system with a more flexible approach that conforms to their particular method of doing business.

Staff's discussions with retailers during the investigation indicated that retailers' costs and inconvenience would be reduced if they were not required to maintain warranty binders but could, instead, respond individually to specific consumer requests for warranties. The methods for ensuring that warranties are available when requested would vary according to product and store operation.

We do not anticipate that this proposed amendment to retailers' compliance options will have any impact on large or small manufacturers.

As part of the Commission's evaluation of the Pre-Sale Availability Rule and in response to the Regulatory Flexibility Act, staff has considered alternatives to the proposed amendments that could accomplish the goals of the Magnuson-Moss Warranty Act but minimize the economic impact of small entities. Staff considered a number of alternatives suggested by the Regulatory Flexibility Act including: (1) Different compliance requirements for small businesses, (2) simplification of compliance requirements for small businesses, (3) use of performance rather than design standards in the Rule, and (4) exemption for small businesses.

One of the principal goals of the proposed amendments to the Pre-Sale Availability Rule is to comply with the Congressional mandate in section 102 of the Warranty Act while minimizing the economic impact on all affected businesses. Section 102(b)(1)(A) of the Warranty Act directs the Commission to prescribe a rule requiring that written warranties be made available to consumers prior to sale. All of the alternatives suggested by the Regulatory Flexibility Act have been considered. The third option—use of a performance standard—is at the heart of the proposed Rule. The staff rejected erecting an exemption for small businesses because the congressional requirement for presale availability of warranties applies equally to all transactions, regardless of whether they involve a small manufacturer or a small retailer. In addition, staff research into the composition of the affected industries indicates that more than 95 percent of the companies are small. Consequently, it would not be possible to exempt small businesses from the scope of the Rule and at the same time comply with the congressional mandate. Different standards for small businesses were infeasible given the flexible nature of the standards proposed.

Although the proposed amendments are intended to simplify and clarify the measures necessary to comply for all affected companies, small and large, comments received during the Rulemaking may indicate that additional modifications to the Rule are necessary. The Final Regulatory Flexibility Analysis, to be published with the final form of the Rule to be promulgated, will reflect consideration of any additional alternatives proposed during the Rulemaking.

D. Issues for Comment

The public is invited to submit written comments and data on issues of fact or law relevant to the current Pre-Sale Availability Rule, the proposed amendments, other issues related to making warranties available to consumers prior to purchase, and the issues noted below. Please accompany all submissions of data with a complete report describing the procedures used to gather and analyze the data.

1. Will the proposed amendments to § 702.3(a) create significant disincentives or obstacles to consumers who wish to obtain warranty information prior to purchase?

a. What systems and procedures would retailers use to provide warranties to consumers if retailers were required to make warranties "readily available" upon request?

b. What information is now available to indicate the practical obstacles this option would present for consumers (*i.e.*, how long they must wait for production of the warranty, how often they must request it, how many offices or store personnel they must visit to receive it)?

2. a. Are the standards for compliance in the proposed amendments to § 702.3(a) clear? If not, what are the ambiguities and how can they be clarified?

b. Is there a need for the Commission to consider more specific performance standards to define compliance with an avaibability upon request requirement (*i.e.*, requiring that warranties be provided without undue delay or without substantial effort on the part of consumers who request warranties)? What form could such standards take? What are the benefits, costs and drawbacks of imposing such standards?

3. How will the proposed revision of § 703.3(a) of the Pre-Sale Availability Rule affect compliance costs for retailers and manufacturers?

4. What other modifications to the Rule specifying methods for the disclosure of warranty information by retailers would reduce overall compliance costs and still ensure consumers access to warranties prior to purchase?

5. Should the Commission include, as part of an on-request warranty availability requirement, provisions requiring retailers and/or advertisers to publicize the pre-sale availability of warranties and to inform consumers how to take advantage of this right (*i.e.*, through signs in retail outlets, or disclosures in advertisements that mention warranties)? What effect would these forms of publicity have, how would they benefit consumers, and what would they cost?

6. Should the Commission include explicit directives in § 702.3(c) of the Rule to require sellers who make television solicitations of mail or telephone order sales to disclose clearly and prominently in such solicitations that warranties are available for examination upon request and to disclose how they may be obtained?

List of Subjects in 16 CFR Part 702

Trade practices, Warranties.

Authority: 15 U.S.C. 2302 and 2309.

PART 702—[AMENDED]

It is proposed that 16 CFR Part 702 be amended as set forth below:

§ 702.1 [Amended]

1. It is proposed that 16 CFR 702.1(c) be amended to read as follows:

(c) "Written warranty" means—(1) any written affirmation of fact or written promise made in connection with the sale of a consumer product by a supplier to a buyer which relates to the nature of the material or workmanship and affirms or promises that such material or workmanship is defect free or will meet a specified level of proformance over a specified period of time, or

(2) any undertaking in writing in connection with the sale by a supplier of a consumer product to refund, repair, replace or take other remedial action with respect to such product in the event that such product fails to meet the specifications set forth in the undertaking.

which written affirmation, promise, or undertaking becomes part of the basis of the bargain between a supplier and a buyer for purposes other than resale of such product.

2. It is proposed that 16 CFR 702.1(g) be removed.

§ 702.3 [Amended]

b. It is proposed that 16 CFR 702.3(a) be revised to read as follows:

(a) *Duties of Seller:* Except as provided in paragraphs (c) through (d) of this section, the seller of a consumer product with a written warranty shall make a text of the warranty readily available for examination by the prospective buyer by displaying it in close proximity to the warranted product or furnishing it upon request prior to sale.

By direction of the Commission.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 85-10450 Filed 4-30-85; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 275

[Release No. IA-967; File No. S7-19-85]

Uniform Investment Adviser Registration Application Form

AGENCY: Securities and Exchange Commission.

ACTION: Proposed form amendment and related rule amendments.

SUMMARY: The Commission is proposing for public comment revisions to Form ADV, the investment adviser registration application form to make the form a uniform Form for registration with the Commission and the states. Uniform Form ADV was developed by the Commission and the North American Securities Administration Association, Inc. to remove unnecessary administrative burdens on investment advisers registering as advisers with more than one governmental entity. If adopted, the uniform Form ADV should result in cost-saving for advisers required to register as such with the Commission and the states.

DATE: Comments must be received on or before June 14, 1985.

ADDRESS: Comments should be submitted in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Comment letters should refer to File No. S7-19-85. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Mary Podesta, Chief, (202) 272-2107 or Jay Gould, Staff Attorney, (202) 272-2107, Office of Disclosure and Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, Stop 5-2, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") today is proposing for comment revisions to Form ADV, the application form for registering with the Commission as an investment adviser. The revisions to Form ADV being proposed for comment would make the form identical to the form adopted by the membership of the North American Securities Administrators Association, Inc. (NASAA) on April 5, 1985. The new form, titled Uniform Application for Investment Adviser Registration, was developed by NASSA for use by all jurisdictions which require advisers to register as such. The uniform Form ADV is based on the Commission's Form ADV.

I. Background

Under the Investment Advisers Act of 1940 (the "Advisers Act") persons engaged in business as investment advisers generally are required to register as advisers with the Commission. Under the Commission's rules, advisers register with the Commission by filing Form ADV and paying a one-time registration fee of $150. Registrants are required to keep their registration current by filing amendments and to file a short annual report on Form ADV-S. In addition, most registrants are required to provide clients and prospective clients with pertinent information about the adviser and its business under rule 204-3, the "brochure rule." The information required to be given to clients is contained in Part II of Form ADV. An adviser can give clients Part II of the Form or a separate disclosure document. Thirty-eight states, Puerto Rico and Guam (the jurisdictions) require advisers to register as such. The registration requirements of the jurisdictions are not uniform. Advisers registering in the jurisdictions are required to file the form or forms used by the jurisdiction and to comply with any disclosure requirements of the jurisdiction. Although some jurisdictions permit advisers to file Form ADV, in lieu of a separate state form, even these jurisdictions often require the filing of supplementary forms and schedules containing additional information. Also, the jurisdictions' requirements on disclosure to clients are not uniform.

The Commission and NASAA have undertaken to promote a more uniform system for registration of advisers with the Commission and the jurisdictions. The first step is development of a uniform registration application form based on Form ADV. Uniform requirements for the filing of amendments and annual reports for advisers also will be developed. The Commission and NASAA also intend to develop a central registration system for advisers such as the Central Registration Depository (CRD) maintained by the National Association of Securities Dealers for NASAA to register agents of brokers-dealers, or another system. Under a central registration system an adviser would file one form and information on the form would be transmitted electronically to the Commission and all jurisdictions in which the adviser was registering for review and granting of registration.[1]

The uniform Form being proposed today for comment by the Commission was drafted by the NASAA Adviser Committee with the assistance of members of the Commission staff. It was adopted by the NASAA membership on April 5, 1985.[2] The uniform ADV is based on the Commission's Form ADV with certain modifications designed to address the requirements of the jurisdictions for additional information and to improve the form as a registration and disclosure document.

The discussion below about uniform Form ADV is divided into two parts. The first part describes the principal differences between uniform Form ADV and existing Form ADV. The second part is an item by item description of uniform Form ADV.

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[1] The Commission anticipates that depending upon the kind of central registration system developed it may be necessary to modify the format of the uniform Form to make it compatible with that system. For example, if adviser registrations are processed in the CRD system it may be necessary to obtain substantially all registration information in objective format. Part II of the form now is designed to serve also as the adviser's brochure, and, as a result, some registration information now appears in narrative format. Because the details of the central registration system have not been determined, it is not possible to know what, if any, modifications may be necessary to the form, or to estimate when the central registration system will be implemented. It is the Commission's view that the uniform Form ADV being proposed today will improve the form as a registration and disclosure document and reduce administrative burdens on advisers until such time as a central registration system is implemented.

[2] The NASAA resolution adopting the form recommends that the form be implemented beginning in January, 1986. The Commission anticipates that it will take final action on the form prior to that time so that, if the form is adopted, it would be effective in January, 1986 for new registrants filing with the Commission. Also, the Commission would expect to develop with NASAA a timetable for gradually converting existing registrants to the new form.

II. Uniform Form ADV

A. Summary of Changes Between Uniform Form ADV and Existing Form ADV

While uniform Form ADV is based substantially on existing Form ADV, there are several types of changes.

New items have been added to identify advisers engaged in financial planning services and to tailor items of the form to obtain pertinent information about their activities. These changes are expected both to improve the information obtined by the form and to make it easier for financial planner applicants to fill out the form. New items also have been added to address specific regulatory concerns of the status such as compliance by the adviser's personnel with state qualification and examination requirements.

The execution and the disciplinary question and Schedules A, B and C (relating to certain kinds of advisory entities) have been revised to make them substantially identical to the corresponding items of uniform Form BD, as proposed to be amended.[3] Prior to adoption of uniform Form BD by the Commission in November, 1983 these items of existing Form ADV were substantially identical to the corresponding items of the Commission's Form BD.

Uniform Form ADV also would require that additional information be disclosed to clients and prospective clients under the brochure rule. For the benefit of the jurisdictions, individual information would be requried on all employees giving advice to clients on behalf of the adviser in the jurisdiction. Schedules of individual information would be made part of the brochure. Also, advisers would be requird to provide more information about affiliations and third-party compensation arrangements.

Finally, two changes have been made in the format of the form. Where possible, the form seeks information in objective format, to facilitate entry and computer use of the information by the Commission and the jurisdictions. These changes will improve the data available about the advisory industry. Among other things, the data can be used by the Commission to determine what types of advisers should be examined in the Commission's program of routine adviser compliance examinations. Also, the instructions, form and schedules have been revised to use "Plain English" wherever possible

B. Item by Item Description of Uniform Form ADV

1. Part I

Page 1. New uniform Form ADV contains a new heading requring a registrant filing an amendment to give its 801 SEC registration number and state whether it is now active in business as an investment adviser. This information will facilitate processing of amendments.

Item 1—Name. This item is the same as item 2(a) of existing Form ADV.[4]

Item 2—Address. Item 2 requires applicant to state its principal place of business, the hours during which regular business is conducted, its mailing address, and telephone number. Subparts B and F, which ask the hours during which business is conducted at applicant's offices is new and has been added in order to assist Commission staff in conducting examinations. To facilitate processing of the form, Subpart E asks whether applicant's address is being amended. Other portions of this question are the same as question 2(a) of existing Form ADV.

Item 3—Books and Records. Item 3 of the new uniform Form, relating to the location of books and records, is based on a similar item in item 2(a) of existing Form ADV, but has been expanded. Where applicant's books and records are kept at a location different from the applicant's principal place of business, the name and address of the entity and its hours of business must be given. This will assist Commission staff in conducting examinations.

Execution

The uniform Form AVD contains an Execution which is substantially identical to the Execution required on uniform Form BD.

Item 4—Persons to Contact. This item is the same as item 2(b) existing Form ADV.

Item 5—Consent. This item is the same as item 2(c) of existing Form ADV.

Item 6—Fiscal Year. This item is the same as item 2(e) of existing Form ADV.

Item 7—Status in Jurisdiction. This item is the same as item 3(a) of existing Form ADV except that an applicant must designate any jurisdiction in which it withdrew an application for registration prior to being registered.

Item 3(b) of existing form ADV, asking information about terminations of registration, has been deleted. Information about involuntary terminations is covered in new question 11, the disciplinary question.

Item 8—Type of Entity. This item combines questions 4, 5, 6, and 8 of existing Form ADV with minor modifications.

Item 9—Successor. This item is the same as question 7 of existing Form ADV except that applications must provide details about the transaction on Schedule D, the continuation sheet for Part I of the form.

Item 10—Control. This item is the same as question 9(a) and 9(b) of existing Form ADV.

Item 11—Disciplinary questions. The disciplinary questions have been revised to provide more information to the jurisdictions on past activities of applicants and certain persons affiliated with the adviser. Item 11 is substantially identical to the proposed new disciplinary questions of uniform Form BD except that uniform Form ADV requires information on "advisory affiliates." The term advisory affiliate means the applicant, persons named in question 10A or Schedules A, B, or C, and persons directly or directly controlling or controlled by applicant. This includes employees, except for those performing only clerical or ministerial functions.[5] Also, uniform ADV includes a question on bankuptcy not related to broker-dealer activities.

Item 12—Custody by applicant. This item is the same as that part of item 12 of existing Form ADV requiring information about custody by applicant of any advisory client funds or securities.

Item 13—Custody by affiliates. This item makes several changes to question 12 of existing Form ADV relating to custody by persons associated with the applicant. The new item seeks information about custody by persons affiliated with the applicant. The term "affiliated person," which is defined in instructions to the form, is somewhat broader than the term associated person. This item asks whether any affiliated person with custody is a registered broker-dealer under Section 15 of the Securities Exchange Act of 1934. Finally, because "custody" includes not just holding client funds and securities but the ability to obtain possession of client funds or securities,

[3] The Commission today is proposing amendments to uniform Form BD, the form developed by NASAA and the Commission to register broker-dealers. *See* Securities Exchange Act Release No. 21981

[4] Unless otherwise indicated, all of the references in this section to items of uniform ADV and existing Form ADV are to items contained in Part I of those forms.

[5] The new proposed disciplinary question of uniform BD seeks information only about employees in "control" positions, because disciplinary history of agents of a broker-dealer appears in Form U-4.

the instructions to the form describe certain common situations involving "custody." The instructions are intended to assist applicants in responding properly to the item but are not a comprehensive list of all possible circumstances in which an adviser might be deemed to have custody.

Item 14—Prepayment of Fees. This item requires applicant to state whether it requires prepayment of fees of more than $500 per client and more than six months in advance. The information will identify applicants subject to the audited balance sheet requirement of Part II Item 15.

Item 15—Brochure Rule. This new item seeks information for the Commission and the jurisdictions on whether applicant will use Part II of Form ADV or a separate brochure to comply with rule 204-3 under the Advisers Act.

Item 16—Exams. Some jurisdictions require that individuals giving investment advice on behalf of the applicant in the jurisdiction meet certain qualifications. For the benefit of these jurisdictions a new item asks whether employees performing advisory functions in the jurisdiction where the application is being filed are qualified to do so by examination or by waiver of examination.

Item 17—Employees. This new item will require applicant to provide information, in check-the-box format, about the number of employees of applicant performing investment advisory functions. This item will be used by the Commission and the jurisdictions to obtain information about the advisory industry and to assist examiners in scheduling exams.

Item 18—Discretionary Management. This item requires applicant to state whether it provides discretionary managment of securities portfolios and, if so, the number of its accounts and their aggregate market value at the end of applicant's fiscal year. This question is substantially similar to item 15 of existing Form ADV.

Item 19—Non-Discretionary Management. This item requires applicant to state whether it manages client securities portfolios a on a non-discretionary basis and, it so, the number of its accounts and their aggregate market value at the end of applicant's last fiscal year. This question is substantially similar to item 16 of existing Form ADV.

Item 20—Financial Planning. This new item will require an applicant providing financial planning services to state the number of clients to whom applicant provided services during the last fiscal year and the total amount of client assets in those plans. This question is intended to provide the Commission and the jurisdictions with pertinent information about a financial planner applicant's business.

Item 21—Interests in Securities. This new item will require applicant to state whether it recommended to clients in its last fiscal year securities in which the applicant had an interest other than the receipt of a normal and customary sales commission or brokerage fee. The item also will require the applicant to check a box to indicate the approximate value of securities so recommended by the applicant in its last fiscal year. The item will provide pertinent information to the Commission and the jurisdictions about advisers whose businesses may pose regulatory concerns because of the inherent conflicts of interest involved when advisers recommend securities in which they have an interest.

2. Part II

Page 1—Table of Contents

A table of contents has been added to Part II of the uniform ADV to provide clients receiving the brochure with a guide to the information contained in the brochure.

Page 2—Definitions

For the convenience of applicants, and clients receiving Part II of Form ADV, definitions of terms used in Part II are provided at the beginning of Part II.

1. *Item 1.A.—Advisory Services and Fees.* This item requires applicant to provide information about the types of services it provides. The item is similar to item 1(a)-(h) of existing Form ADV, [6] except that applicants also will be required to provide information about any timing services offered to clients. Also, for each type of service offered, applicant must provide the approximate percentage of total advisory billings from that service. This information should be useful to clients in assessing the nature of the adviser's business.

Item 1.B.—Financial Planning. This new item will require applicants to indicate whether they provide any of the advisory services described in item 1.A. as part of financial planning services.

Item 1.C. and I.D.—Fees. Item 1.C., which is new, requires applicants to indicate the types of fees received by checking the appropriate boxes. This objective format facilities computer analysis of the information by the Commission and the jurisdictions. Item 1.D., which requires narrative information about the services provided, and fees charged, by the adviser, is substantially identical to item 1 of existing Form ADV.

Item 2—Clients. This item is substantially similar to item 2 of existing Form ADV except that the format is now objective and a new category on corporations or other buisness entities has been added.

Item 3—Securities. This item is the same as item 3 of existing Form ADV except that a new category for foreign issuers has been added.

Item 4—Methods of Analysis, Sources of Information, and Investment Strategies. This item is the same as existing Form ADV item 4.

Item 5—Education and Business Background. This item is the same as existing Form ADV item 5.

Item 6—Individuals' Education, Business and Disciplinary Background. Item 6, which seeks information about the education and business background of certain persons associated with the adviser, has been substantially revised. In existing Form ADV, applicants must provide information in response to item 6 of Part II on the education and business background for the preceding five years of certain persons involved in determining what advice is given to clients. The information is required for members of applicant's investment committee or, if none, those persons determining or approving the advice given, but if this group is larger than five people, information need only be provided for those persons with supervisory responsibility. Under item 11 of Part I of existing Form ADV applicants also must file a Schedule D of individual information, including business background for ten years and any disciplinary history, for the persons named in item 6 of Part II as well for certain persons named in other items of the form and schedules. The Schedule D of individual information is filed as part of the registration application but is not required to be given to clients under the brochure rule.

Item 6 of uniform Form ADV would require as part of the registration application and the brochure a Schedule F of individual information for each individual who is: the applicant, a control person, an owner of at least ten percent of a class of applicant's securities, or an officer, director, or partner or person with similar status. Schedule F also would be required for each individual who is a member of applicant's investment committee or, if none, each individual who determines advice given to clients, but if there are

[6] Unless otherwise indicated, all of the references in this section to items of uniform ADV and existing Form ADV are to items contained in Part II of those forms.

more that five such individuals, Schedule F only must be provided for their supervisors. Finally, Schedule F would be required for each individual giving investment advice in the jurisdiction in which the application is filed. The information required on Schedule F of uniform ADV is substantially similar to that required on Schedule D of the existing form except that Schedule F also requires information about names used by the individual and professional examinations and designations.

Item 7— Business Disciplinary Background. Item 7 would require applicant to explain on Schedule E the details of any disciplinary action indicated in response to question 11 of Part I involving a partnership, corporation or other organization. The information reported on Schedule E would be filed with the registration application and provided to clients in the brochure. Under existing Form ADV, this information is filed on Schedule D but is not required to be given to clients.

Item 8—Other Business Activity. This item is similar to item 7 of existing Form ADV except that it also seeks information on whether the principal business of officers or controlling persons of applicant is other than investment advice and requires applicant to indicate the amount of time spent by applicant and such persons on non-investment advisory activities.

Item 9—Other financial Industry Activities or Affiliations. This item, which is based on item 8 of existing Form ADV, has been expanded significantly to require information about other pertinent buisness affiliations of applicant relating to financial services. Also, applicant will be required to indicate whether it is or has an application pending to become a futures commission merchant, commodity trading adviser, or commodity pool operator. Applicant also will be required to provide information about whether it or an affiliated person is a general partner in any partnership in which clients are solicited to invest.

Item 10—Participation in Securities Transactions. This item is substantially similar to item 9 of existing Form ADV except that information also will be required as to affiliated persons of applicant.

Item 11—Conditions for Managing Accounts. This item is similar to item 10 of existing Form ADV, but will be expanded to require applicants to also include any conditions for providing financial planning services.

Item 12—Review of Accounts. This item is similar to item 12 of existing Form ADV but also will apply to advisers providing financial planning services and will require more specific information about review procedures.

Item 13—Investment or Brokerage Discretion. The questions in this item are similar to item 11 of existing Form ADV, however, applicant also will be required to indicate whether it or any affiliated person suggests brokers to its clients.

Item 14—Additional Compensation. This new item will require an applicant to indicate whether it or an affiliated person has any arrangement where it receives an economic benefit (including commissions, equipment or non-research services) from a non-client in connection with giving advice to clients and whether applicant directly or indirectly compensates any person for client referrals. Applicant must fully describe any such arrangement on Schedule E.

Item 15—Balance Sheet. This item is substantially similar to item 13 of existing Form ADV except that financial statements also may be required by a jurisdication.

Schedules

Schedules A, B, and C have been revised to be substantially identical to the corresponding schedules proposed for Uniform Form BD.

Schedules D and E, which are continuation sheets, correspond to Schedules E and F of existing Form ADV.

Schedule F is similar to Schedule D of existing Form ADV.[7]

III. Related Rule Amendments

The Commission is proposing to amend rule 204–1(b)(1) relating to the filing of amendments. Under that rule, advisers are required to file amendments to correct inaccurate information on their Form ADV promptly for inaccuracies to specified items, and within 90 days of the end of the registrant's fiscal year for other changes. The proposed amendment to rule 204–1 would make the items specifiedd in the rule correspond to the items of uniform Form ADV. A similar change is proposed to rule 0–7(b) relating to the definition of Small Entities for purposes of the Regulatory Flexibility Act.

Rule 204–1 also would be amended to delete paragraph (b)(3). That paragraph specifies that a registrant must report changes in the information contained in response to item 3 of Part I, relating to jurisdictions in which the adviser is registering or registered, within 90 days of the end of its fiscal year. However, if the adviser's registration in a jurisdiction is restricted, suspended, withdrawn or voluntarily or involuntarily terminated, the adviser must report this information promptly. Under uniform Form ADV, all of the foregoing events, except for a voluntary withdrawal of registration, will be reported in response to item 11 of Part I, the disciplinary question. Under paragraph (b)(1) of rule 204–1, as proposed to be amended, changes in responses to item 11 would have to be reported promptly. The Commission believes it would be sufficient for an adviser to report a voluntary withdrawal of registration in a jurisdiction within 90 days of the end of the adviser's fiscal year. The withdrawal would be reflected by an amendment to item 3 of Part I designating the jurisdictions in which the adviser is registered. Accordingly, the Commission is proposing to delete paragraph (b)(3) of rule 204–1.

List of Subjects in 17 CFR Part 275

Investment advisers, Reporting requirements, Securities.

IV. Text of Proposals

It is proposed to amend Title 17, Chapter II of the Code of Federal Regulationsd as follows:

PART 275—[AMENDED]

1. By revising paragraph (b) of § 275.0–7 to read as follows:

§ 275.0–7 Small entities for purposes of the Regulatory Flexibility Act.

* * * * *

(b) As used in this rule, the term "other advisory services" means the services referred to in Form ADV, Part II, item 1.A.

(3)–(9). [17 CFR Part 279–1].

2. By revising paragraph (b) of § 275.204–1 to read as follows:

§ 275.204–1 Amendments to application for registration.

* * * * *

(b)(1) The information contained in the response to items 1, 2, 3, 4, 5, 8, 11, 12A, 12B, 13A, 13B, of Part I of any application for investment adviser, or in any amendment thereto, becomes inaccurate for any reason or if the information contained in response to items 9 and 10 of Part I, or any question in Part II (except item 14) of any application for registration as an investment adviser, or in any amendment thereto, becomes inaccruate in a material manner, the investment adviser shall promptly file an

[7] See discussion of item 6, *supra*.

amendment on Form ADV (§ 279–1 of the chapter) correcting such information.

(2) For all other changes not designated in paragraph (b)(1) of this section, the investment adviser shall file file an amendment on Form ADV correcting such information within 90 days of the end of the fiscal year. In addition, a balance sheet as required by item 15 of Part II shall be filed as the end of the applicant's fiscal year.

* * * * *

Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding uniform Form ADV proposed in this release. The Analysis notes that even though the proposed form will require more disclosure of investment advisers than the present form for registering with the Commission, adoption of a uniform registration form will, overall, reduce the burden associated with registration with the Commission and the states. It also notes that the proposed form uses "Plain English" and therefore will be more understandable to investment advisers filling out the form and to clients receiving Part II of the form.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Jay Gould, Securities and Exchange Commission, Division of Investment Management, Stop 5–2, 450 Fifth Street, NW., Washington, D.C. 20549.

Statutory Authority

The Commission (i) amends Rules 0–7 and 204–1, pursuant to the authority contained in section 204, 206(4), and 211(a) of the Advisers Act (15 U.S.C. 80b–4, 80b–6(4), and 80b–11(a)) and (ii) amends Form ADV pursuant to the authority contained in sections 203 (15 U.S.C. 80b–3), 204, 206(4) and 211(a) of the Act.

Text of Form

See Appendix A. Form ADV will not be codified in the Code of Federal Regulations.

By the Commission.

John Wheeler,

Secretary.

April 24, 1985.

Appendix A—Instructions for Form ADV

1. *Updating*—Complete all amended pages in full and circle the number of the item being changed. Each amendment must include the execution pages. By law, the applicant must update the Form ADV information by submitting amendments to correct inaccurate information.

2. *Format.*

- Type all information.
- Give all individual names in full, including full middle names.
- Use only the Form ADV and its Schedules or a reproduction of them.

3. *Signature.*

- All filings and amendments must be filed with signed execution pages (pages 1 and 2.)
- Each copy filed with the Securities and Exchange Commission and any jurisdiction must be manually signed.

If applicant is—	Form ADV should be signed by—
• A sole proprietor	The proprietor.
• A partnership	A general partner for the partnership.
• A corporation	An authorized principal officer for the corporation.
• Any other organization.	The managing agent (an authorized person that participates in managing or directing applicant's affairs).

4. *General Definitions* (Additional definitions appear in Part I item 11 and Part II.)

- Affiliated person: Any person directly or indirectly able to vote 5% or more of the voting securities of applicant; any person who the applicant can vote 5% or more of the securities of; any person directly or indirectly controlling, controlled by or under common control with the applicant; or any officer, director, partner or employee of the applicant.
- Applicant—The investment adviser applying on or amending this form.
- Control—The power to direct or cause the direction of the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any individual or firm that is a director, partner or officer exercising executive responsibility (or having similar status or functions) or that directly or indirectly has the right to vote 25 per cent or more of the voting securities or is entitled to 25 per cent or more of the profits is presumed to control that company.
- Custody—Includes not just the applicant's holding the funds or securities but may also include where advisory fees are paid automatically upon the adviser's instructions or where the adviser has a full power of attorney.
- Jurisdiction—Any non-Federal government or regulatory body in the United States, or Puerto Rico.
- Person—An individual, partnership, corporation or other organization.
- Self-regulatory organization—Any national securities or commodities exchange or registered association, or registered clearing agency.

5. *Continuation Sheets*—Schedule D and E provide additional space for continuing Form ADV items (Schedule D for Part I; Schedule E for Part II) but not for continuing Schedules A, B, C, F or G. To continue those schedules, use copies of the schedule being continued.

6. *SEC Filings.*

- Submit filings in triplicate to the Securities and Exchange Commission, Washington, D.C. 20549. To register, submit a check or money order for $150 payable to the Securities and Exchange Commission. This fee is non-refundable.
- *Non-Residents*—Rule 0–2 under the Investment Advisers Act of 1940 [17 CFR 275.0–2] covers which non-resident individuals named anywhere in Form ADV must file a consent to service of process and a power of attorney. Rule 204–2(j) under the Investment Advisers Act of 1940 [17 CFR 275.204–2] covers the notice of undertaking on books and records non-residents must file with Form ADV.
- Updating. Federal law requires filing amendments:
- Promptly for any changes in Part I, items 1, 2, 3, 4, 5, 8, 11, 12A, 12B, 13A, 13B;
- Promptly for material changes in Part I, items 9, 10 and all items of Part II except item 14;
- Within 90 days of the end of the fiscal year for any other changes.
- *Federal Information Law and Requirements*—Investment Advisers Act of 1940 Sections 203(c), 204, 206, and 211(a) authorize the SEC to collect the information on this form from applicants for investment adviser registration. The information is used for regulatory purposes including deciding whether to grant registration. The SEC maintains files of the information on this form and makes it publicly available. Only the Social Security Number information, which aids identifying the applicant is voluntary. The SEC may return as unacceptable forms that do not include all other information. By accepting this form, however, the SEC does not make a finding that it has been filled out or submitted correctly. Intentional misstatements or omissions constitute Federal criminal violations under 18 U.S.C. 1001 and 15 U.S.C. 80b–17.

7. *Filings in Jurisdictions*—Consult the requirements of each jurisdiction in which you are filing to determine its requirements for, among other things:

- Filings
- Updates
- Financial statements
- Bonding
- Examinations and qualifications
- Photographs and fingerprints
- Limitations on advisory fees

Information on a jurisdiction's requirements is available from the Securities Administrator.

BILLING CODE 8010–01–M

UNIFORM APPLICATION FOR INVESTMENT ADVISER REGISTRATION

Part I Page 1

This filing is an: ☐ Initial Application ..... or an ..... ☐ Amendment

If This Filing is an AMENDMENT:
°Give the Applicant's Registration Number 801-_____
°Is Applicant now active in business as an investment adviser? Yes ☐ No ☐

WARNING: Failure to complete this form accurately and keep it current subjects applicant to administrative, civil and criminal penalties.

1. A. Applicant's full name _____
(If sole proprietor, state last, first and middle name)

B. Name under which business is conducted, if different:

_____

C. If business name is being amended, give previous name:

_____

2. Principal place of business:

A. _____
(Number and Street -- Do not use P.O. Box Number) (City) (State) (Zip Code)

B. Hours business is conducted at this location: from _____ to _____

C. Telephone number at this location: _____ _____
(Area Code) (Telephone Number)

D. Mailing address, if different from address given in 2.A):

_____
(Number and Street or P.O. Box Number) (City) (State) (Zip Code)

E. Is the address in item 2A or 2D being amended in this filing? ..... ☐ Yes ☐ No

F. On Schedule D give the addresses, telephone numbers and business hours of all applicant's offices other than the one given in item 2A.

Answer all items; indicate "N/A" for not applicable.

Part I Page 2

Applicant _____ File Number 801-_____ Date _____

3. A. If books and records required by Section 204 of the Investment Advisers Act of 1940 are kept somewhere other than at principal place of business given in item 2A, give the following information (If kept in more than one place, give additional names, addresses and hours of business on Schedule D):

_____
(Name of entity where books and records kept)

_____
(Number and Street) (City) (State) (Zip Code)

B. Hours business is conducted at this location: from _____ to _____

C. Telephone number at this location: _____ _____
(Area Code) (Telephone Number)

EXECUTION

For the purpose of complying with the laws of the State(s) I have marked in Item 7 relating to the giving of investment advice, I hereby certify that the applicant is in compliance with applicable state surety bonding requirements and irrevocably appoint the administrator of each of those State(s), or such other person designated by law, and the successors in such office, my attorney in said State(s) upon whom may be served any notice, process or pleading in any action or proceeding against me arising out of or in connection with the offer or sale of securities or commodities, or out of the violation or alleged violation of the laws of those State(s) and I do hereby consent that any such action or proceeding against me may be commenced in any court of competent jurisdiction and proper venue within said State(s) by service of process upon said appointee with the same effect as if I were a resident in said State(s) and had lawfully been served with process in said State(s).

The undersigned, being first duly sworn, deposes and says that he has executed this form on behalf of, and with the authority of, said applicant. The undersigned and applicant represent that the information and statements contained herein, including exhibits attached hereto and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and applicant further represent that to the extent any information previously submitted is not amended, such information is currently accurate and complete.

_____ _____
(Date) (Name of Applicant)

By: _____
(Signature)

_____
(Typed Name and Title)

Subscribed and sworn before me this _____ day of _____, 19__

By: _____

My commission expires _____ County of _____ State of _____

Answer all items; indicate "N/A" for not applicable.

Part I Page 3

Applicant _____ File Number 801-_____ Date _____

4. Persons to contact for further information about this Form:

A. _____
(Name) (Title)

B. _____
(Mailing Address) (Telephone Number)

5. Applicant consents that notice of any proceeding before the Securities and Exchange Commission or jurisdiction in connection with its investment adviser registration may be given by registered or certified mail or confirmed telegram to:

A. _____
(Last Name) (First Name) (Middle Name)

B. _____
(Number and Street) (City) (State) (Zip Code)

6. Applicant's fiscal year ends: _____ _____
(Month) (Day)

7. Give status of applicant's investment adviser registration by indicating:

"1" for initial or pending application

"2" for registered

"3" for withdrawn before registration

Securities and Exchange Commission ____

AL __	AK __	AZ __	AR __	CA __	CO __	CT __	DE __	DC __	FL __	GA __
HI __	ID __	IL __	IN __	IA __	KS __	KY __	LA __	ME __	MD __	MA __
MI __	MN __	MS __	MO __	MT __	NE __	NV __	NH __	NJ __	NM __	NY __
NC __	ND __	OH __	OK __	OR __	PA __	RI __	SC __	SD __	TN __	TX __
UT __	VT __	VA __	WA __	WV __	WI __	WY __	Puerto Rico __			

Other _____
(Specify)

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

8. Applicant is a (check box that applies and complete those items):

A. ☐ CORPORATION

(1) Date of incorporation: ..... _____ (Month) (Day) (Year)

(2) Jurisdiction where incorporated: _____

(3) Complete Schedule A

B. ☐ PARTNERSHIP

(1) Date of establishment: ..... _____ (Month) (Day) (Year)

(2) Current legal address:

_____ (Number and street) (City) (State) (Zip code)

(3) Complete Schedule B

C. ☐ SOLE PROPRIETORSHIP

(1) Date of establishment: ..... _____ (Month) (Day) (Year)

(2) Current residence address of proprietor:

_____ (Number and street) (City) (State) (Zip code)

(3) Social security number: ___ - ___ - ____

D. ☐ OTHER _____ (Specify)

(1) Date of establishment: ..... _____ (Month) (Day) (Year)

(2) Current legal address:

_____ (Number and street) (City) (State) (Zip code)

(3) Complete Schedule C

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

9. Is the applicant taking over the business of a registered investment adviser? (If "yes" describe the transfer on Schedule D, including the transfer date, and predecessor's full name, IRS employer number and file number.)..... Yes ☐ No ☐

10. A. Does any person not named in Item 1A or Schedules A, B, or C through agreement or otherwise, control the management or policies of applicant?..... Yes ☐ No ☐

(If "yes" state on Schedule D the exact name of each person and describe the basis for the person's control.)

B. Is the applicant financed by a person not named in Items 1.A) or Schedule A, B, or C other than by: (1) a public offering under the Securities Act of 1933; (2) credit given by banks or suppliers in the ordinary course of business; or (3) a subordination under Securities Exchange Act of 1934 Rule 15c3-1 (17 CFR 240.15c3-1)?..... Yes ☐ No ☐

(If "yes" state on Schedule D the exact name of each person and describe the arrangement through which financing is made available including the amount).

11. Disciplinary questions.

Definitions:

o Advisory affiliate -- A person named in Items 1A, 10A or Schedules A, B or C; an individual or firm that directly or indirectly controls, or is controlled by the applicant including all employees except those performing only clerical, administrative, support or similar functions.

o Investment or investment-related -- Pertaining to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, investment company, investment adviser, futures sponsor, bank, savings and loan association or fiduciary).

o Involved -- Doing an act or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Part I Page 6

Applicant _____ File Number 801-_____ Date _____

A. In the past ten years has the applicant or an advisory affiliate been convicted of or pleaded guilty or nolo contendere ("no contest") to

(1) a felony or misdemeanor involving:

- ° investment or an investment-related business
- ° fraud, false statements, or omissions
- ° wrongful taking of property or
- ° bribery, forgery, counterfeiting, or extortion?..... Yes ☐ No ☐

(2) any other felony?..... Yes ☐ No ☐

B. Has any court:

(1) in the past ten years, enjoined the applicant or an advisory affiliate in connection with any investment-related activity?.... Yes ☐ No ☐

(2) ever found that the applicant or an advisory affiliate was involved in a violation of investment-related statutes or regulations? ..... Yes ☐ No ☐

C. Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:

(1) found the applicant or an advisory affiliate to have made a false statement or omission? ..... Yes ☐ No ☐

(2) found the applicant or an advisory affiliate to have been involved in a violation of its regulations or statutes? ..... Yes ☐ No ☐

(3) found the applicant or an advisory affiliate to have been a cause of an investment-related business losing its authorization to do business? ..... Yes ☐ No ☐

(4) entered an order denying, suspending or revoking the applicant's or an advisory affiliate's registration, barring or suspending its association with an investment adviser or otherwise disciplined it by restricting its activities? ..... Yes ☐ No ☐

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

D. Has any other federal regulatory agency or any state regulatory agency:

(1) ever found the applicant or an advisory affiliate to have made a false statement or omission or been dishonest, unfair, or unethical? ... Yes ☐ No ☐

(2) ever found the applicant or an advisory affiliate to have been involved in a violation of investment regulations or statutes? .... Yes ☐ No ☐

(3) found the applicant or an advisory affiliate to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted? .... Yes ☐ No ☐

(4) in the past ten years, entered an order against the applicant or an advisory affiliate in connection with an investment-related business? . . . . . Yes ☐ No ☐

(5) ever denied, suspended, or revoked the applicant's or an advisory affiliate's registration or license, prevented it from associating with an investment-related business, or otherwise disciplined it by restricting its activities? ..... Yes ☐ No ☐

(6) ever revoked or suspended the applicant's or an advisory affiliate's license as an attorney or accountant? ..... Yes ☐ No ☐

E. Has any self-regulatory organization or commodities exchange:

(1) found the applicant or an advisory affiliate to have made a false statement or omission or been dishonest, unfair or unethical?..... Yes ☐ No ☐

(2) found the applicant or an advisory affiliate to have been involved in a violation of its rules? ..... Yes ☐ No ☐

(3) found the applicant or an advisory affiliate to have been the cause of an investment-related business having its authorization to do business denied, suspended revoked, or restricted? ..... Yes ☐ No ☐

(4) disciplined the applicant or an advisory affiliate by expelling or suspending it from membership, by barring or suspending its association with other members, or by otherwise restricting its activities? ..... Yes ☐ No ☐

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Part I Page 8

Applicant _____ File Number 801-_____ Date _____

F. Has any foreign government, court, regulatory agency, or exchange ever entered an order against the applicant or an advisory affiliate related to investments or fraud? ..... Yes ☐ No ☐

G. Is the applicant or an advisory affiliate now the subject of any complaint, investigation, or proceeding that could result in a "yes" answer to parts A-F of this item? ..... Yes ☐ No ☐

H. Has a bonding company denied, paid out on, or revoked a bond for the applicant? ..... Yes ☐ No ☐

I. Does the applicant have any unsatisfied judgments or liens against it? ..... Yes ☐ No ☐

J. Has the applicant or an advisory affiliate of the applicant ever been a securities firm or an advisory affiliate of a securities firm that has been declared bankrupt, had a trustee appointed under the Securities Investor Protection Act, or had a direct payment procedure begun? ..... Yes ☐ No ☐

K. Has the applicant, or an officer, director or person owning 10% or more of applicant's securities failed in business, made a compromise with creditors, filed a bankruptcy petition or been declared bankrupt? ..... Yes ☐ No ☐

If a yes answer on Item 11 involves:

° an individual, give the details on Schedule F item 8, as required by Part II Item 6H

° a partnership, corporation or other organization, give the details on Schedule E, as required by Part II Item 7

12. Does applicant have authority for custody (see definition in instruction) of any advisory client:

A. funds ..... Yes ☐ No ☐

B. securities ..... Yes ☐ No ☐

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant_____ File Number 801-_____ Date_____

13. Does any person affiliated with applicant have authority for custody (see definition in instructions) of any advisory client:

	Yes	No
A. funds	☐	☐
B. securities	☐	☐

If either is yes:

	Yes	No
C. is that person a registered broker dealer qualified to take custody under section 15 of the Securities Exchange Act of 1934?	☐	☐

D. what is the value of those funds and securities at the end of applicant's last fiscal year in thousands? $_____

	Yes	No
14. Does applicant require prepayment of fees of more than $500 per client and more than 6 months in advance?	☐	☐

15. With a few exceptions, the "brochure rule" (Advisers Act Rule 204-3) requires that clients must be given information about the investment adviser. If covered by this rule, will applicant comply with it by giving clients:

	Yes	No	N/A
A. Part II of this Form ADV?	☐	☐	☐
B. Another document that includes at least the information contained in Form ADV Part II?	☐	☐	☐

	Yes	No	N/A
16. Are those giving investment advice for the applicant qualified by examination or qualified for waiver of examination in the jurisdiction in which this application is being filed?	☐	☐	☐

17. The number of employees of applicant who perform investment advisory functions (including research, but excluding unrelated functions such as accounting) is: (Check only one box)

A. ☐ 1 person, part time

B. ☐ 1 person primarily involved in providing investment advisory services

C. ☐ 2-9 persons

D. ☐ 10 or more persons

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Part I Page 10

Applicant _____ File Number 801-_____ Date _____

18. Does applicant manage client securities portfolios on a discretionary basis? If yes, at the end of applicant's last fiscal year these accounts: . . . . . Yes ☐ No ☐

A. numbered _____.

B. totalled in aggregate market value, in thousands $_____

19. Does applicant manage client securities portfolios on a non-discretionary basis? If yes, at the end of applicant's last fiscal year these accounts: . . . . . Yes ☐ No ☐

A. numbered _____.

B. totalled in aggregate market value, in thousands $_____

20. Does applicant provide financial planning or some similarly termed services? If yes, during the last fiscal year applicant provided services to clients: . . . . . Yes ☐ No ☐

A. who numbered _____.

B. whose assets in those plans totalled, in thousands $_____

21. Did applicant recommend securities to clients during its last fiscal year in which the applicant had either an equity interest or was acting (itself or through an affiliated person) as an underwriter, general or managing partner, or offeree representative, or had any other ownership or sales interest (other than the receipt of normal and customary sales commissions as a broker or brokers representative)? . . . . . Yes ☐ No ☐

(If "yes", the approximate value of securities so recommended during its last fiscal year is:)

A. ☐ Under $50,000

B. ☐ $50,000 up to $250,000

C. ☐ $250,000 up to $1 million

D. ☐ over $1 million

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

FORM ADV PART II Page 1

Name of Investment Adviser:

Address:

(Number and Street) (City) (State) (Zip Code)

Telephone Number:

(Area Code) (Number)

This part of Form ADV gives information about the investment adviser and its business for the use of clients. The information has not been approved or verified by any governmental authority.

Table of Contents

(Schedules A, B, and C are included with Part I of this form, for the use of regulatory bodies, and are not distributed to clients.)

Applicant _____ File Number 801-_____ Date _____

Definitions for Part II

Affiliated person: Any person directly or indirectly able to vote 5% or more of the voting securities of applicant; any person who the applicant can vote 5% or more of the securities of; any person directly or indirectly controlling, controlled or under common control with the applicant; or any officer, director, partner, or employee of the applicant.

Investment Supervisory Services - Giving continuous advice to a client (or making investments for the client) based on the individual needs of the client. Individual needs include the nature of other client assets and the client's personal and family obligations.

Timing Service - Continuous advice on investing based solely on an analysis of market factors.

1. A. Advisory Services and Fees. (Check the applicable boxes) Applicant:

For each type of service provided, state the approximate % of total advisory billings from that service.

- ☐ (1) Provides investment supervisory services . . . . . ___ %
- ☐ (2) Manages investment advisory accounts not involving investment supervisory services. . . . . ___ %
- ☐ (3) Furnishes investment advice through consultations not included in either service described above . . . . . ___ %
- ☐ (4) Issues periodicals about securities by subscription . . . . ___ %
- ☐ (5) Issues special reports about securities not included in any service described above. . . . . ___ %
- ☐ (6) Issues, not as part of any service described above, any charts, graphs, formulas, or other devices which clients may use to evaluate securities . . . . . ___ %
- ☐ (7) On more than an occasional basis, furnishes advice to clients on matters not involving securities. . . . . ___ %
- ☐ (8) Provides a timing service. . . . . ___ %
- ☐ (9) Furnishes advice about securities in any manner not described above. . . . . ___ %

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant_____ File Number 801-_____ Date_____

B. Does applicant call any of its services financial planning or some similar term? ..... Yes ☐ No ☐

C. Does applicant charge for investment advisory services through (Check all that apply):

☐ (1) A percentage of assets under management?

☐ (2) Hourly charges?

☐ (3) Fixed fees (not including subscription fees)?

☐ (4) Subscription fees?

☐ (5) Commissions?

☐ (6) Other?

D. For each checked box in A above, describe on Schedule E,

- the services provided, including the name of any publication or report issued by the adviser on a subscription basis or for a fee.
- the fees for the services, and the formula for determining them, (e.g., 1% per annum).
- applicant's basic fee schedule, how fees are charged and whether its fees are negotiable.
- when compensation is payable, and if compensation is payable before service is provided, how a client may get a refund or may terminate an investment advisory contract before its expiration date.

2. Types of clients - Applicant generally provides investment advice to (check those that apply):

☐ A. Individuals

☐ B. Banks or thrift institutions

☐ C. Investment companies

☐ D. Pension and Profit Sharing Plans

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

|_| E Corporations or business entities other than those listed above

| | F Other (Describe on Schedule E)

3 Types of Securities. Applicant gives advice on the following (check those that apply)

A Equity securities

|_| (1) exchange-listed securities

| | (2) securities traded over-the-counter

|_| (3) foreign issuers

| | B Warrants

| | C Corporate debt securities (other than commercial paper)

| | D Commercial paper

| | E Certificates of deposit

| | F Municipal securities

G. Investment company securities

|_| (1) variable life insurance

| | (2) variable annuities

|_| (3) mutual fund shares

|_| H United States government securities

I. Options contracts on

|_| (1) securities

| | (2) commodities

Answer all items indicate "N/A" for not applicable Complete amended pages in full circle amended items and file with execution pages (pages 1 and 2).

Applicant_____ File Number 801-_____ Date_____

J. Futures contracts on:

[ ] (1) tangibles

[ ] (2) intangibles

K. Interests in partnerships investing in:

[ ] (1) real estate

[ ] (2) oil and gas interests

[ ] (3) other (explain on Schedule E)

[ ] L. Other (explain on Schedule E)

4. Methods of Analysis, Sources of Information, and Investment Strategies.

A. Describe the applicant's security analysis methods. For example, charting or fundamental, technical, or cyclical analysis.

B. Describe the main sources of information applicant uses. For example, financial newspapers and magazines, inspections of corporate activities, research materials prepared by others, corporate rating services, timing services, annual reports, prospectuses, filings with the Securities and Exchange Commission, or company press releases.

C. Describe the investment strategies used to implement any investment advice given to clients. For example, long term purchases (securities held at least a year), short term purchases (securities sold within a year), trading (securities sold within 30 days), short sales, margin transactions, or option writing, including covered options, uncovered options, or spreading strategies.

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

5. Education and Business Standards.

Are there any general standards of education or business experience that applicant requires of those involved in determining or giving investment advice to clients? . . . . . Yes ☐ No ☐

(If "yes" describe these standards on Schedule E.)

6. Individuals Education, Business and Disciplinary Background.

Complete a Schedule F for each individual who is:

A. The applicant, named in Part I Item 1A

B. A control person named in Part I Item 10

C. An owner of at least 10% of a class of applicant's equity securities

D. An officer, director, partner, or individual with similar status of applicant, described in Schedule A item 2a, Schedule B item 2, Schedule C item 2.

E. A member of the applicant's investment committee that determines general investment advice to be given to clients

F. If applicant has no investment committee, an individual who determines general investment advice (if more than five, complete for their supervisors only).

G. An individual giving investment advice on behalf of the applicant in the jurisdiction in which this application is filed.

H. Involved in any yes answer to the disciplinary question, Part I Item 11

7. Other Disciplinary Background

Describe in detail on Schedule E any yes answer to the disciplinary question, Part I Item 11 that involves a partnership, corporation or other organization. Give the following details of any court or regulatory action:

° the organization and individuals named
° the title and date of the action
° the court or body taking the action
° a description of the action

8. Other Business Activities. (Check those that apply)

☐ A. Applicant is actively engaged in a business other than giving investment advice.

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

☐ B. Applicant sells products or services other than investment advice to clients.

☐ C. The principal business of applicant, its officers, or its controlling persons involves something other than providing investment advice.

(For each checked box describe the other activities including the time spent on them on Schedule E.)

9. Other Financial Industry Activities or Affiliations. (Check those that apply)

☐ A. Applicant is registered (or has an application pending) as a securities broker/dealer.

☐ B. Applicant is registered (or has an application pending) as a futures commission merchant, commodity pool operator or commodity trading adviser.

C. Applicant is an affiliated person of a:

☐ (1) broker-dealer

☐ (2) investment company

☐ (3) other investment adviser

☐ (4) financial planning firm

☐ (5) commodity pool operator, commodity trading adviser or futures commission merchant

☐ (6) banking or thrift institution

☐ (7) accounting firm

☐ (8) law firm

☐ (9) insurance company

☐ (10) pension consultant

☐ (11) real estate broker or dealer

☐ (12) entity that creates or packages limited partnerships

(For each checked box in C, identify the affiliate and describe the affiliation and any business relationship with the affiliate on Schedule E.)

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

D. Is applicant or an affiliated person a general partner in any partnership in which clients are solicited to invest? . . . . Yes ☐ No ☐

(If "yes" describe on Schedule E the partnerships and what they invest in).

10. Participation or Interest in Securities Transactions

Applicant or an affiliated person (check those that apply):

☐ A. As principal, buys securities for itself from or sells its own securities to any investment advisory client.

☐ B. As broker or agent for any investment advisory client, effects securities transactions.

☐ C. As broker or agent for any person other than an investment advisory client effects transactions in which advisory client securities are sold to or bought from a brokerage customer.

☐ D. Recommends to investment advisory clients that they buy or sell securities in which the applicant has some financial interest.

☐ E. Buys or sells for itself securities that it also recommends to clients.

(For each box checked, describe on Schedule E when the applicant or an affiliated person engages in these transactions and what restrictions, internal procedures, or disclosures are used for conflicts of interest in those transactions.)

11. Conditions for Managing Accounts. If the applicant provides investment supervisory services, manages investment advisory accounts or provides financial planning services: Are a minimum dollar value of assets or other conditions imposed for starting or maintaining an account? . . . . . Yes ☐ No ☐ N/A ☐

(If "yes", describe on Schedule E.)

12. Review of Accounts. If applicant provides investment supervisory services, manages investment advisory accounts, or provides financial planning services:

A. Describe below the reviews and reviewers of the accounts. For reviews, include their frequency, different levels, and triggering factors. For reviewers. include the number of reviewers, their titles and functions, instructions they receive from applicant on performing reviews, and number of accounts assigned each.

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

B. Describe below the nature and frequency of regular reports to clients on their accounts.

13. Investment or Brokerage Discretion.

A. Does applicant or any affiliated person have authority to determine, without obtaining specific client consent, the:

	Yes	No	N/A
(1) securities to be bought or sold?	☐	☐	☐
(2) amount of the securities to be bought or sold?	☐	☐	☐
(3) broker or dealer to be used?	☐	☐	☐
(4) commission rates paid?	☐	☐	☐
B. Does applicant or an affiliated person suggest brokers to clients?	☐	☐	☐

For each yes to A describe on Schedule E any limitations on the authority.

For each yes to A(3), A(4) or B, describe on Schedule E the factors considered in selecting brokers and determining the reasonableness of their commissions. If the value of products, research and services given to the applicant or an affiliated person is a factor, describe:

° the products, research and services;

° whether clients may pay commissions higher than those obtainable from other brokers in return for those products and services,

° whether research is used to service all of applicant's accounts or just those accounts paying for it; and

° any procedures the applicant used during the last fiscal year to direct client transactions to a particular broker in return for products and research services received.

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

14. Additional Compensation

Does the applicant or an affiliated person have any arrangements, oral or in writing where it:

A. is paid cash by or receives some economic benefit (including commissions, equipment or non-research services) from a non-client in connection with giving advice to clients? . . . . . Yes ☐ No ☐

B. directly or indirectly compensates any person for client referrals? . . . . . Yes ☐ No ☐

For each yes, describe the arrangements on Schedule E.

15. Balance Sheet. Applicants:

- with custody of client funds or securities
- requiring prepayment of more than $500 in fees per client six or more months in advance
- filing in a jurisdiction that requires financial statements

must provide a balance sheet for the most recent fiscal year on Schedule G.

Has applicant provided a Schedule G balance sheet? . . . . . Yes ☐ No ☐ N/A ☐

Answer all items; indicate "N/A" for not applicable. Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

SCHEDULE A of Form ADV

(Answers in for Form ADV Part I Item 8.)

1. This form requests information on the owners and executive officers of the applicant.

2. Please complete for:

   (a) each Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, director, and individuals with similar status or functions, and

   (b) every person who is directly, or indirectly through intermediaries, the beneficial owner of 5% or more of any class equity security of the applicant.

3. If a person covered by 2(b) above owns applicant indirectly through intermediaries, list all intermediaries and below them, if they are not subject to Sections 12 or 15(d) of the Securities and Exchange Act of 1934 but are:

   (a) corporations, give their shareholders who own 5% or more of a class of equity security, or

   (b) partnerships, give their general partners or any limited special partners who have contributed 5% or more of the partnership's capital.

4. If the intermediary's shareholders or partners listed under 3 above are not individuals, continue up the chain of ownership listing their 5% shareholders, general partners, and 5% limited or special partners until individuals are listed.

5. Ownership codes are: NA - 0 up to 5% B - 10% up to 25% D - 50% up to 75%
   A - 5% up to 10% C - 25% up to 50% E - 75% up to 100%

6. Asterisk (*) names reporting a change in title, status, stock ownership or partnership interest or control. Double asterisk (**) names new on this filing.

7. Check "Control Person" column if person has "control" as defined in the instructions to this form.

Last	First	Middle	Beginning Date Mo.	Beginning Date Yr.	Title or Status	Ownership Code	Control Person	CRD No., or, if none Social Security Number	Official Use Only

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

Applicant _____ File Number 801-_____ Date _____

SCHEDULE A of Form ADV

(Answers for Form ADV Part I Item 8.)

List below names reported in the most recent previous filing pursuant to this item which are DELETED hereby:

FULL NAME			Ending Date		
Last	First	Middle	Mo.	Yr.	Social Security Number

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

Applicant File Number 801- Date

SCHEDULE B of Form ADV

FOR PARTNERSHIPS

(Answers in for Form ADV Part I Item 8.)

1. This form requests information on the owners and partners of the applicant.

2. Please complete for all general partners and with respect to limited and special partners all those who have contributed directly or indirectly through intermediaries, 5% or more of the partnership's capital.

3. If a person owns applicant indirectly through intermediaries, list all intermediaries and below them, if they are not subject to Sections 12 or 15(d) of the Securities and Exchange Act of 1934 but are:

   (a) corporations, give their shareholders who own 5% or more of a class of equity security, or

   (b) partnerships, give their general partners or any limited special partners who have contributed 5% or more of the partnership's capital.

4. If the intermediary's shareholders or partners listed under 3 above are not individuals, continue up the chair of ownership listing their 5% shareholders, general partners, and 5% limited or special partners until individuals are listed.

5. Ownership codes are: NA - 0 up to 5% B - 10% up to 25% D - 50% up to 75%
   A - 5% up to 10% C - 25% up to 50% E - 75% up to 100%

6. Asterisk (*) names reporting a change in title, status, stock ownership or partnership interest or control. Double asterisk (**) names new on this filing.

7. Check "Control Person" column if person has "control" as defined in the instructions to this form.

FULL NAME			Beginning Date		Title or	Owner-		CRD No., or, if none	Official
Last	First	Middle	Mo.	Yr.	Status	ship Code	Control Person	Social Security Number	Use Only

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

Applicant _____ File Number 801-_____ Date _____

SCHEDULE B of Form ADV

FOR PARTNERSHIPS

(Answers for Form ADV Part I Item 8.)

List below names reported in the most recent previous filing pursuant to this item which are DELETED hereby:

FULL NAME			Ending Date		
Last	First	Middle	Mo.	Yr.	Social Security Number

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801- _____ Date _____

SCHEDULE C of Form ADV

FOR APPLICANTS OTHER THAN PARTNERSHIPS AND CORPORATIONS

(Answers for Form ADV Part I Item 8.)

1. This form requests information on the owners and executive officers of the applicant.

2. Please complete for each person, including trustees, who participates in directing or managing the applicant.

3. Give each listed person's title or status, and describe the nature of their authority and their beneficial interest in applicant. Sole proprietors must be identified in the "Title or Status" column.

4. Asterisk (*) names reporting a change in title, status, stock ownership or partnership interest. Double asterisk (**) names new on this filing.

FULL NAME			RELATIONSHIP			CRD Number or, if none Social Security Number	Description of Authority and Beneficial Interest
			Beginning Date		Title or Status		
Last	First	Middle	Mo.	Yr.			

List below names reported in the most recent previous filing pursuant to this item which are DELETED hereby:

FULL NAME			Ending Date		
Last	First	Middle	Mo.	Yr.	Social Security Number

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

Applicant _____ File Number 801-_____ Date _____

SCHEDULE D of Form ADV

(CONTINUATION SHEET FOR OF FORM ADV PART I)

(Do not use this Schedule as a continuation sheet for FORM ADV Part II or any other schedules.)

I. Full name of applicant exactly as stated in Item 1A of Part I of Form ADV: IRS Empl. Ident. No.

Item of Form (identify)	Answer

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

Applicant _____ File Number 801-_____ Date _____

SCHEDULE E of Form ADV

(CONTINUATION SHEET FOR FORM ADV PART II)

(Do not use this Schedule as a continuation sheet for FORM ADV Part I or any other schedules.)

I. Full name of applicant exactly as stated in Item 1A of Part I of Form ADV: IRS Empl. Ident. No.

Item of Form (identify)	Answer

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2).

Applicant _____ File Number 801-_____ Date _____

SCHEDULE F of Form ADV

(Answers for Form ADV Part I Item 11 and Part II Item 6.)

This Schedule is submitted for an individual who is: (Check all boxes that apply)

- [ ] A. the applicant, named in Part I, Item 1A
- [ ] B. a control person, named in Part I, Item 10A
- [ ] C. an owner of at least 10% of a class of applicant's equity securities
- [ ] D. an officer or director, partner, or individual with similar status of applicant, described in Schedule A Item 2a, Schedule B Item 2, or Schedule C Item 2
- [ ] E. a member of the applicant's investment committee that determines general investment advice to be given to clients
- [ ] F. if applicant has no investment committee, an individual who determines general client advice (if more than 5, complete for their supervisors, only)
- [ ] G. an individual giving investment advice on behalf of the applicant in the jurisdictions checked below:

AL __	AK __	AZ __	AR __	CA __	CO __	CT __	DE __	DC __	FL __	GA __
HI __	ID __	IL __	IN __	IA __	KS __	KY __	LA __	ME __	MD __	MA __
MI __	MN __	MS __	MO __	MT __	NE __	NV __	NH __	NJ __	NM __	NY __
NC __	ND __	OH __	OK __	OR __	PA __	RI __	SC __	SD __	TN __	TX __
UT __	VT __	VA __	WA __	WV __	WI __	WY __	Puerto Rico __			

Other _____
(Specify)

- [ ] H. involved in any yes answer to the disciplinary question, Part I Item 11. IF ONLY THIS BOX IS CHECKED, THIS SCHEDULE DOES NOT HAVE TO BE GIVEN TO CLIENTS.

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

Applicant _____ File Number 801-_____ Date _____

SCHEDULE F of Form ADV Page 2

(Answers for Form ADV Part I Item 11 and Part II Item 6.)

1. Applicant name as stated in Part I Item 1A — IRS Empl. Ident. No. _____

2. Individual's full name for whom this Schedule is being completed — IRS Empl. Ident. No. _____ Soc. Sec. No. _____ CRD No., if any _____

3. (a) Residence of individual:

(Number and Street) (City) (State) (Zip Code)

(b) Birth Date: (c) City: (d) State or Province: (e) Country:

4. NAMES USED. List all names other than the one given in Item 2 above that the individual has used, including maiden names.
(Last) (First) (Middle)

5. EDUCATION. Start with last high school attended. If no degree received, state "none."

School (Name, City and State	Years Attended	Year Graduated	For College and above Degree	Major

6. BUSINESS BACKGROUND. Provide complete consecutive statement of all employment for the past ten years, beginning with the most recent position first.

Name of Firm and Address	Kind of Business	Exact Nature of connection or Employment	Beginning Date Mo.	Beginning Date Yr.	Ending Date Mo.	Ending Date Yr.

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

Applicant _____ File Number 801-_____ Date _____

SCHEDULE F of Form ADV Page 3

(Answers for Form ADV Part I Item 11 and Part II Item 6

7. EXAMINATIONS/PROFESSIONAL DESIGNATIONS. List all jurisdiction, self-regulatory organization, and professional examinations and designations. Give examination or designation name (include any examination's title and number), body giving it, and date taken or conferred. If examination was waived, give details.

8. PROCEEDINGS. For each yes to Part I Item 11 give the following details of any court or regulatory action:

° the adviser and individuals named,
° the title and date of the action,
° the court or body taking the action, and
° a description of the action

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

Applicant _____ File Number 801- _____ Date _____

SCHEDULE G of Form ADV

(Answers in Response to Item 4 of FORM ADV-S or Form ADV Part II Item 14.)

I. Full name of applicant exactly as stated in Item 1A of Part I of Form ADV: IRS Empl. Ident. No.

Instructions

Schedule G of Form ADV - Balance Sheet

1. The balance sheet must be:

   A. Prepared in accordance with generally accepted accounting principles

   B. Audited by an indpendent public accountant

   C. Accompanied by a note stating the principles used to prepare it, the basis of included securities, and any other explanations required for clarity

2. Securities included at cost should show their market or fair value parenthetically

3. Qualifications and any accompanying independent accountant's report must conform to Article 2 of Regulation S-X (17 CFR 210.2-01 et seq.)

4. Sole proprietor investment advisors:

   A. Must show investment advisory business assets and liabilities separate from other business and personal assets and liabilities.

   B. May aggregate other business and personal assets and liabilities unless there is an asset deficiency in the total financial position.

Complete amended pages in full, circle amended items and file with execution pages (pages 1 and 2)

[FR Doc. 85-10515 Filed 4-30-85; 8:45 am]
BILLING CODE 8010-01-C

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Reopening and Extension of Public Comment Period on Proposed Amendments to the Illinois Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Reopening and extension of public comment period.

SUMMARY: By letter dated December 23, 1983, Illinois submitted to OSM proposed requirements for the training and certification of blasters working in surface coal mining operations. OSM published a notice in the **Federal Register** on January 25, 1984, announcing receipt of the amendments and inviting public comment on the adequacy of the proposed amendments (49 FR 3093).

OSM's review of Illinois' proposed amendments identified concerns relating to the kind of courses required to provide adequate training to blasters, reexamination for blaster competency, and protection of blaster certificates from theft, loss, or unauthorized duplication. OSM notified the State about its concerns on April 25, 1984. On May 25, 1984, the State responded by agreeing to amend the rules to answer OSM's concerns. Illinois also proposed to make other minor editorial changes to its blasting rules. The amended rules were submitted to OSM on March 29, 1985.

Accordingly, OSM is reopening and extending the comment period on Illinois' December 23, 1983 proposed amendment as modified on March 29, 1985. This action is being taken to provide the public an opportunity to reconsider the adequacy of the proposed amendments.

DATES: Written comments, data or other relevant information relating to this rulemaking not received on or before 4:00 p.m. May 31, 1985, will not necessarily be considered in the Director's decision. A public hearing on the modified proposed amendments has been scheduled for May 27, 1985. Any person interested in speaking at the hearing should contact Mr. James Fulton at the address or telephone number listed below by May 16, 1985. If no person has contacted Mr. Fulton by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: Written comments should be mailed or hand delivered to James Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 East Monroe Street, Room 20, Springfield, Illinois 62701.

Copies of the Illinois program, the proposed modifications to the program, and all written comments received in response to this notice will be available for public review at the OSM Field Office listed above and at the OSM Headquarters office and the office of the State regulatory authority listed below, during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendment by contacting the OSM Springfield Field Office.

Office of Surface Mining Reclamation and Enforcement, Administrative Record, Room 5124, 1100 L Street NW., Washington, D.C. 20240;

Illinois Department of Mines and Minerals, Land Reclamation Division, 227 South 7th Street, Room 201, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: James Fulton, Director, Springfield Field Office, Office of Surface Mining, 600 East Monroe Street, Room 20, Springfield, Illinois 62701; Telephone: (217) 492–4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program, can be found in the June 1, 1982 **Federal Register** (47 FR 23858).

At the time of the Secretary's approval of the Illinois program, OSM had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program. However, in the notice announcing conditional approval of the Illinois program, the Secretary specified that Illinois would be required to adopt such provisions following promulgation of the Federal standards (47 FR 23858, June 1, 1982). On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Ch. M (48 FR 9486).

II. Proposed Amendment

By letter dated December 23, 1983, Illinois submitted proposed regulations which would establish requirements for the training and certification of blasters working in surface coal mining operations. The new requirements were set forth under Part 1850—Training, Examination and Certification of Blasters.

OSM announced receipt of the amendments and initiated a public comment period on January 25, 1984 (49 FR 3093). The comment period ended February 24, 1984.

During review of the amendments OSM identified three concerns:

(1) The proposed Illinois rules do not contain counterparts to all of the courses required for blaster training in 30 CFR 850.13(b);

(2) Illinois' proposed rules do not provide that the regulatory authority may require periodic re-examination, training or other demonstration of continued blaster competency; and

(3) Illinois' proposed rule does not require the blaster to take every reasonable precaution to protect his certificate from loss, theft or unauthorized duplication.

OSM notified Illinois about these concerns by letter dated April 25, 1984. On May 25, 1984, Illinois responded by agreeing to amend its blaster training and certification rules to answer OSM's concerns. Illinois also proposed to make minor editorial changes and correct typographical errors. The State completed its changes on February 15, 1985, and submitted the amended rules to OSM on March 29, 1985.

The full text of the proposed program amendments and of the subsequent material is available for review at the locations listed above under **"ADDRESSES."** Accordingly, OSM is now seeking public comment on the adequacy of Illinois' December 23, 1983 amendments in light of the State's March 29, 1985 modifications.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: April 24, 1985.

Charles B Kenahan,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 85-10510 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2827-9]

Approval and Promulgation of Implementation Plans: Ohio, Extension of Comment Period

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of extension of the public comment period.

SUMMARY: USEPA is giving notice that the public comment period for the notice of proposed rulemaking, published March 13, 1985 (50 FR 10076), regarding the Cleveland Carbon Monoxide State Implementation Plan is being extended an additional 30 days to May 13, 1985. USEPA is taking this action because a 30-day extension was requested by the Ohio Environmental Protection Agency.

DATE: Comments are now due on or before May 13, 1985.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Regulatory Specialist (5AR-26), Air and Radiation Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6088.

Dated: April 22, 1985.

Alan Levin,

Acting Regional Administrator.

[FR Doc. 85-10533 Filed 4-30-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 85-124; FCC 85-196]

Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Federal Communications Commission commences a rulemaking proceeding to examine the appropriate method for calculating interstate and intrastate switched access service usage by the other common carriers (OCCs) for purposes of applying access charges. The Commission also exercises its discretion to convene a Federal-State Joint Board to make recommendations concerning a permanent resolution of this issue. The Commission is taking these actions to ensure creation of a complete record on which to base permanent measures for calculating OCC switched access traffic, and to facilitate successful resolution of this issue of joint federal and state concern through involvement of a Joint Board.

DATES: The Joint Board will issue a subsequent Order establishing a pleading cycle.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Raymond Dujack at (202) 632-9342.

Proposed Rulemaking

In the matter of determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, CC Docket No. 85-124.

Adopted: April 19, 1985.

Released: April 25, 1985.

By the Commission.

I. Introduction

1. The Commission hereby initiates a rulemaking proceeding to examine the appropriate method of calculating interstate and intrastate switched access service usage by the other common carriers (OCCs) for purposes of applying access charges. Since this is a matter of mutual concern to state and federal regulators, the Commission is exercising its discretion to convene a Federal-State Joint Board pursuant to section 410(c) of the Communications Act of 1934, as amended, 47 U.S.C. 410(c), to prepare recommendations for a permanent resolution of this issue.

II. Background

2. On September 11, 1984, MCI Telecommunications Corporation (MCI) filed a Petition for Declaratory Relief asking the Commission to take action concerning state regulations with regard to the calculation of intrastate switched access usage by the OCCs. MCI urged the Commission to find that state authority in this area had been preempted by the FCC-mandated procedures for the determination of interstate and intrastate switched access usage set forth in sections 2.3.14 and 2.3.15 of the National Exchange Carrier Association (NECA) switched access tariff. MCI also asked the Commission to approve use of the OCCs' current method of estimating the amount of intrastate switched access traffic to be reported to the local exchange carriers. This method involves application of a factor to adjust for "false" intrastate traffic, *i.e.*, traffic that appears to be intrastate but is actually interstate in nature.[1] Finally, MCI asked that we establish a nationwide method for calculating interstate and intrastate switched access traffic—either through a notice of inquiry or by supervising negotiations between the carriers.

3. These issues arise, in part, from the inability of the local exchange carriers to measure the relative amounts of interstate and intrastate OCC switched access traffic using Feature Group A, or using Feature Group B in end offices that do not have automatic number identification capability. As a consequence, some states have required the OCCs to allow periodic auditing of their traffic and billing records by the local exchange carriers as a condition for obtaining intrastate switched access service. The OCCs objected to this approach. They supported the system for determining the jurisdictional nature of switched access traffic mandated by the Commission for use in the NECA tariff. Under that approach, the OCC simply submitted a breakdown of its total switched access traffic to the local exchange carrier.

III. Discussion

4. The Commission denied the MCI Petition in a Memorandum Opinion and Order released on April 16, 1985,[2] declining to require state use of the existing NECA tariff methodology for determining relative usage. The Commission also declined to approve the estimation procedures currently used by the OCCs, including the factors to adjust for "false" interstate traffic. Instead, the Commission concluded that, on an interim basis, interstate usage should be estimated by treating as interstate those calls which enter the OCC network in a different state than the dialed telephone station. The Commission did not require use of this "entry/exit" measurement procedure by the states, although they generally favor this approach. The Commission also

[1] This phenomenon occurs when a call originates and terminates in different states, but enters the OCC facilities and terminates within the same state. For example, a call originating in one state over a private line could terminate at a leaky PBX in another state and be routed by the PBX over the toll facilities of an OCC to another point within the same state. Such traffic would appear to be intrastate if measured in terms of where it entered the OCC network and where it terminated.

[2] MCI Telecommunications Corporation Determination of Interstate and Intrastate Usage of Feature Group A and Feature Group B Access Service, Memorandum Opinion and Order, FCC 85-145 (released April 16, 1985) (hereinafter *MCI Order*).

recommended that the local exchange carriers reflect this interim measurement approach in their interstate switched access tariffs to be filed with the Commission on July 2, 1985.

5. Since issues concerning the jurisdictional classification of switched access traffic are a matter of concern to both federal and state regulators, the Commission also found that creation of a Federal-State Joint Board would be appropriate as a means of achieving a permanent resolution of the questions raised by MCI. In the Order we stated:

> Since the problem of classifying traffic as interstate or intrastate for access charge purposes will not be completely resolved by the advent of equal access, we also have decided that it would be useful to have a Joint Board consider a permanent and comprehensive solution to that problem.[3]

Accordingly, we are now establishing a discretionary Joint Board pursuant to section 410(c) of the Communications Act to consider this issue.

IV. Ordering Clauses

6. Accordingly, it is ordered that a rulemaking proceeding is instituted concerning the issues described above.

7. It is further ordered that a Joint Board is hereby convened pursuant to the provisions of section 410(c) of the Communications Act, as amended, 47 U.S.C. 410(c), to consider these issues and to submit a recommended decision concerning this matter to the Commission for its consideration and action. This Joint Board shall consist of Chairman Fowler, Commissioner Quello, and Commissioner Patrick of the FCC, and four State Commissioners to be nominated by the National Association of Regulatory Utility Commissioners (NARUC) and approved by this Commission.

8. It is further ordered that the schedule for the filing of comments, reply comments, or any other submissions concerning this matter shall be established by the Joint Board.

9. It is further ordered that, 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. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments or pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission staff that addresses the merits of the proceeding. (State Commissioners and staff members will be treated as FCC Commissioners and staff for purposes of the *ex parte* rules.) Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Secretary, Federal Communications Commission, 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 in 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 Secretary for inclusion in the public file, with a copy to the Commission official receiving the oral presentation. Each *ex parte* presentation summary 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.[4] The Joint Board in CC Docket No. 80-286, *Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, has modified the Commission's *ex parte* rules somewhat for purposes of the proceeding before it.[5] To avoid confusion, we are asking this Joint Board to use the same *ex parte* procedures as the CC Docket No. 80-286 Joint Board unless it finds that those procedures should be modified.

10. Pursuant to section 605(b) of the Regulatory Flexibility Act 5 U.S.C. 605(b), it is certified that sections 603 and 604 of the Act do not apply because resolution of this matter will not have a significant economic impact on a substantial number of small entities.[6] *See* 5 U.S.C. 603, 604, 605(b).

11. It is further ordered that the Secretary shall cause this Notice of Proposed Rulemaking and Order Establishing a Joint Board to be published in the **Federal Register.**

12. It is further ordered that pursuant to § 220(i), the Secretary shall serve a copy of this Notice on each State Commission.[7]

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-10590 Filed 4-30-85; 8:45 am]

BILLING CODE 6712-01-M

[3] *MCI Order* at para. 33.

[4] Policies and Procedures Regarding Ex Parte Communications During Informal Rulemaking Proceedings, Report and Order, Gen. Docket No. 78-167, 78 FCC 2d 1384 (1980).

[5] Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, Order, FCC 82-106 (released March 5, 1982).

[6] The Commission has found that local exchange carriers do not come within the Regulatory Flexibility Act's definition of a small entity. Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board, Decision and Order, 96 FCC 2d 781, para. 75 (1984). Although the OCCs will also be affected by the Commission's decisions in this proceeding, our determinations will not have a significant effect on a substantial number of small entities.

[7] This action is taken pursuant to sections 1, 4(i) & (j), 201-205, 220, 403, and 410 of the Communications Act as amended, 47 U.S.C. 151, 154(i) & (j), 201-205, 220, 403 and 410.

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47 CFR Part 76

[MM Docket No. 85-61]

Implementation of the Equal Employment Opportunity Provisions Cable Communications Policy Act of 1984; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and replies to comments in response to the Notice of Proposed Rule Making in MM Docket No. 85-61 published at 50 FR 11191, March 20, 1985. This Notice requested comment on amendment of the Commission's Rules to implement the equal employment opportunity provisions of the Cable Communications Policy Act of 1984. The extension of time was requested by the National Cable Television Association, Inc.

DATES: Comments are due on or before May 20, 1985, and replies to comments are due on or before June 19, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Judith Herman, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Rulemaking was published on March 20, 1985 (50 FR 11191).

Order Extending Time for Filing Comments to Notice of Proposed Rule Making

In the matter of amendment of Part 76 of the Commission's rules to implement the equal employment opportunity provisions of the Cable Communications Policy Act of 1984 (MM Docket No. 85-61).

Adopted: April 18, 1985.

Released: April 22, 1985.

By the Chief, Mass Media Bureau.

1. On March 1, 1985, the Commission adopted a *Notice of Proposed Rule Making* in MM Docket No. 85-61 to consider amendments to the Commission's rule to implement the equal employment opportunity provisions of the Cable Communications Policy Act of 1984. The *Notice* was released on March 6, 1985, with comments due by May 6, 1985, and reply comments due by June 5, 1985.

2. On April 3, 1985, the National Cable Television Association, Inc. (NCTA) submitted a motion for extension of time for filing comments and reply comments in this proceeding. NCTA requests that the dates for comments and replies be extended to May 20, 1985, and June 19, 1985, respectively. The petitioner states that additional time is needed to ascertain the views of its member cable companies in the preparation of its comments in this proceeding.

3. The Commission is interested in expeditiously completing this proceeding. However, it also recognizes the importance of the equal employment opportunity issues and wishes to provide sufficient time for parties to submit comments. Therefore, the petitioner's request for a 14 day extension of time for filing comments and reply comments is granted.

4. Accordingly, it is ordered that the time for filing comments in the above captioned proceeding is extended to and including May 20, 1985, and June 19, 1985, for reply comments.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(i), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

William H. Johnson,

Acting Chief, Mass Media Bureau.

[FR Doc. 85-10467 Filed 4-30-85; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1241

[Ex Parte 460]

Certification of Railroad Annual Report R-1 by Independent Accountant

AGENCY: Interstate Commerce Commission

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing a reporting revision that would require Class I railroads to submit a certified statement from an independent public accountant attesting to the conformity of the primary financial statements and selected schedules in the Annual Report Form R-1 (required by 49 CFR 1241.11) with the Commission's accounting and reporting rules. This revision would provide an alternative to the almost continuous audits currently being performed by the Commission staff. This proposed revision has been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

DATES: Comments must be received on or before June 17, 1985. The proposed revision would become effective with annual reports filed March 31, 1986 for the 1985 reporting year.

ADDRESSES: Respondents may direct comments to OMB by addressing them to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Interstate Commerce Commission, Washington, DC 20503. An original and 10 copies of any comments should be sent to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275-7510.

SUPPLEMENTAL INFORMATION: The diversity and complexity of railroad operations has significantly affected the audit responsibilities of the Commission. Integrated operations with affiliates, subsidiary formation, conglomerate mergers, and complex data processing have all contributed to an increased compliance responsibility. To meet and better achieve this responsibility it has become necessary to develop supplemental procedures.

This certification reporting requirement is similar to a requirement employed by the Federal Energy Regulatory Commission (FERC) and its predecessor Federal Power Commission (FPC) since 1970. This requirement was found to be an effective and relatively nonburdensome means of supplementing compliance procedures.

Class I railroads engage independent public accountants for accounting, auditing, tax, and management advisory services. These carriers could meet the certification reporting requirements by having their independent public accountant expand the scope of their annual examination of financial statements.

We recognize that an expanded scope would undoubtedly result in incremental audit fees. This could be alleviated by performing the examination on a cyclical basis over several periods. We would permit the railroads, in conjunction with their independent public accountants, to propose their own cyclical basis and implement it upon review and approval of the Commission. The Commission audit programs could be used to facilitate compliance audit work by independent public accountants.

The certification would cover the primary financial statements and the selected supporting schedules listed in Appendix A. All of the data included in these statements and schedules is used by the Commission in fulfilling its responsibilities under the Interstate Commerce Act, the 4-R Act of 1976, and the Staggers Rail Act of 1980.[1]

A statement attesting to the conformity of the primary financial statements and selected supporting schedules would be required as an integral part of the annual report. The proposed format for the attestation letter is shown in Appendix B.

As previously noted, the diversity and complexity of railroad operations has resulted in an almost continuous audit at each of the Class I railroads by the Commission staff. The certification of the R-1 annual report would permit the Commission to eliminate the need for these countinuous audits. In lieu of the continuous audits, the Commission staff would inspect the independent public accountant's workpapers to review the procedures performed to verify the compilation of the data reported in the R-1. As stated earlier, this procedure has worked satisfactorily at another agency and we believe it can also be used to ensure the accuracy of the data filed in the R-1 annual report.

Regulatory Flexibility Act

This proposed rule will not have a significant economic impact on a substantial number of small entities. This decision directly affects only Class I railroads which have annual revenues of $50 million or more.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1241

Railroads, Reporting and recordkeeping requirements.

These rules are proposed under the authority of 11145 and 5 U.S.C. 553.

Decided: April 22, 1985.

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[1] The Interstate Commerce Act and related laws enacted as Subtitle IV of Title 49, United States Code, "Transportation," by Pub. L. 95-473.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio.

James H. Bayne,

Secretary.

Appendix A—R-1 Schedules To Be Included in the Certification by the Independent Public Accountant

Schedule

200—Comparative Statement of Financial Position
210—Results of Operations
240—Statement of Changes in Financial Position
245—Working Capital Information
310—Investments and Advances Affiliated Companies
310A—Investments in Common Stocks of Affiliated Companies
330—Road and Equipment Property
330A—Improvements on Leased Property
335—Accumulated Depreciation—Road and Equipment Owned and Used
342—Accumulated Depreciation—Improvements to Road and Equipment Leased from Others—
352A—Investment in Railroad Property Used in Transportation Service (By Company)
352B—Investment in Railway Property Used in Transportation Service (By Property Accounts)
410—Railway Operating Expenses
450—Analysis of Taxes
510—Debtholdings
512—Transactions Between Respondent and Companies or Persons Affiliated with Respondent for Services Received or Provided
755—Railroad Operating Statistics

Appendix B—Proposed Attestation Letter

In connection with our regular examination of the financial statements of _____ for the year ____, on which we have reported separately under the date of _____, we have also reviewed schedules _____, of the Annual Report Form R-1 for the year _____ which was filed with the Interstate Commerce Commission as set forth in Uniform System of Accounts for Railroad Companies and orders issued by the Commission. Our review for this purpose included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

Based on this review, it is our opinion that the schedules identified in the preceding paragraph (except as noted below)[1] conform in all material respects with the accounting requirements of the Interstate Commerce Commission, as set forth in its Uniform System of Accounts for Railroad Companies, and orders issued by the Commission.

[FR Doc. 85-10520 Filed 4-30-85; 8:45 am]

BILLING CODE 7035-01-M

[1] Parenthetical phrase inserted when exceptions are to be reported.

Notices

Federal Register
Vol. 50, No. 84
Wednesday, May 1, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement; Selection of Sites for Nuclear Waste Repository by Department of Energy

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: Under the Nuclear Waste Policy Act of 1982, the Department of Energy is responsible for selecting sites for the disposal of spent nuclear fuel and high-level radioactive waste. The Department is currently considering nine sites: Richton Dome and Cypress Creek Dome in Mississippi, Vacherie Dome in Louisiana, Swisher County, Texas, Deaf Smith County, Texas, Lavender Canyon, Utah, Davis Canyon, Utah, Yucca Mountain, Nevada, and Hanford, Washington. The Advisory Council proposes to execute either a single Programmatic Memorandum of Agreement (PMOA) or several PMOAs providing for the protection of historic properties within each site recommended for site characterization studies, which include activities that may be injurious to such properties. Consulting parties will include the Council, the pertinent State Historic Preservation Officers, the Department of Energy, and possibly other Federal agencies. Comments from the public are solicited on the historic and cultural values of the candidate sites, and on elements that should be included in any PMOA.

Comments Due: May 31, 1985.

ADDRESS: Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., Suite 803, Washington, DC 20004, Attention Dr. Thomas F. King.

Dated: April 25, 1985.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 85-10522 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 26, 1985.

The Department of Agriculture 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) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contrains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (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 provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, D.C. 20250 (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Forest Service
Conservation Reporting and Evaluation System Data
AD 862
On occasion
State or local governments; 16,000 responses; 16,000 hours; not applicable under 3504(h)
William L. Thompson (703) 235-1588

Revision

• Forest Service
Requesting National Forest Concessioners to have their Accountants Reconcile Fee-Base Financial Reports
FS 2700-20, 2700-21
Annually
Businesses or other for-profit; Small businesses or organizations; 300 responses; 900 hours; not applicable under 3504(h)
Richard E. Kuhn (703) 235-8466.

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 85-10332 Filed 4-30-85; 8:45 am]

BILLING CODE 3410-01-M

Federal Grain Inspection Service

Designation Renewal of Alaska Department of Natural Resources, Division of Agriculture (AK); Little Rock Grain Exchange Trust (AR); and Memphis Grain and Hay Association (TN)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Alaska Department of Natural Resources, Division of Agriculture (Alaska); Little Rock Grain Exchange Trust (Little Rock); and Memphis Grain and Hay Association (Memphis), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as amended (Act).

EFFECTIVE DATE: June 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 November 28, 1984, issue of the **Federal Register** (49 FR 46775) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Alaska's, Little Rock's, and Memphis' designations terminate on May 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 December 28, 1984.

Alaska, Little Rock, and Memphis, the only applicants, each applied for renewal of their respective designations.

FGIS announced the names of these applicants and requested comments on same in the February 1, 1985, issue of the **Federal Register** (50 FR 4716). Comments were to be postmarked by March 18, 1985; one favorable comment was received regarding Memphis' renewal.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), decided that Alaska, Little Rock, and Memphis are able to provide official services in the respective geographic areas for which FGIS is renewing their designations. Each assigned geographic area is the entire one previously described in the November 28 **Federal Register** issue.

Effective June 1, 1985, and terminating May 31, 1988, Alaska, Little Rock, and Memphis are responsible to provide official inspection services in their respective specified geographic areas.

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 an 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:

Alaska Department of Natural Resources, Division of Agriculture, Pouch A, Wasilla, AK 99687

Little Rock Grain Exchange Trust, 600 Olive Street, Bldg. B, North Little Rock, AR 72114

Memphis Grain and Hay Association, 1390 Channel Avenue, P.O. Box 13302, Memphis, TN 38113.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 et seq.)

Dated: April 18, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc 85–10342 Filed 4–30–85; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicant in the Geographic Area Currently Assigned to Kansas State Grain Inspection Department (KS)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the geographic area currently assigned to Kansas State Grain Inspection Department.

DATE: Comments to be postmarked on or before June 17, 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 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 March 1, 1985, issue of the **Federal Register** (50 FR 8351) contained a notice from the Federal Grain Inspection Service requesting applications for designation to provide official services under the U.S. Grain Standards Act, as Amended, in the area currently assigned to the official agency. Applications were to be postmarked by April 1, 1985.

Kansas, the only applicant, requested designation for the entire geographic area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the applicant for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice.

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 applicant will be informed of the decision in writing.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 18, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc 85–10343 Filed 4–30–85; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants To Perform Official Services in the Geographic Area Currently Assigned to Los Angeles Grain Inspection Service, Inc. (CA) and Peoria Grain Inspection Service, Inc. (IL)

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 according to 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 Los Angeles Grain Inspection Service, Inc., and Peoria Grain Inspection Service, Inc.

DATE: Applications to be postmarked on or before May 31, 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, D.C.

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 be a rule or regulation as defined in Executive Order 12291 and Departmental Regulations 1512-1; therefore, the Executive Order and Departmental Regulations do not apply to this action.

Section 7(f)(1) of the Act specified 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 provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Los Angeles Grain Inspection Service, Inc. (Los Angeles), 1625 Bluff Road, Montebello, CA 90640, and Peoria Grain Inspection Service, Inc. (Peoria), 330 SW., Washington Street, 2nd Floor, Peoria, IL 61602, were each designated under the Act as an official agency to perform inspection functions on November 1, 1982.

Each agency's designation terminates on October 31, 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 Los Angeles, in the State of California, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

Bounded on the North by the Angeles National Forest southern boundary from State Route 2 east; the San Bernandino National Forest southern boundary east to State Route 79;

Bounded on the East by State Route 79 south to State Route 74;

Bounded on the South by State Route 74 west-southwest to Interstate 5; Interstate 5 northwest 405; Interstate 405 northwest to State Route 55; State Route 55 northeast to Interstate 5; Interstate 5 northwest to State Route 91; State Route 91 west to State Route 11; and

Bounded on the West by State Route 11 north to U.S. Route 66; U.S. Route 66 west to Interstate 210; Interstate 210 northwest to State Route 2; State Route 2 north to the Angeles National Forest boundary.

The geographic area presently assigned to Peoria, in the State of Illinois, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

Bounded on the North by the northern Stark County line to Marshall County; the northern Marshall County line to Putnam County; the western Putnam County line north to State Route 29; State Route 29 north to Interstate 180; Interstate 180 east to State Route 26;

Bounded on the East by State Route 26 south to State Route 116; State Route 116 south to Interstate 74; Interstate 74 southeast to State Route 121; State Route 121 south to State Route 10;

Bounded on the South by State Route 10 west to Mason County; the eastern and southern Mason County lines west to the Illinois River; the Illinois River northeast to Fulton County; the southern Fulton County line; and

Bounded on the West by the western and northern Fulton County lines to Peoria County; the western Peoria and Stark County lines.

Interested parties, including Los Angeles and Peoria, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning November 1, 1985, and ending October 31, 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.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et. seq.*)

Dated: April 18, 1985.

J.T. Abshier,

Director Compliance Division.

[FR Doc. 85-10344 Filed 4-30-85; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicant in Eastern Indiana

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicant for official agency designation in the eastern portion of the State of Indiana.

DATE: Comments to be postmarked on or before June 17, 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 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 March 1, 1985, issue of the **Federal Register** (50 FR 8352) contained a notice from the Federal Grain Inspection Service requesting applications for designation to provide official services under the U.S. Grain Standards Act, as Amended, in the eastern portion of the State of Indiana. Applications were to be postmarked by April 1, 1985.

East Indiana Grain Inspection, Inc., Muncie, Indiana, the only applicant, requested designation for the entire geographic area available for assignment. East Indiana Grain Inspection, Inc., has been providing official inspection service in the area on an interim basis since March 1, 1985.

This notice provides interested persons the opportunity to present their comments concerning the applicant for designation. All comments must be submitted to the Information Resources Management Branch, Resources Management Division, specified in the address section of this notice.

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 applicant will be informed of the decision in writing.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 18, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85-10345 Filed 4-30-85; 8:45 am]

BILLING CODE 3410-EN-M

Designation Amendment of Chattanooga Grain Inspection Company, Inc. (TN)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the amendment of the designation of Chattanooga Grain Inspection Company, Inc. (Chattanooga), to add weighing services to that agency's current designation.

EFFECTIVE DATE: April 15, 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.

Chattanooga is presently designated under the Act as an agency to perform inspection services. The agency has requested that its designation be amended to include weighing services.

Pursuant to Section 7A(c)(2) of the Act, the Federal Grain Inspection Service has evaluated Chattanooga, and determined that Chattanooga is able to provide Class X or Class Y weighing services. Effective April 15, 1985, and terminating April 30, 1987, Chattanooga is responsible for providing official inspection services and Class X or Class Y weighing services in its specified geographic area. The assigned geographic area for weighing services is the same as that currently assigned for inspection services, which was described in the April 2, 1984, issue of the **Federal Register** (49 FR 13060).

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 an 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: Chattanooga Grain Inspection Company, Inc., Judd Road, P.O. Box 5113, Chattanooga, TN 37406.

(Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: April 23, 1985.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 85–10346 Filed 4–30–85; 8:45 am]

BILLING CODE 3410-EN-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committee on Agriculture Statistics; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice that the Census Advisory Committee on Agriculture Statistics will convene on May 23, 1985, at 9 a.m. The Committee will meet in Room 2424, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

This Committee advises the Director, Bureau of the Census, concerning the kind of information that should be obtained from respondents associated with agricultural production; prepares recommendations regarding the contents of agricultural reports; and presents the views and needs for data of major agricultural organizations and their members, and other suppliers of agricultural statistics.

The Committee is composed of 20 members appointed by the presidents of the nonprofit organizations having representatives on the Committee, and a representative from the U.S. Department of Agriculture.

The agenda for the meeting, which is scheduled to adjourn at 4 p.m. is: (1) Introductory remarks by the Director, Bureau of the Census; (2) current Census Bureau activities and legislative situation; (3) update on Census Bureau's agriculture programs; (4) effect of farms with less than $2,500 of total value of products sold; (5) comparability of current and historical censuses of agriculture data; (6) content issues—1987 Census of Agriculture; (7) audiovisual for 1982 Census of Agriculture; and (8) Committee recommendations.

The meeting will be open to the public, and a brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Control Officer at least 3 days before the meeting.

Persons planning to attend and wishing additional information concerning this meeting or who wish to submit written statements may contact the Committee Control Officer, Mr. George Pierce, Agriculture Division, Bureau of the Census, Room 3009, Federal Building 4, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone (301) 763–7731.

Dated: April 26, 1985.

John G. Keane,

Director, Bureau of the Census.

[FR Doc 85–10570 Filed 4–30–85; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 295]

Resolution and Order Approving the Application of the Georgia Foreign-Trade Zone, Inc., for a Special-Purpose Subzone in Hapeville, GA, Within the Atlanta Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Georgia Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 26, filed with the Foreign-Trade Zones Board (the Board) on June 18, 1984, requesting special-purpose subzone status for the vehicle manufacturing plant of Ford Motor Company in Hapeville, Georgia, within the Atlanta Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Hapeville, GA, Within the Atlanta Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Georgia Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone No. 26, has made application (filed June 18, 1984, Docket No. 32–84, 49 FR 26771) in due and proper form to the Board for authority to establish a special-purpose subzone at the auto manufacturing plant of Ford Motor Company in Hapeville, Georgia, within the Atlanta Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed June 18, 1984, the Board hereby authorizes the establishment of a subzone at the Ford plant in Hapeville, Georgia, designated on the records of the Board as Foreign-Trade Subzone No. 26C at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzones, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 22nd day of April 1985, pursuant to Order of the Board.

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85–10548 Filed 4–30–85; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 294]

Resolution and Order Approving the Application of the Foreign-Trade Zone of Wisconsin, Ltd., for Special-Purpose Subzones in Janesville and Oak Creek, WI, Adjacent to the Milwaukee Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Foreign Trade Zone of Wisconsin, Ltd., grantee of Foreign-Trade Zone 41, filed with the Foreign-Trade Zones Board (the Board) on April 27, 1984, requesting special-purpose subzone status for the General Motors Corporation (GM) auto manufacturing plant in Janesville, Wisconsin (Doc. 17–84), and for GM's electronic products manufacturing plant in Oak Creek, Wisconsin (Doc. 18–84), adjacent to the Milwaukee Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish Foreign-Trade Subzones in Janesville and Oak Creek, WI, Adjacent to the Milwaukee Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Foreign Trade Zone of Wisconsin, Ltd., grantee of Foreign-Trade Zone No. 41, has made application (filed April 27, 1984, Docket Nos. 17 and 18–84, 49 FR 18882) in due and proper form to the Board for authority to establish special-purpose subzones at the auto electronic components manufacturing plants of General Motors Corporation in Janesville and Oak Creek, Wisconsin, adjacent to the Milwaukee Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed April 27, 1984, the Board hereby authorizes the establishment of subzones at the General Motors plants in Janesville and Oak Creek, Wisconsin, designated on the records of the Board as Foreign-Trade Subzone Nos. 41C and 41D at the locations mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzones shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzones in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzones, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army

Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 22nd day of April 1985, pursuant to Order

Foreign-Trade Zones Board.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-10551 Filed 4-30-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Draft Federal Consistency Study; Availability

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

ACTION: Notice of Availability of Draft Federal Consistency Study.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), announces the availability for public review of its Draft Federal Consistency Study. NOAA invites all interested parties to provide comments on the Study.

The Study (1) presents and examines statistical information and case studies on how the Federal consistency process has affected several key types of activities; (2) describes the laws, regulations and policies which guide the Federal consistency process from the early stages of interpreting the language of the CZMA and identifying Federal actions subject to Federal consistency review, through informal negotiations to reach agreements and, finally, the formal mechanisms available to resolve disputes; (3) reports on the comments and concerns about the Federal consistency process which have been expressed to NOAA by interested parties; and (4) provides a number of case examples which illustrate both the problems and the successes encountered in the Federal consistency process. NOAA will use the results to determine whether improvements are needed to increase the efficiency or effectiveness of coastal zone management.

DATE: Comments should be submitted by June 30, 1985.

ADDRESS: Written comments should be directed to: Nan Evans, Senior Policy Analyst, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235, (202) 634-4251.

SUPPLEMENTARY INFORMATION: The Coastal Zone Management Act (CZMA) requires that Federal agency activities impacting the coastal zone be conducted in a manner consistent with the federally approved coastal zone management programs. Section 307 of the CZMA establishes standards and procedures for consistency review of four basic types of activities: direct Federal agency activities, including development projects (sections 307(c) (1) and (2)); federally licensed and permitted activities (section 307(c)(3)(A)); Outer Continental Shelf (OCS) exploration, development and production plans (section 307(c)(3)(B)); and Federal assistance to state and local governments (section 307(d)).

On September 10, 1984, NOAA published in the **Federal Register** a Notice of Intent to conduct the Federal Consistency Study (49 FR 35541-42). NOAA received information from affected Federal agencies, states with approved management programs, public interest groups and industry representatives.

The Draft Federal Consistency Study is lengthy (800 pages) and divided into three volumes. Volume 1 includes Section I, Introduction, and Section II, Experiences with Federal Consistency: Statistics and Case Studies. Section II summarizes the statistical information on the use of the Federal consistency process to review Federal activities, licenses and permits, and funding assistance during Federal Fiscal Year 1983. Section II also describes how Federal consistency has been used to review four important types of activities: (1) OCS lease sales and OCS exploration, development, and production plans; (2) military activities; (3) Corps of Engineers' Section 404/10 permits; and (4) fishery management plans. Volume 2 is composed of section III, Implementing The Federal Consistency Process: Comments On How The System Works. Section III examines experiences with the operation of the Federal consistency process including: (1) Interpreting the language of the CZMA; (2) achieving improved consultation and coordination through consistency; (3) conducting a consistency review; (4) reaching agreements on the consistency of an activity; and (5) using formal mechanisms to help resolve disagreements between Federal and state agencies. Volume 3 contains seven Technical Appendices, including the Federal Consistency Statistical Data Base for FY 83 which presents in chart form the statistics received from state and Federal agencies.

A 35-page Executive Summary of the Draft Federal Consistency Study is available in addition to, or instead of, the full 3-volume Study. The Executive Summary reviews the statistical information provided by Federal agencies and coastal states for FY 83. The Executive Summary includes data on the number of concurrences and nonconcurrences which have been organized by type of Federal activity, by Federal agency and by state. The Executive Summary also identifies those cases in which state and Federal agencies have not been able to reach agreement on consistency, as well as instances where states initially disagreed and differences were resolved following further action. The Executive Summary describes the experiences with consistency reviews of various activities, including: OCS activities, military activities, Corps permitting actions, fishery management plans, activities on excluded Federal lands, and activities landward and seaward of the coastal zone. The Executive Summary also describes experiences throughout the history of the CZMA with Secretarial mediation and Secretarial appeals.

Copies of the Draft Federal Consistency Study are being sent to contributors, including state coastal zone management program offices and affected Federal agencies. Others interested in obtaining a copy should write to: NOAA/OCRM, 3300 Whitehaven Street NW., Washington, D.C. 20235, Attn: Stephen Calder, Program Support Analyst, N/ORM4.

Please indicate whether you wish to receive the complete three volume, 800 page Study (or a specific volume); and/or the separate, 35-page Executive Summary.

NOAA encourages all interested parties to review the Study and will consider all comments and additional information. Please submit any comments by June 30, 1985 to OCRM, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235, Attn: Nan Evans, Senior Policy Analyst, N/ORM4.

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: April 26, 1985.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 85-10589 Filed 4-30-85; 8:45 am]

BILLING CODE 3510-08-M

National Technical Information Service

Intent To Grant Exclusive Patent License; Innomed

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Innomed, having an office in Rye Brook, New York, an exclusive right to practice the invention embodied in U.S. Patent No. 4,393,048, "Protective Gel Composition for Wounds." The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 85-10564 Filed 4-30-85; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia on Category 613pt.; Correction

April 26, 1985.

On March 15, 1985, a notice was published in the **Federal Register** (50 FR 10527) requesting public comment on bilateral textile consultations with the Republic of Indonesia concerning trade in Category 613pt. (polyester lightweight fabrics).

In line 6 of paragraph 2 of the notice, the prorated specific limit, stated as 4,981,555 square yards, should be 4,947,216 square yards, and in line 6 of paragraph 3, the level of restraint during the ninety-day consultation period, stated as 3,535,520 square yards, should be 3,488,728, square yards. This latter change should also be included in the last line of paragraph 1 of the CITA letter to the Commissioner of Customs which followed that notice.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-10552 Filed 4-30-85; 8:45 am]

BILLING CODE 3510-DR-M

Announcing Import Limits for Certain Cotton and Wool Textiles and Textile Products Produced or Manufactured in Peru

April 29, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 1, 1985. For further information contact William Boyd, International Trade Specialist (202) 377-4212.

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 3, 1985 between the Governments of the United States and Peru establishes limits for Categories 300, 301, 313, 315, 317, 319, 320, 410 and Categories 400 through 469 (wool group) and 330-359 (cotton apparel group), produced or manufacturing in Peru and exported during the period beginning on May 1, 1985 and extending through April 30, 1986. The directive to the Commissioner of Customs which follows this notice establishes the new limits.

A description of the textile categories in terms of T.S.Y.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

April 29, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 3, 1985, between the Governments of the United States and Peru; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 1, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and wool textile products in the following categories, produced or manufactured in Peru and exported during the twelve-month period beginning on May 1, 1985 and extending through April 30, 1986, in excess of the following restraint limits:

Category	12-mo. restraint limit
330-359	10,000,000 square yards equivalent.
400-469	4,000,000 square yards equivalent.
300	3,000,000 pounds.
301	2,250,000 pounds.
313	15,000,000 square yards.
315	3,852,000 square yards.
317	16,050,000 square yards of which not more than 4,815,000 square yards shall be in Category 317 pt.[1]
319	21,400,000 square yards.
320	15,515,000 square yards of which not more than 4,280,000 square yards shall be in Category 320 pt.[2]
410	1,500,000 square yards.

[1] In Category 317, only TSUSA items 320.—through 331.— with statistical suffixes 50, 87, and 93.
[2] In Category 320, only TSUSA numbers 320.—thru 328.— with statistical suffixes 21, 22, 24, 31, 36, 49, 57, 74, 80 and 98.

In carrying out this directive entries of textile products in the foregoing categories, except Categories 400-469 as a group and 330-359 as a group, produced or manufactured in Peru, which have been exported in the United States on and after May 1, 1984 and extending through April 30, 1985 shall, to the extent of any unfilled balances, be charged to the levels established for that twelve-month period. To the extent the levels established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter. Textile products in Categories 400-469 and 330-359, exported prior to May 1, 1985, shall not be subject to this directive.

The restraint limit set forth above is subject to adjustment pursuant to the provisions of the bilateral agreement of January 3, 1985 between the Governments of the United States and Peru which provide, in

part, that: (a) Specific limits may be exceeded by designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more other specific limits during the same agreement year; (2) specific limits may be increased for carryover and carryforward not to exceed 11 percent, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-10624 Filed 4-30-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board 1985 Summary Study Panel on Armor Anti-Armor Competition; Meeting

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of Advisory Committee.

SUMMARY: The Defense Science Board 1985 Summer Study Panel on Armor Anti-Armor Competition will meet in closed session on May 20–21, and June 18–19, 1985 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Panel will evaluate the current state of the armor anti-armor competition.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 26, 1985.

[FR Doc. 85-10568 Filed 4-30-85; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary of Defense

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, June 4, 1985, Tuesday, June 11, 1985; Tuesday, June 18, 1985 and Tuesday, June 25, 1985 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Installations and Logistics) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92–392. At this meetings, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b)c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, D.C. 20301.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer Department of Defense.

April 26, 1985.

[FR Doc. 85-10569 Filed 4-30-85; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

To Prepare a Joint Environmental Impact Statement for the Puget Sound Dredged Disposal Analysis Study

Lead Agencies:

Federal: U.S. Army Corps of Engineers, Seattle District, DOD.

State: Washington Department of Natural Resources

Cooperating Agencies:

Federal: Environmental Protection Agency, Region 10.

State: Washington Department of Ecology

ACTION: Notice of Intent to prepare a joint National Environmental Policy Act (NEPA) and State Environmental Policy Act (SEPA) environmental impact statement (EIS) for the Puget Sound Dredged Disposal Analysis study (PSDDA).

SUMMARY: The Puget Sound Dredged Disposal Analysis (PSDDA) is a three-year study of open-water, unconfined disposal of dredged material in Puget Sound. Developed in response to public and agency concerns about water quality and the long-term health of the Sound, the goal of the study is to provide the basis for publicly acceptable and environmentally safe plans governing unconfined dredged material disposal. The study will be undertaken as a cooperative planning effort between the Corps of Engineers (Corps), the Environmental Protection Agency (EPA), the Washington Department of Natural Resources (WDNR) and the Washington Department of Ecology (WDE), the Federal and State agencies having regulatory responsibilities for dredged material disposal.

PSDDA is part of a program known as the Puget Sound Initiative. The initiative, a $12 million effort administered by EPA and WDE, focuses on the identification of water quality problems and the promotion of clean-up

actions. The specific objectives of PSDDA are:

1. Locate acceptable sites for open-water, unconfined disposal of dredged material in Puget Sound;

2. Identify chemical and biological evaluation procedures for assessing the acceptability of dredged material for open water disposal and for alternatives to unconfined disposal; and

3. Develop site management plans covering operational requirements and site management methods and responsibilities.

PSDDA is a Sound-wide study that will be accomplished in two overlapping phases. The first phase will include the central portion of the Sound and will take about two years to complete. The second phase, covering the balance of the Sound, will begin about one year after the start of Phase I and will also take about two years to complete. Through the phasing approach, the total study will be completed in approximately three years.

In order to assess the potential impacts of various alternatives and to obtain public input to these assessments, the Corps and WDNR have determined that the preparation of an environmental impact statement is necessary. A separate NEPA/SEPA EIS document is planned for each phase of the study. Joint Federal/State EIS's will be prepared to reduce duplication between Federal and State needs and requirements.

The results of the PSDDA study and EIS's will assist Federal and State agencies in their regulatory programs for dredged material disposal and will provide the basis for subsequent implementation actions for designation and use of Puget Sound disposal sites. During conduct of the study, dredging projects and processing of permit applications will continue using best available information.

Alternatives: There are many types of alternatives to be evaluated for PSDDA, including alternative site selection criteria, site locations, evaluation procedures for dredged material, monitoring requirements, and site use plans. The analysis of alternative methods of dredged material disposal (i.e., upland, nearshore confined, in water capped, and ocean disposal) will involve development of generic evaluation procedures for confined disposal. The No Action alternative will be the continuance of current regulatory practices where dredged material disposal is evaluated primarily on a project-by-project basis. The range of alternatives to be addressed for each study objective will be determined during scoping.

Significant Issues: Significant issues to be addressed in the EIS include: Water quality management goals for Puget Sound, handling and disposal of contaminated sediments, assessment of risks to human and environmental health, alternatives to open-water, unconfined disposal of dredged material, alternative approaches to disposal site location criteria, alternative approaches to testing and test evaluation procedures for dredged material, and monitoring and management of disposal sites.

Scoping and Public Involvement: Public involvement will be sought during the scoping and conduct of the study in accordance with NEPA/SEPA procedures. A public scoping process is being undertaken to clarify issues of major concern, identify studies that might be needed in order to analyze and evaluate impacts, and obtain public input on the range and acceptability of alternatives. Public meetings have been scheduled to provide the public an opportunity to identify the scope and significance of the issues to be addressed during the study and EIS process. Further meetings will be scheduled as needed. A public notice further describing PSDDA and listing the locations and times of public scoping meetings (to be held in late May) is being mailed to all persons known to have an interest in this action. Copies of this notice are available from the address shown below. Comments on scoping will be accepted until 31 May 1985.

Availability of Draft EIS: The draft EIS for Phase I of PSDDA is scheduled to be available by the end of 1986. The draft EIS for Phase II should be available by the end of 1987.

FOR FURTHER INFORMATION CONTACT: Questions and/or comments on this action or the draft EIS may be directed to: Frank Urabeck, Study Director, Corps of Engineers, Seattle District, Post Office Box C-3755, Seattle WA 98124-2255, Telephone: (206) 764-3708.

SEPA responsible official: John DeMeyer, Manager, Marine Lands Management Division, Wash. Dept. of Natural Resources, M/S OW-21, Olympia, WA 98504, (Telephone: (206) 753-5324).

Dated: April 22, 1985.

Roger F. Yankoupe,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 10565 Filed 4-30-85; 8:45 am]

BILLING CODE 3710-FR-M

DEPARTMENT OF ENERGY

Office of the Secretary

National Petroleum Council, U.S. Petroleum Refining Coordinating Subcommittee on U.S. Petroleum Refining; Meeting

Notice is hereby given that the Coordinating Subcommittee on U.S. Petroleum Refining will meet in May 1985. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natual gas or the oil and natural gas industries. The Coordinating Subcommittee on U.S. Petroleum Refining will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and finding will be based on information and data to be gathered by the various task groups.

The U.S. Petroleum Refining Coordinating Subcommittee will hold its sixth meeting on Friday, May 17, 1985, starting at 9:00 a.m., in the Livingston Room of the Four Seasons Hotel, 1300 Lamar Street, Houston, Texas.

The tentative agenda for the U.S. Petroleum Refining Coordinating Subcommittee meeting is as follows:

1. Opening remarks by the Chairman and Government Cochairman.

2. Discuss study assignments.

3. Review task group assignments.

4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the U.S. Petroleum Refining Coordinating Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the U.S. Petroleum Refining Coordinating Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-2709, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on Friday, April 19, 1985.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 85-10614 Filed 4-30-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-85-007 OFP Case No. 61053-9271-20, 21-24]

Exemption and Certification; American Cogen Technology, Inc.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by American Cogen Technology, Inc.

SUMMARY: On March 26, 1985, American Cogen Technology, Inc. (Cogen), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed electric powerplant to be located at the Spreckels Agri-Business Center, Spreckels, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The proposed powerplant for which the petition was filed is an approximately 54.19 MW (net) combined cycle cogeneration facility consisting of two gas turbine generators, two waste heat recovery steam generators, a steam extraction turbine generator and ancillary equipment. The plant will burn natural gas or No. 2 fuel oil. It is expected that virtually all of the net annual electric power produced by the cogenerator will be sold to Pacific Gas & Electric Company (PG&E), making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will produce approximately 45,900 lbs. of steam per hour which will supply Spreckels Agri-Business Center's needs. Cogen will operate the facility.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATE: Written comments are due on or before June 17, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW. Washington, D.C. 20585.

Docket No. ERA-FC-85-007 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, D.C. 20585, Phone (202) 252-1774

Steven E. Ferguson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-6947.

SUPPLEMENTARY INFORMATION: Cogen proposes to install a cogeneration system at the Spreckels Agri-Business Center, Spreckels, California, which will (1) generate electrical power for sale to PG&E, and (2) produce steam to meet the Agri-Business Center's heating and cooling requirements. The proposed cogeneration system will be operated by Cogen. The system will consist of two gas turbine generators which will produce electric power, two waste heat recovery systems, an extraction steam turbine and ancillary equipment which will produce steam and additional electric power for sale to PG&E.

The cogeneration facility is classified as an electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), Cogen has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible. In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), Cogen has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that

Cogen is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on April 24, 1985.

Robert L. Davies,

Director, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-10617 Filed 4-30-85; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

National Petroleum Council Refinery Survey Task Group; Meeting

Notice is hereby given that the Refinery Survey Task Group will meet in May 1985. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Refinery Survey Task Group will address previous Council refining studies and evaluate future refinery operations and their impact on petroleum markets. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Refinery Survey Task Group will hold its sixth meeting on Thursday, May 16, 1985, starting at 9:00 a.m. in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Suit 600, Washington, D.C.

The tentative agenda for the Refinery Survey Task Group meeting follows:

1. Opening remarks by Chairman and Government Cochairman.
2. Review the status of Refinery Survey responses.
3. Discuss proposals for aggregations of survey data.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Refinery Survey Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Refinery Survey Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Carolyn Klym, Office of Oil, Gas, Shale and Coal Liquids, fossil Energy, 301-353-2709, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on Friday, April 19, 1985.

William A. Vaughan,

Assistant Secretary, Fossil Energy.

[FR Doc. 85-10613 Filed 4-30-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP84-94-002 et al.]

Natural Gas Certificate Filings; ANR Pipeline Co. et al.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP84-94-002]

April 23, 1985.

Take notice that on March 13, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-94-002 a petition pursuant to section 7(c) of the Natural Gas Act, to amend the Commission's order issued July 25, 1984, in Docket No. CP84-94-000 by deleting ordering paragraph (C), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that on July 25, 1984, the Commission issued a certificate of public convenience and necessity authorizing ANR to construct and operate an interconnection between its transmission system and the pipeline system of Consumers Power Company (Consumers) in Allegan County, Michigan. It is explained that ANR constructed about 3,800 feet of 16-inch diameter interconnecting pipeline and related facilities that cost an estimated $1,000,000. Ordering paragraph (C) of the certificate provided:

(C) The facilities authorized by paragraph (A) above shall be used solely to alleviate emergency conditions on the ANR and Consumers systems, as defined in § 157.45, *et seq.* of the Commission's Regulations. Before ANR or Consumers can use the proposed interconnection facilities for purposes other than emergency service, they shall be required to seek the necessary certificate authorization from the Commission.

Consumers has requested that ANR seek modification of the certificate and accordingly ANR has filed the instant petition to request the deletion of ordering paragraph (C) to enable ANR and Consumer to utilize the facilities for all lawful purposes.

ANR states that the public convenience and necessity would be served by broading the authorized utilization of the ANR/Consumers interconnecting facilities. ANR states that the removal of the limitation on the use of the interconnecting facilities may allow Consumers to participate more fully in Commission authorized transportation services under Orders 234B and 319 and section 311 of the Natural Gas Policy Act of 1978. It is stated that Consumers has advised ANR that these potential activities and resultant economic opportunities are encouraging to Consumers when weighted against a significant period of market evasion due to conservation, severe economic recession and loss of markets to competing fuels.

Comment date: May 14, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Equitable Gas Company, a Division of Equitable Resources, Inc.

[Docket No. CP85-405-000]

April 25, 1985.

Take notice that on March 29, 1985, Equitable Gas Company, a division of Equitable Resources, Inc. (Applicant), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP85-405-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation of certain of its facilities which had been utilized exclusively for Applicant's retail distribution operation for the transportation and sale of natural gas in interstate commerce, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is realigning its corporate structure along functioinal lines and it has determined that the subject facilities, as presently utilized, perform more a transmission than a distribution function. Applicant has concluded that the initial classification of these facilities was based on departmental operating responsibility which did not coincide with the facilities' operating function. The facilities that Applicant is requesting to convert from distribution to jurisdictional transmission lines are as follows:

Line No.	Diameter (inches)	Length (miles)	Location
D-317	16	39.1	Allegheny County, PA.
D-357			Washington County, PA.
D-358			
D-359			
D-400	16	17.5	Westmoreland County, PA.
			Allegheny County, PA.

Applicant asserts that the facilities are high-pressure, large volume main line facilities which are maintained in accordance with Federal pipeline safety standards. It is stated that based upon the test year ended September 30, 1983, the approximate effect of the proposed reclassification of facilities would be to decrease Applicant's Pennsylvania jurisdictional rate base and to increase Applicant's Commission jurisdictional rate base, by the amount of $221,000.

Comment date: May 16, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Northwest Central Pipeline Corporation

[Docket No. CP85-429-000]

April 25, 1985.

Take notice that on April 11, 1985, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP85-429-000 a request pursuant to Section 157.205 of the Commission's Regulations (18 CFR 157.205) for authorization to construct and operate a new delivery point to the U.S. Department of the Army under the certificate issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest Central states that the U.S. Department of the Army, Fort Leavenworth Military Reservation, Leavenworth County, Kansas, has requested this additional delivery point in order to serve a new mess hall for the U.S. disciplinary barracks now under construction. The projected volume of delivery through this delivery point is approximately 13.7 Mcf of natural gas per day. The estimated cost of these facilities is $1,470, which would be paid from available funds and reimbursed by the U.S. Department of Army.

Northwest Central states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Comment date: June 10, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Northwest Central Pipeline Corporation

[Docket No. CP85-424-000]

April 25, 1985.

Take notice that on April 10, 1985, Northwest Central Pipeline Corporation (Applicant), P.O. Box 3188, Tulsa, Oklahoma 74101, filed in Docket No. CP85-424-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon by reclaim certain measuring, regulating and appurtenant facilities in Rice County, Kansas, and to abandon the transportation and sale of gas through said facilities pursuant to Northwest Central's abandonment authorization issued in Docket No. CP82-479-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northwest Central states that the facilities were installed under budget-type authority in 1967 to make a direct sale to Tobias & Birchenough, Inc., that customer has advised that gas is no longer needed, and that it now desires to reclaim these facilities. The estimated cost to reclaim these facilities is $1,570, with an estimated salvage value of $70.

Comment date: June 10, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Northwest Central Pipeline Corporation

[Docket No. CP85-418-000]

April 25, 1985.

Take notice that on April 8, 1985, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP85-418-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon the direct sale of natural gas and the transportation of gas to Mapco Production Company (Mapco) and to abandon, by reclaim, certain measuring, regulating, and appurtenant facilities located in Vernon County, Missouri, under the abandonment authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest Central states that said facilities were installed in 1981 under authorization issued in Docket No. CP81-203, to make a direct sale of natural gas to Mapco for an oil recovery project. Northwest Central further states that it has been requested by Mapco to terminat their gas sales contract; Northwest Central is, therefore, proposing to abandon its gas sale and transportation service to Mapco and to reclaim the facilities installed to execute the transportation.

Northwest Central avers the facilities it proposes to reclaim are located above ground, on its transmission pipeline in Vernon County, Missouri. Northwest estimates it would cost $2,100 to reclaim said facilities and that the facilities have a $0 salvage value.

Comment date: June 10, 1985, in accordance with Standard Paragraph G at the end of this notice.

6. Northwest Alaskan Pipeline Company

[Docket No. CP85-413-000]

April 23, 1985.

Take notice that on April 4, 1985, Northwest Alaskan Pipeline Company (Northwest Alaskan), 295 Chipeta Way, Salt Lake City, Utah 84108-8900, filed in Docket No. CP85-413-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a certificate of public convenience and necessity for blanket authority, with pregranted abandonment authorization, to transport natural gas in interstate commerce on behalf of any other interstate pipeline, all as more fully set forth in the application which is on file and open to public inspection.

Northwest Alaskan requests blanket authorization to transport gas for other interstate pipeline companies and states that it would comply with § 284.221(d) of the Commission's Regulations.

Northwest Alaskan states that it has no facilities and that none are proposed. Northwest Alaskan also states that no new or additional gas reserves will be added to its available gas supply by this proposal. Northwest Alaskan further states that it presently has no transportation or exchange agreement in place and the impact on revenues, expenses and income is not known at this time.

Comment date: May 14, 1985, in accordance with Standard Paragraph F at the end of this notice.

7. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP84-149-001]

April 23, 1985.

Take notice that on April 11, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP84-149-001 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for

authorization to use an additional receipt point and for flexible authorization to add sources of gas and Northern receipt/delivery points under the certificate issued in Docket No. CP82–401–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it was authorized in Docket No. CP84–149–000 to transport natural gas on behalf of Gulf States Utilities Company (GSU) under the prior notice procedure. Pursuant to the terms of an October 10, 1983, transportation agreement between GSU and Northern, GSU has agreed to deliver or caused to be delivered volumes of gas to Northern at the existing facilities of Northern and ANR Pipeline Company (ANR) in Kiowa County, Kansas, for subsequent transportation to a point on Northern's system in Pecos County, Texas, it is stated. Northern then causes equivalent volumes of gas to be delivered, for the account of GSU, at the existing facilities of ANR located near Centreville, St. Mary Parish, Louisiana, it is further stated.

It is explained that Northern and GSU have amended the transportation agreement to add an additional point of receipt located on Northern's system in Beaver County, Oklahoma (Elmwood). Northern states that the gas transported from Elmwood is gas that GSU purchases from Funk Exploration Inc. pursuant to an August 12, 1983, gas sales contract. Northern states it would charge GSU 10.90 cents per Mcf of gas for the volumes received at Elmwood and back-hauled and delivered to Oasis (426 miles). It is further stated that Northern's rate for this transportation service is derived from Rate Schedule EUT–1 of Northern's FERC Tariff (4.65 cents per 100 miles of forward-haul plus one cent per Mcf for general and administrative expenses).

Northern also requests flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested applies only to points related to sources of gas supply not to delivery points in the market area. Northern will file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: June 7, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Columbia Gas Transmission Corporation

[Docket No. CP85–420–000]

April 23, 1985.

Take notice that on April 8, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston West Virginia 25314, filed in Docket No. CP85–420–000 a request pursuant to § 157.205 of the Regulations under the National Gas Act (18 CFR 157.205) for authorization to establish additional delivery points to an existing wholesale customer under the certificate issued in Docket No. CP83–76–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Columbia requests authorization to construct and operate certain facilities necessary to provide two additional points of delivery to an existing wholesale customer, Columbia Gas of Ohio, Inc. (COH). It is explained that Columbia Gas of Ohio, has received authorization from its state regulatory agency to attach or provide service to new customers and that the additional gas to be provided through the proposed new points of delivery are within Columbia's currently authorized level of sales and that such gas would not affect the peak day and annual deliveries to which COH is entitled. It is also indicated that the point of delivery proposed herein would be utilized by COH to provide industrial service to Lancaster Sand and Gravel Company for aggregate driving in Fairfield County, Ohio. Columbia proposes to install a two-inch tap and measurement facilities at an estimated cost of $9,500. It is further stated that the other point of delivery to COH would supply a small distribution system to be established by COH in a rural area of Columbiana Township, Lorain County, Ohio. Columbia estimates the tap facility would cost $300.00.

Comment date: June 7, 1985, in accordance with Standard Paragraph G at the end of this notice.

9. Northwest Pipeline Corporation

[Docket No. CP85–421–000]

April 23, 1985.

Take notice that on April 9, 1985, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP85–421–000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a natural gas transportation service for Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file and open to public inspection.

It is stated that by order dated December 14, 1978, the Commission issued certificates of public convenience and necessity to Northwest in Docket No. CP78–203 and to CIG in Docket No. CP78–274 authorizing the transportation and sale of natural gas pursuant to the terms of a gas gathering and transportation agreement dated December 30, 1977 (agreement).

"Northwest states that under the terms of the agreement, Northwest received natural gas for CIG's account at certain wells located in the Monument Butte area of Sweetwater County, Wyoming. Northwest also states that the agreement also provided that Northwest would purchase 25 percent of such gas and gather, process and transport the remaining 75 percent for redelivery of thermally equivalent volumes, less fuel and shrinkage, to CIG at the existing interconnection between Northwest and CIG's lines near Green River in Sweetwater County, Wyoming.

It is stated that CIG gave written notice of its intent to terminate the agreement, effective December 31, 1984. CIG indicated that it no longer had a supply of gas available for transportation from the Monument Butte area because it has secured producer-seller releases under all of its gas purchase agreements covering its interest in the wells and acreage subject to the agreement.

It is stated that Northwest and CIG then entered into a letter agreement dated December 14, 1984, which terminated the transportation service effective as of January 1, 1985. Consequently, Northwest requests permission and approval to abandon the transportation service provided for CIG.

Comment date: May 14, 1985, in accordance with Standard Paragraph F at the end of this notice.

10. Colorado Interstate Gas Company

[Docket No. CP85–279–000]

April 23, 1985.

Take notice that on February 11, 1985, Colorado Interstate Gas Company (Applicant), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85–279–000, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain services rendered in connection with a gas gathering and transportation agreement (agreement) with Northwest Pipeline Corporation (NPC), all as more fully set forth in the application which is on file

with the Commission and open to public inspection.

Applicant requests authority to abandon the sale and exchange of natural gas with NPC in the Monument Butte III Unit of Sweetwater County, Wyoming. Applicant states that it has secured producer-seller releases under gas purchase agreements covering all wells and committed acreage in the Monument Butte III Unit, and therefore is unable to deliver gas to NPC. No facilities are proposed to be abandoned.

Comment date: May 14, 1985, in accordance with Standard Paragraph F at the end of this notice.

11. K N Energy, Inc.

[Docket No. CP85-411-000]

April 23, 1985.

Take notice that on April 3, 1985, K N Energy, Inc. (Applicant), Post Office Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85-411-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205 for authorization to construct and operate sales taps for the delivery of gas to end users under its certificates issued in Docket Nos. CP83-140-000, CP83-140-001, and CP83-140-002 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that the proposed seven end-users are located in Kansas and Nebraska and that the gas would be used primarily to fuel irrigation equipment. It is indicated that the total peak day and annual deliveries are estimated to be 142 Mcf and 4,520 Mcf, respectively. Applicant states that the proposed sales taps would have no significant impact on its total peak day and annual deliveries and that such taps are not prohibited by any of its existing tariffs. Applicant further states that the gas would be priced in accordance with the currently filed rate schedules authorized by the applicable state or local regulatory body having jurisdiction.

Comment date: June 7, 1985, in accordance with Standard Paragraph G at the end of this notice.

12. Sea Robin Pipeline Company

[Docket No. CP85-412-000]

April 23, 1985.

Take notice that on April 3, 1985, Sea Robin Pipeline Company (Sea Robin), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP85-412-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 87 Mcf of natural gas per day for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Sea Robin proposes to transport up to 87,000 Mcf of natural gas per day for Southern from the East Cameron area, offshore Louisiana, to Erath, Louisiana. It is stated that the transportation service would continue for five years from the date of first delivery after receipt of the requested authorization. It is stated that the transportation service commenced February 8, 1984, in Docket No. ST84-623-000 pursuant to Order No. 60.

It is indicated that Sea Robin would charge Southern a monthly demand charge and a commodity charge for the gas transported, pursuant to Sea Robin's FERC Gas Tariff, Original Volume No. 1, Sheet No. 4-A (currently $3.86 and 73 cents per Mcf, respectively). Sea Robin states that existing facilities would be used for the transportation service and that Sea Robin's other customers would not be adversely affected.

Comment date: May 14, 1985, in accordance with Standard Paragraph F at the end of this notice.

13. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP85-417-000]

April 23, 1985.

Take notice that on April 5, 1985, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP85-417-000 a request pursuant to § 157.205 of the Commission's regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Tenneco Oil Company (TOC) under its certificate issued in Docket No. CP82-413 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in its request on file with the Commission and open to public inspection.

Tennessee proposes to transport up to 700 Mcf of natural gas per day on behalf of TOC. It is stated that the gas to be transported would be purchased by TOC from Moore McCormack Energy, Inc. (Moore McCormack) from the State Tract 110 Well No. 1, Turtle Point Field, Matagorda County, Texas.

Tennessee indicates it has agreed to receive, on an interruptible basis, the gas purchased by TOC, up to 700 Mcf per day, at the existing points of interconnection between the facilities of Tennessee and Moore McCormack in Matagorda County, Texas. Tennessee states it would transport and deliver a thermally equivalent quantity of gas, less volumes for fuel use and gas lost and unaccounted for, associated with this transportation service, for the account of TOC, at the existing point of interconnection between the facilities of Tennessee and TOC at TOC's Leabo processing plant manifold in Matagorda County, Texas. Tennessee indicates that TOC has advised Tennessee that it would deliver to Channel Industries Gas Company (Channel), at the tailgate of the Leabo plant, quantities of gas thermally equivalent to those received by TOC from Tennessee.

It is indicated that Channel, under a separate agreement with TOC, would deliver said volumes to TOC's La Porte fractionation plant for use as plant fuel. Tennessee states that it proposes to provide the requested service for a term expiring June 30, 1985, unless the Commission authorizes an extension of service pursuant to § 157.209(e) in which event it is requested that this service be permitted to continue for any term coincident with any such extension.

Tennessee also requests flexibile authority to add and/or delete sources of gas, and add/or delete receipt and/or delivery points. Following the addition or deletion of any gas supplies or receipt or delivery points, Tennessee will file with the Commission certain information within thirty (30) days following the implementation of such changes.

Tennessee states that it would charge rates set forth in its Rates Schedule ITEU. Further, Tennessee states that it would retain 1.2 percent of the total quantity of gas received into its system for system use and gas lost and unaccounted for. In addition, Tennessee indicates that it may, at its sole option, elect to provide such volumes for fuel use and gas lost and unaccounted for to TOC at Tennessee's weighted average cost of gas. In addition, Tennessee states that it would collect the Gas Research Institute surcharge for all quantities transported under the transportation arrangement.

Tennessee estimates that the annual volume, peak day volume and average day volume would be 500 Mcf, 700 Mcf and 182,500 Mcf, respectively. It is indicated that the plant fuel requirements to be served by the gas to be transported represent only a small portion of the gas requirements at the plant.

Tennessee has submitted a letter from Channel indicating that it has sufficient capacity to transport the gas without detriment to its other customers. Tennessee also indicates that the only

facilities required to implement the transportation service are auxiliary facilities installed pursuant to Section 2.55 of the Commission's General Policy and Interpretations.

Comment date: June 7, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-10499 Filed 4-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-303-000]

Coastal Oil & Gas Corp; Application

April 25, 1985.

Take Notice that on March 28, 1985, Coastal Oil & Gas Corporation ("Applicant") filed an Application for Limited-Term Partial Abandonment Authorization and for Blanket Limited-Term Certificates of Public Convenience and Necessity to authorize a special marketing program called Coastal Special Marketing Program ("CoGas"). Applicant proposes to conduct this program in a manner similar to the special marketing programs authorized by the Commission on September 26, 1984 in Docket Nos. CI85-269, *et al.* Under CoGas, Applicants would market gas released by the original pipeline-purchaser. By this Application Coastal seeks authorization of the limited-term abandonment of the sale of the released gas to the original pipeline-purchaser and authorization of the sale of that gas to new purchasers, pursuant to Section 7 of the Natural Gas Act. In addition, Coastal's Application seeks authorization to the extent necessary for interstate pipeline companies, local distribution companies, and Hinshaw pipeline companies to transport gas sold under CoGas pursuant to Section 7(c) of the Natural Gas Act.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and motions to intervene. Therefore, any person desiring to be heard or to make protest with reference to said application should on or before May 9, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commision's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided, unless Applicant is otherwise advised, it will not be necessary for Applicant to appear or to be represented at a hearing in this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-10501 Filed 4-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-398-000]

Goodrich Oil Co.; Application for Blanket Limited Term Certificate and Limited Partial Abandonment Authorization

April 25, 1985.

Take notice that on April 17, 1985, Goodrich Oil Company (Goodrich), 800 First Federal Plaza, Shreveport, Louisiana 71101 filed an application pursuant to Sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717c, 717f, and the provisions of 18 CFR Part 157, for a blanket limited-term certificate of public convenience and necessity authorizing Goodrich to conduct a short-term spot sales marketing program, hereinafter referred to as Goodrich Oil SMP, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Approval would (1) authorize the sale of natural gas for resale in interstate commerce; (2) permit limited-term, partial abandonment of certain natural gas sales; (3) confer pre-granted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (4) authorize transportation of natural gas by interstate pipeline companies able and willing to participate in Goodrich Oil SMP; and (5) confer pre-granted abandonment authorization for the transportation service allowed under the requested certificate. Goodrich also requests the Commission to declare that, with respect to Goodrich and its activities, the Commission will only assert Natural Gas Act jurisdiction over sales for resale and transportation not otherwise exempt from the NGA.

Under Goodrich Oil SMP, Goodrich proposes to sell natural gas qualifying for the Section 102 and 103 rates under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301-3432. Only contractually committed gas will be sold. Goodrich and participating producers will seek temporary releases of gas from the purchasers in order to meet market demand for natural gas sales. Releasing purchasers will be absolved from take-or-pay liability for any volumes of gas released and sold under the program. Arrangements for

transporting the released gas will be made on a case-by-case basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 9, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-10502 Filed 4-29-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 3779-001]

Great Northern Nekoosa Corp.; Intent To Prepare Environmental Impact Statement, and Notice of Scoping Session, and Public Hearings

April 25, 1985.

The Great Northern Nekoosa Corporation filed on March 29, 1984 an application for license for the Big Ambejackmockamus Falls (Big "A") Hydroelectric Project, FERC Project No. 3779-001. The project would be located on the West Branch of the Penobscot River in Piscataquis County, Maine.

Public notice of the application was issued by the Commission on February 8, 1985. The application has been mailed to interested agencies for their review and comments. The Commission staff has determined that issuance of a license for the proposed hydroelectric project would constitute a major federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement (EIS) in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed.

Scoping Session

Interested persons and agencies are invited to participate in a scoping meeting to discuss the environmental impact issues associated with the proposed Big "A" Hydroelectric Project. The scoping session will be held on June 5, 1985, commencing at 1:00 p.m., and will be held at the Muskie Federal Building and Post Office, Room 315, 40 Western Avenue (corner of Sewalls Street and Western Avenue), Augusta, Maine 04333. Scoping sessions are utilized by the Commission staff to: (1) Present environmental issues, currently identified for coverage in the EIS, to the public and experts familiar with the Big "A" Project. (2) receive input from the public and experts on the issues presented; (3) clarify the significance of issues; (4) identify additional issues for EIS treatment; and (5) identify issues that do not merit EIS treatment. Agencies and individuals with environmental expertise and concerns are encouraged to attend the meeting and assist FERC staff with the determination of issues to be addressed in the EIS.

Public Hearing

Interested officials and members of the public are invited to express their views about the project in public hearings. The public hearings will be held on Monday, June 3, 1985, commencing at 7:00 p.m., at Stearns High School Auditorium, State Street, Millinocket, Maine 04462 and, on Wednesday June 5, 1984, commencing at 6:30 p.m., at Augusta Civic Center, Capitol Pine Tree Room, Community Drive, Augusta, Maine 04333. The public hearings will be conducted by the Commission's staff.

At the public hearings persons may give their statements orally or in writing. The hearings will be recorded by a stenographer, and all statements (oral and written) will become part of the public hearing records. In addition the public hearing records will remain open until August 1, 1985, and anyone may submit written comments on the project until that time. Comments should be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington D.C. 20426, and should clearly show the project name and number (Project No. 3779-001) on the first page.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-10503 Filed 4-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC85-14-000]

Northern Natural Gas Co.; Division of InterNorth, Inc.; Tariff Filing

April 24, 1985.

Take notice that on April 18, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, tendered for filing in Docket No. TC85-14-000, pursuant to Part 154 of the Commission's Regulations, Seventh Revised Sheet No. 59a to Northern's FERC Gas Tariff, Third Revised Volume No. 1. Northern proposes that this tariff sheet become effective May 16, 1985.

Northern states that the purpose of its filing is to classify cogeneration requirements in its curtailment priorities, as a Priority 2 usage. Northern avers that this identification is necessary since some cogeneration applications require the use of natural gas as part of essential process applications and do not possess alternate fuel capability. Northern additionally states that such curtailment classification would be consistent with the Congressional mandate to encourage cogeneration. Northern states that its Data Verification Committee would be advised by letter of the proposed priority change and would meet to improve of any customer reclassification.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before May 3, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-10504 Filed 4-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7865-001, 8610-000]

Orville Nicholson, Niagara Mohawk Power Corp.; Availability of Environmental Assessment and Finding of No Significant Impact

April 26, 1985.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for exemptions listed below and have assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town
7865-001	Nicholson	ID	Rocky Run Creek/Uncle Ike Creek/Fallert Springs	Howe
8610-000	Middle Falls	NY	Battenkill Creek	Easton and Greenwich

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc 85-10505 Filed 4-30-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-435-000, et al.]

San Diego Gas & Electric Co. et al.; Electric Rate and Corporate Regulation Filings

Take notice that the following filings have been made with the Commission:

1. San Diego Gas & Electric Company

[Docket No. ER85-435-000]

April 24, 1985.

Take notice that on April 15, 1985, San Diego Gas & Electric Company (SDG&E) tendered for filing rate schedule changes of the following agreements between SDG&E and Southern California Edison Company (Edison):

1. Short Term Firm Transmission Service Agreement (FPC 58)
2. Interruptible Transmission Service Agreement (FPC 59)
3. Firm Transmission Service Agreement (FPC 60)

SDG&E states that under the terms of the agreements, SDG&E will make available to Edison firm and interruptible transmission service between points near the U.S.-Mexico border and San Onofre as specified in the agreements.

SDG&E requests an effective date of January 1, 1985 for both the Short Term Firm and Interruptible Agreement and an effective date of May 1, 1985 for the Firm Transmission Agreement. Therefore, SDG&E is requesting waiver of the prior notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Edison.

Comment date: May 9, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Southwestern Electric Power Company

[Docket No. ER85-425-000]

April 23, 1985.

Take notice that on April 10, 1985, Southwestern Electric Power Company (SWEPCO) tendered for filing rates applicable to service to the City of Hope, Arkansas (Hope) for the period February 1, 1985 to December 31, 1985. Such rates were calculated pursuant to the Agreement for the Purchase and Sale of Electric Power between SWEPCO and the City, FERC Rate Schedule No. 86.

SWEPCO requests an effective date of February 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing have been served on Hope and on the Arkansas Public Service Commission.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. The Kansas Power and Light Company

[Docket No. ER85-430-000]

April 23, 1985.

Take notice that on April 12, 1985, the Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated March 12, 1985, with the City of Axtell, Kansas for wholesale service to that community. KPL states that this contract permits the City of Axtell to receive service under rate schedule WSM-12/83 designated Supplement No. 9 to R.S. FERC No. 180. The proposed effective date is July 1, 1985. The proposed contract change provides essentially for the ten year extension of the original terms of the presently approved contract. In addition, KPL states that copies of the contract have been mailed to the City of Axtell and the State Corporation Commission of Kansas.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Southwestern Electric Power Company

[Docket No. ER85-424-000]

April 23, 1985.

Take notice that Southwestern Electric Power Company (SWEPCO) on April 10, 1985, tendered for filing rates applicable to service to Northwest Texas Electric Cooperative, Inc. (NETC) for the period February 1, 1985 to December 31, 1985. Such rates were calculated pursuant to the Power Supply Agreement between SWEPCO and NTEC, FERC Rate Schedule No. 84.

SWEPCO asks that the rates be made effective as of February 1, 1985, and accordingly requests wavier of the notice requirements.

Copies of the filing have been served on NTEC and on the Public Utility Commission of Texas.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Dayton Power & Light Co.

[Docket No. ER85-440-000]

April 24, 1985.

Take notice that on April 15, 1985, Dayton Power and Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) betwen DP&L and the Villiage of Jackson Center (Jackson Center), Ohio.

DP&L states that the proposed Agreement allows Jackson Center to purhcase energy requirements from third parties who will use existing Interconnection Agreement Rate schedules to deliver the energy requirements to DP&F for delivery to Jackson Center.

DP&L requests an effective date of May 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Comment date: May 10, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Central Illinois Public Service Company

[Docket No. ER85-434-000]

April 24, 1985.

Take notice that on April 15, 1985, Central Illinois Public Service Company (CIPS) tendered for filing Modification No. 1 dated March 15, 1985, to the Interconnection Agreement dated September 23, 1985, between CIPS and the City of Springfield, Illinois (City).

CIPS states that Modification No. 1 modifies the 1981 Agreement by inserting First Revised Service Schedules B, C, D, E, and F to replace the existing Service Schedules B, C, D, E and F respectively.

CIPS requests an effective date of April 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing has been sent to the City of Springfield and the Illinois Commerce Commission.

Comment date: May 9, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER85-438-000]

April 24, 1985.

Take notice that on April 15, 1985, Southern California Edison Company (Edison) tendered for filing a Notice of Cancellation of Rate Schedule FPC No. 124.

Edison requests an effective date of December 31, 1984, and therefore requests waiver for the Commission's notice requirements.

Comment date: May 9, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER85-439-000]

April 24, 1985.

Take notice that on April 15, 1985, Florida Power & Light Company (FP&L) tendered for filing a document entitled Amendment Number Nine to Agreement to Provide Specified Transmission Service Between FP&L and Lake Worth Utilities Authority (Rate Schedule FERC No. 56).

FP&L states that under Amendment Number Nine, FP&L will transmit power and energy for the City of Lake Worth as is required in the implementation of its interchange agreements with the City of Starke and Florida Power Corporation.

FP&L request waiver of the Commission's regulations be granted and that the proposed Amendment be made effective immediately.

Copies of this filing were served on the City of Lake Worth, Florida.

Comment date: May 9, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Pennsylvania Power & Light Company

[Docket No. ER85-442-000]

April 24, 1985.

Take notice that on April 18, 1985, Pennsylvania Power & Light Company (PP&L) tendered for filing as a Supplement to Rate Schedule FERC No. 68, an executed agreement dated March 27, 1985 between PP&L and UGI Corporation (UGI). The Agreement recognizes possible future UGI installations and supply arrangements and, accordingly, provides for a redefinition of PP&L's supply obligations to UGI. The March 27, 1985 agreement extends PP&L's agreement with UGI for five years until 1991 with decreasing supply obligations from that date until 1994. PP&F also tendered for filing a supplement to the Operating Principles and Practices between UGI and PP&L and on file with the Commission as UGI Corporation Rate Schedule FERC No. 3 and Pennsylvania Power & Light Company Rate Schedule FERC No. 46.

PP&L requests an effective date of June 14, 1985.

Copies of this have been served upon UGI and the Pennsylvania Public Utility Commission.

Comment date: May 10, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-10500 Filed 4-30-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $210,000 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving the Ayers Oil Company, a reseller-retailer of motor gasoline and No. 1 and No. 2 fuel oil, and diesel fuel located in Canton, Missouri.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0563.

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: 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 relates to a consent order entered into by the Ayers Oil Company which settled possible violations of DOE price controls in the firm's sales of motor gasoline, No. 1 and No. 2 fuel oil, and diesel fuel to its customers during the November 1, 1973 through January 27, 1981 period.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Ayers Oil Company pursuant to the consent order. The DOE has

tentatively established procedures under which purchasers of covered products during the audit period may file claims for refunds from the consent order fund. Applications for Refund should *not* be filed at this time. 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. 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 in this proceeding will be available for public inspection between the hours of 1:00 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: April 24, 1985.

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 Firm: Ayers Oil Company.
Date of Filing: February 20, 1985.
Case Number: HEF-0563.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to make refunds in order to remedy the effects of actual or alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where DOE is unable readily to ascertain the persons who were injured or the amounts that such persons may be eligible to receive as a result of enforcement proceedings. *See Office of Enforcement*, 9 DOE ¶ 82,553 at 85,284 (1982).

I. Background

Ayers Oil Company (Ayers) was a motor gasoline and fuel oil reseller-retailer as those terms were defined in 10 CFR Part 212. The firm consisted of three companies: Ayers Oil Company of Canton, Missouri, Ayers Oil Company of Pike County, Missouri, and Ayers Oil Company of Quincy, Illinois. A DOE audit of Ayers' records revealed possible regulatory violations with respect to the firm's pricing of motor gasoline, diesel fuel, and other refined petroleum products, during the period November 1, 1973 through April 30, 1974 (the audit period). In order to settle all claims and disputes between Ayers and the DOE regarding the firm's pricing of refined products during the period November 1973 to January 1981, Ayers and DOE entered into a consent order on April 11, 1984. Under the terms of the consent order, Ayers remitted $210,000 to the DOE on May 9, 1984. That sum is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of its proper distribution. As of March 31, 1985, the Ayers escrow account had earned $18,080 in interest. This Proposed Decision concerns the distribution of the $210,000 that was deposited into the escrow account, plus the accrued interest.

II. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Ayers consent order fund. As we have stated in previous Decisions, refunding moneys obtained through DOE enforcement proceedings is the focus of Subpart V proceedings. *See, e.g., Office of Enforcement*, 8 DOE ¶ 82,597 (1981). Based upon our experience with Subpart V cases, we believe that the distribution of refunds in the present case should take place in two stages. In the first stage, we will attempt to refund money to identifiable purchasers of petroleum products who may have been injured by Ayers' pricing practice during the period November 1, 1973 through January 27, 1981. After meritorious claims are paid in the first stage, a second stage refund procedure may become necessary. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*) (refund procedures established for first stage applicants, second stage refund procedures proposed).

III. Proposed Refund Procedures

A. Refunds to Identifiable Purchasers

We propose that the Ayers consent order funds be distributed to claimants who satisfactorily demonstrate that they were injured by Ayers' alleged pricing violations. The information available to us at this time regarding Ayers' operations during the audit period does not provide names and addresses of all of the firm's customers. However, according to information in the audit file, Ayers marketed its products in a three-state region, including parts of Illinois, Iowa, and Missouri. Furthermore, from our experience we believe that the claimants in this proceeding will fall into the following categories: (1) Resellers (including retailers), and (2) firms, individuals, or organizations that were consumers (end-users). The petroleum products purchased by these claimants were purchased either directly from Ayers or from other firms in a chain of distribution leading back to Ayers. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Ayers petroleum products for the period November 1973 through January 1981. If the products were not purchased directly from Ayers, the claimant must include a statement setting forth its reasons for believing the product originated with Ayers. In addition, a reseller or retailer that files a claim will be required to establish that it was injured by the alleged overcharges. To make this showing, a reseller or retailer claimant will first be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement*, 10 DOE ¶ 85,029 at 88,125 (1982) (hereinafter cited as *Ada*). In addition, it must provide some further evidence of injury. *See Amoco* at 88,215. For example, a reseller can show competitive injury by demonstrating that the prices it paid for products purchased from other suppliers were lower than those it paid to Ayers. *See e.g., Tenneco Oil Co./Racetrac Petroleum, Inc.*, 10 DOE ¶ 85,023 (1982).

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Ayers during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

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 the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by a particular firm. 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, and any purchaser is allowed to file a refund application based on a claim that it bore a disproportionate share of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Ayers 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 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 the 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 Ayers 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 detailer 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 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 time period of the consent order is quite distant, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable.[1] *See Texas Oil & Gas Corp., supra; Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein.

In addition to the presumptions we are adopting, we are making a finding that end-users of 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 at 88,209 and cases cited therein. We have therefore concluded that end-users of Ayers petroleum products need only document their purchase volumes from Ayers to make a sufficient showing that they were injured by the alleged overcharges.

We believe that if a reseller or retailer made only spot purchases from Ayers, it is not likely to have suffered an injury. 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.

Office of Enforcement, 8 DOE ¶ 82,597 (1981) at 85,396–97 (hereinafter cited as *Vickers*). We believe the same rationale holds true in the present case. Accordingly, a spot purchaser which files a claim should submit additional evidence to establish that is was unable to recover the increased prices it paid for Ayers petroleum products. *See Amoco* at 88,200.

A successful refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a volumetric refund amount is calculated by dividing the settlement amount by our estimate of the total gallonage of products covered by the consent order. In the present case, based on the information available to us at this time, the volumetric refund amount is $.000575 per gallon,[2] exclusive of interest. As of March 31, 1985, accumulated interest increased the volumetric refund amount to $.000624.

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 than $15.00 outweighs the benefits of restitution in those situations. *See e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982).

Detailed procedures for filing applications 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

[1] Resellers whose total purchases during the period for which a refund is claimed who cannot establish that they did not pass through price increases, or who limit their claims to the threshold amount, will be eligible for refunds of the $5,000 threshold amount.

[2] According to information available to us, during the consent order period, Ayers sold 365,097,794 gallons of regulated petroleum products. The volumetric refund amount is obtained by dividing the amount remitted by Ayers by this volume amount ($210,000 divided by 365,097,794 gallons = $.000575 per gallon).

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. We have asked Ayers to provide us with the names and addresses of its larger customers. If we cannot obtain this information from Ayers, in addition to publishing notice in the **Federal Register**, notice will be provided to the Independent Gasoline Marketers Council, the Petroleum Marketers Association of America, the Service Station Dealers of America, the National Association of Truck Stop Operators, the Society of Independent Gasoline Marketers of America, and to local newspapers in the region where Ayers apparently made most of its sales. 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 a number of different ways. For example, the funds may be distributed through plans formulated by state governments to benefit consumers who were likely injured by Ayers' alleged overcharges. *See, e.g., Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). 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. We encourage the submission of comments containing proposals for alternative distribution schemes.

It Is Therefore Ordered That: The refund amount remitted to the Department of Energy by the Ayers Oil Company pursuant to the consent order executed on April 11, 1984 will be distributed in accordance with the foregoing Decision.

[FR Doc. 85-10615 Filed 4-30-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $1,010,000 plus accrued interest in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Warren Holding Company.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0192.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice in hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Warren Holding Company which settled alleged violations of DOE price regulations in sales of motor gasoline and No. 2 heating oil made by several firms controlled by Warren Holding Company during the period November 1, 1973 through April 30, 1974.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by Warren pursuant to the consent order. DOE has tentatively established procedures under which purchasers of motor gasoline and No. 2 heating oil covered by the consent order may file claims for refunds. Applications for Refund should *not* be filed at this time. 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 in this proceeding will be available for public inspection between the hours of 1:00 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: April 24, 1985.

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 Firm: Warren Holding Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0192.

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 special procedures to make refunds in order to remedy the effects of actual or alleged violations of the Department of Energy (DOE) regulations. ERA filed the petition in this case in connection with a consent order that it entered into with Warren Holding Company (Warren).

Several corportions controlled by Warren Holding Company marketed petroleum products to resellers and end users located primarily in the States of New York, Connecticut, Rhode Island, and Massachusetts. The Warren firms were subject to the Mandatory Petroleum Price Regulations set forth in 10 CFR Part 212, Subpart F. An ERA audit of the firms' records revealed possible price violations with respect to the sales of motor gasoline and No. 2 heating oil from November 1, 1973 through April 30, 1974. The overcharges alleged by ERA were attributed to sales made by the following entities during the following periods:

Company	Product	Period
Mid-Valley Oil Co., Inc., Mid-Valley Petroleum Corp., Newburgh, NY.	Motor gasoline	Nov. 1 to Dec. 31, 1973; Jan. 7 to Mar. 31, 1974.
	No. 2 heating oil	Nov. 21, 1973; Dec. 13 and Dec. 19, 1973.
Kenyon Oil Co., Inc., North Grosvernordale, CT.	Motor gasoline	Nov. 16, 1973 to Feb. 28, 1974; Mar. 4 to Apr. 30, 1974.
Petroleum Marketers, Inc., North Grosvernordale, CT.	do	Nov. 1, 1973 to Jan. 31, 1974; Mar. 1 to Apr. 30, 1974.
Drake Petroleum Co., Inc., Auburn, MA	do	Nov. 1, 1973 to Apr. 30, 1974.
Warren Petroleum Corp./Rhode Island Oil Co., Inc., Providence, RI.	do	Nov. 1, 1973 to Mar. 31, 1974; Apr. 5 to Apr. 7, 1974.

In order to settle all claims and disputes between DOE and the Warren companies regarding the firms' sales of motor gasoline and No. 2 heating oil during the audit period, DOE and Warren Holding Company entered into a consent order on September 12, 1980, in which Warren Holding Company agreed to remit $1,010,000 to DOE.(1) This payment was deposited into an interest-bearing escrow account for ultimate distribution to the parties who may have been injured by the alleged overcharges. This Proposed Decision concerns the distribution of the $1,010,000 that was deposited into the escrow account, plus accrued interest, which amounted to $607,822 as of March 1, 1985.

II. Proposed Refund Procedures

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that it is appropriate to establish such a proceeding with respect to the Warren consent order fund. The Subpart V process may be used in situations where DOE is unable to readily identify persons who were injured or to ascertain the amounts that such persons are eligible to receive as a result of enforcement proceedings. 10 CFR 205.280; *see also In re The Charter Co.*, 47 FR 16396 (April 16, 1982) (proposed decision); *Office of Enforcement*, 9 DOE ¶82,553 at 85,284 (1982). ERA indicated in its petition that those circumstances exist in this case; therefore, we propose to grant ERA's petition and assume jurisdiction over the distribution of the Warren consent order fund.

A. Refunds to Identifiable Purchasers

We propose that the Warren consent order funds be distributed to claimants who satisfactorily demonstrate that they were injured by Warren's alleged violations. In order to receive a refund, each claimant will be required to submit a schedule of its purchases of motor gasoline and No. 2 heating oil for the applicable periods. If the motor gasoline and No. 2 heating oil was not purchased directly from one of the Warren companies listed above, the claimant will be required to include a statement setting forth its reasons for believing the product originated with Warren. In addition, a reseller or retailer that files a claim generally will be required to establish that it was injured by the alleged overcharges. To make this showing, a reseller or retailer claimant will first be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Office of Enforcement: In the Matter of Ada Resources, Inc.*, 10 DOE ¶85,029 at 88,125 (1982). In addition, a reseller will have to provide some further evidence of injury. *See Office of Special Counsel*, 10 DOE ¶85,048 at 88,215 (1982) (hereinafter cited as *Amoco*).

As in many prior special refund cases, we will adopt certain presumptions in order to permit claimants to participate in the refund process without incurring disproportionate expenses, and to enable OHA to consider refund applications in the most efficient way possible. *See* 10 CFR 205.282(e). Section 205.282(e) specifically authorizes the use of presumptions in refund cases:

> [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.

Both of the presumptions that we are adopting are desirable from an administrative standpoint because they allow OHA to process a large number of refund claims quickly and efficiently.

We will first adopt a presumption that the alleged overcharges were spread equally over all gallons of motor gasoline and No. 2 heating oil marketed by the Warren companies during the periods covered by the consent order. This volumetric, or pro rata, refund presumption 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, because the impact on individual purchasers could vary, each purchaser will be allowed to file an application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶85,054 (1984) and cases cited therein at 88,164.

We will also adopt a presumption that reseller or retailer claimants seeking refunds of $5,000 or less were injured by Warren's alleged overcharges. 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. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 (1982). In the case of small claims, a firm's cost of gathering detailed factual information regarding the impact of alleged overcharges which took place many years ago, and OHA's cost of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore deprive injured parties of the opportunity to obtain a refund. We believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable in this case. *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.(2) Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury if its refund claim is below the $5,000 threshold level.(3)

In addition to the presumptions we are adopting, we are making a finding that each end-user or ultimate consumer whose business is unrelated to the petroleum industry was injured by the alleged overcharges covered by the consent order. Unlike regulated firms in the petroleum industry, members of this group were not required to keep records which justified selling price increases by reference to cost increases. 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 at 88,209 and cases cited therein. We have therefore concluded that end-users need only document the volume of Warren motor gasoline that they purchased in order to prove that they were injured by the alleged overcharges.

If a reseller or retailer made only spot purchases of motor gasoline or No. 2 heating oil sold by the Warren companies, it is not likely to have suffered an injury. As we have previously stated with respect to spot purchasers:

> [T]he 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 market 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.

Office of Enforcement, Economic Regulatory Administration: In the Matter of Vickers Energy Corporation, 8 DOE ¶82,597 at 85,396-97 (1981). We believe the same rationale holds true in the present case. Accordingly, a spot purchaser that files a claim should submit sufficient evidence to establish that it was unable to recover the

increased prices it paid for Warren motor gasoline. *See Amoco* at 88,200.

A successul refund applicant will receive a refund based upon a volumetric method of allocating refunds. Under this method, a per-gallon refund amount is calculated by dividing the settlement amount by the total gallons of motor gasoline covered by the consent order. The refund amount in this case will be $.0149114 per gallon ($1,010,000 received from Warren divided by 67,733,412 gallons of motor gasoline and No. 2 heating oil sold by the Warren companies during the periods covered by the consent order), exclusive of interest. Refunds will be calculated by multiplying eligible purchase volumes by the per-gallon refund amount. Successful claimants will also receive a proportionate share of the interest accrued on the consent order fund since it was remitted to DOE. As of March 1, 1985, accrued interest will increase the per gallon refund amount by $.0089747 for a total per gallon amount of $.0238861. Although we are adopting a volumetric method for allocating refunds, any claimant that believes it suffered a disproportionate share of the alleged overcharges may submit evidence to support its claim to a larger refund.

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 than $15.00 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 at 85,225 (1982); *see also* 10 CFR 205.286(b).

Detailed procedures for filing applications will be provided in a final Decision and Order. Applications for refunds should not be filed until issuance of the 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 the distribution process to solicit comments on the proposed refund procedures and to provide an opportunity for any affected party to file a claim.

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 a number of different ways. 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. We will therefore reserve this issue for determination at a later date.

It Is Therefore Ordered That:

The $1,010,000 refund amount remitted by Warren Holding Company, pursuant to the consent order executed on September 12, 1980 will be distributed in accordance with the foregoing Decision.

Notes

(1) The Warren consent order does not include sales made by any other subsidiary or affiliate of Warren Holding Company or any unnamed subsidiary of the above-mentioned entities.

(2) 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.

(3) In this case, the presumption of injury for small claims not exceeding the $5,000 threshold figure is equivalent to purchases of approximately 242,154 gallons per month during the Warren consent order period. Applicants whose refund claims exceed the sum of $5,000 but cannot furnish additional evidence showing that they were injured by a greater amount, or who choose to limit their claims to the threshold amount, will be eligible for a refund up to the $5,000 threshold amount without being required to submit any additional evidence of injury. *See* Office of Enforcement, 8 DOE ¶ 82,597 at 85,396 (1981); *see also* Office of Enforcement, Economic Regulatory Administration: In the Matter of Ada Resources, Inc., 10 DOE ¶ 85,029 at 88,122 (1982).

[FR Doc. 85-10616 Filed 4-30-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50636; FRL-2824-6]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below:

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit:

1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

352-EUP-118. Extension. E.I. duPont De Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 32.2 pounds of the fungicide 1-[[bis(4-fluorophenyl)methylsilyl]methyl]-1H-1,2,4-triazole on peanuts to evaluate the control of early and late leafspot. A total of 30 acres are involved; the program is authorized only in the States of Alabama and Georgia. The experimental use permit is effective from April 1, 1985 to April 1, 1986. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703-557-1900))

352-EUP-126. Issuance. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 13.35 pounds of the fungicide 1-[[bis(4-fluorophenyl)methylsilyl]methyl]-1H-1,2,4-triazole on apples to evaluate the control of apple scab, cedar-apple rust, and powdery mildew. A total of 32 acres are involved; the program is authorized only in the States of Michigan, New York, Ohio, Oregon, Pennsylvania, Virginia, and Washington. The experimental use permit is effective from March 19, 1985 to March 1, 1986. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703-557-1900))

352-EUP-127. Issuance. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 6.8 pounds of the fungicide 1-[[bis(4-fluorophenyl) methylsilyl] methyl]-1H-1,2,4-triazole on grapes to evaluate the control of black rot and powdery mildew. A total of 20 acres are involved; the program is authorized only in the States of Arizona, California, New York, Oregon, Pennsylvania, and Washington. The experimental use permit is effective from March 19, 1985 to April 1, 1986. This permit is issued with the limitation that all treated crops are destroyed or

used for research purposes only. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703–557–1900))

1471–EUP–90. Issuance. Elanco Products Company, 740 South Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 4,400 pounds of the herbicide trifluralin on alfalfa to evaluate the control of weeds. A total of 2,200 acres are involved; the program is authorized only in the States of Arizona, California, Colorado, Idaho, Iowa, Kansas, Minnesota, Nebraska, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington. The experimental use permit is effective from March 22, 1985 to March 22, 1986. A permanent tolerance for residues of the active ingredient in or on alfalfa hay has been established (40 CFR 180.207). (Richard Mountfort, PM 23, CM#2, Rm. 253, (703–557–1830))

7501–EUP–2. Extension. Gustafson, Inc., P.O. Box 220065, Dallas, TX 75222. This experimental use permit allows the use of 2,100 pounds of the fungicide (N-trichloromethylthio-4-cyclohexane-1,2-dicarboximide on field and sweet corn, sorghum, and soybeans to evaluate the control of seedborn fungi that cause seed decay, damping-off, and seedling blight. A total of 26,500 bushels are involved; the program is authorized only in the States of Illinois, Indiana, Iowa, Nebraska, Ohio, and Texas. The experimental use permit is effective from February 21, 1984 to June 30, 1985. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703–557–1900))

10182–EUP–34. Issuance. ICI Americas Inc., Wilmington, DE 19897. This experimental use permit allows the use of 7,500 pounds of the plant growth regulator (2*RS*, 3*RS*)-1-(4-chlorophenyl)-4,4-dimethyl-2-(1*H*-1,2,4-triazol-1-yl) pentan-3-ol on grass seed crops to evaluate its effectiveness of increasing grass crop yields. A total 10,000 acres are involved; the program is authorized only in the States of Idaho, Minnesota, Missouri, Oregon, and Washington. The experimental use permit is effective from March 13, 1985 to March 13, 1987. (Robert Taylor, PM 25, Rm. 245, CM#2, (703–557–1800))

618–EUP–10. Amendment. Merck and Company, Inc., P.O. Box 2000, Rahway, NJ 07065. In the **Federal Register** of June 29, 1984 (49 FR 26804), EPA issued an experimental use permit pertaining to the extension of 618-EUP-10 to Merck and Company, Inc. At the request of the company, the permit has been amended to reduce the acreage and the amount of the active ingredient. The experimental use permit now allows the use of 100 grams of the insecticide Avermectin B_1 on non-cropland and pastures to evaluate the control of the fire ant. A total of 2,000 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. The experimental use permit is effective from March 23, 1985 to March 23, 1986. This permit is issued with the limitation that cattle will not be allowed on treated pastures within 7 days of application. (George LaRocca, PM 15, Rm. 204, CM#2, (703–557–2400))

45639–EUP–14. Extension. Nor-Am Chemical Company, 3509 Silverside Road, P.O. Box 7495, Wilmington, DE 19803. This experimental use permit allows the use of 1,250 pounds of the insecticide 3,6-bis(2-chlorophenyl) 1,2,4,5-tetrazine on apples to evaluate the control of various apple diseases. A total of 5,000 acres are involved; the program is authorized only in the States of California, Colorado, Connecticut, Idaho, Maine, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Utah, Vermont, Virginia, Washington, and West Virginia. The experimental use permit is effective from March 13, 1985 to March 13, 1986. A temporary tolerance for residues of the active ingredient in or on apple pomace has been established. (Jay Ellenberger, PM 12, Rm. 238, CM#2, (703–557–2386))

748–EUP–18. Renewal. PPG Industries, Inc., One PPG Place, Pittsburgh, PA 15272. This experimental use permit allows the use of 74.4 pounds of the herbicide 1-(carboethoxy) ethyl 5-[2-chloro-4-(trifluoromethyl) phenoxy]-2-nitrobenzoate on soybeans to evaluate the control of various broadleaf weeds. A total of 372 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Carolina, North Dakota, Ohio, South Carolina, South Dakota, Tennessee, Virginia, and Wisconsin. The experimental use permit is effective from May 1, 1985 to April 30, 1986. This permit is issued with the limitation that all food or feed derived from the experimental use program will be destroyed with the exception of samples collected for research purposes. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703–557–1830))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95–396, 92 Stat. 828 (7 U.S.C. 136c))

Dated: April 16, 1985.

Robert V Brown,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–9992 Filed 4–30–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–240062; FRL–2824–8]

State Registration of Pesticides

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 10 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. 728, 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 February 1985. Receipts of State registrations will be published periodically. Of the following registrations, two involve a changed-use pattern (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 a nonfood use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Arizona

EPA SLN No. AZ 85 0001. Northrup King Co. Registration is for Rovral to be used on crucifier crops grown for seed only to control alternaria leaf and pod blight. February 20, 1985.

California

EPA SLN No. CA 85 0001. Monterey County Agricultural Commissioner. Registration is for Rodent Bait Zinc Phosphide Treated Grain 1.00% (not EPA Reg.) to be used on runways and burrows to control ground squirrels, Norway rats, roof rats, meadow mice, cotton rats, and wood rats. February 26, 1985.

EPA SLN No. CA 85 0002. Monterey County Agricultural Commissioner. Registration is for Rodent Bait Zinc Phosphide Treated Grain 2.00% (not EPA Reg.) to be used only in rural locations to control ground squirrels, meadow mice, cotton rats, and Norway rats. February 26, 1985.

EPA SLN No. CA 85 0003. Monterey County Agricultural Commissioner. Registration is for Rodent Bait Diphacinone Treated Grain (0.01%) (not EPA Reg.) to be used on active burrows or runways to control ground squirrels, deer mice, and house mice. February 26, 1985.

EPA SLN No. CA 85 0004. Monterey County Agricultural Commissioner. Registration is for Rodent Bait Block Diphacinone Treated Grain/Paraffin (0.005%) (not EPA Reg.) to be used on sewers, outdoor placement, excessively damp locations to control Norway rats, muskrats, and wood rats. February 26, 1985.

EPA SLN No. CA 85 0005. Monterey County Agricultural Commissioner. Registration is for Rodent Bait Diphacinone Treated Grain (0.005%) (not EPA Reg.) to be used on runways and burrows to control Norway rats, roof rats, house mice, ground squirrels, chipmunks, muskrats, meadow mice, wood rats, and jackrabbits. February 26, 1985.

EPA SLN No. CA 85 0009. County of Alamea Dept. of Agriculture. Registration is for Pocket Gopher Baits Strychnine Treated Grain (not EPA Reg.) to be used on burrows to control pocket gophers. February 21, 1985.

EPA SLN No. CA 85 0010. County of Alamea Dept. of Agriculture. Registration is for Rodent Bait Block Diphacinone Treated Grain/Paraffin (.005%) (not EPA Reg.) to be used on ditches, waterways, burrows, runways, barns, and dens to control Norway rats, muskrats, and wood rats. February 21, 1985.

EPA SLN No. CA 85 0011. County of Alamea Dept. of Agriculture. Registration is for Rodent Bait Block Chlorophacinone (not EPA Reg.) to be used on barns, poultry houses, lumber piles, ditches, and waterways near muskrat burrows, runways, and dens to control Norway rats, muskrats, and wood rats. February 21, 1985.

EPA SLN No. CA 85 0012. NAPA County Agricultrual Commissioner. Registration is for Pocket Gopher Bait Strychnine Treated Grain (1.33%) (not EPA Reg.) to be used on burrows to control pocket gophers. February 16, 1985.

EPA SLN No. CA 85 0013. NAPA County Agricultural Commissioner. Registration is for Rodent Bait Zinc Phosphide Treated Grain (1.00%) (not EPA Reg.) to be used on runways and burrows to control ground squirrels, Norway rats, roof rats, meadow mice, cotton rats, and wood rats. February 26, 1985.

EPA SLN No. CA 85 0014. NAPA County Agricultural Commissioner. Registration is for Rodent Bait Zinc Phosphide Treated Grain (2.00%) (not EPA Reg.) to be used only in rural locations to control ground squirrels, meadow mice, cotton rats, and Norway rats.

EPA SLN No. CA 85 0015. NAPA County Agricultural Commissioner. Registration is for Rodent Bait Block Chlorophacinone Treated Grain/ Paraffin (0.005%) (not EPA Reg.) to be used on barns, poultry houses, sheds, lumber and rubbish piles, ditch banks, ditches, waterways near burrows, runways, and dens to control Norway rats, muskrats, and wood rats. February 26, 1985.

EPA SLN No. CA 85 0016. NAPA County Agricultural Commissioner. Registration is for Rodent Bait Chlorophacinone Treated Grain (0.01%) (not EPA Reg.) to be used in corners, along walls, and in burrows to control ground squirrels, deer mice, house mice, and pocket gophers. February 26, 1985.

EPA SLN No. CA 85 0017. NAPA County Agricultural Commissioner. Registration is for Rodent Bait Chlorophacinone Treated Grain (0.005%) (not EPA Reg.) to be used in corners, along walls, and in burrows and harborages to control Norway rats, roof rats, and house mice. February 26, 1985.

EPA SLN No. CA 85 0018. NAPA County Agricultural Commissioner. Registration is for Rodent Bait Warfarin Treated Grain (0.025%) (not EPA Reg.) to be used in corners, along walls, and in burrows and harborages to control Norway rats, roof rats, house mice, ground squirrels, chipmunks, muskrats, meadow mice, and wood rats. February 16, 1985.

EPA SLN No. CA 85 0019. Calaveras County Agricultural Commissioner. Registration is for Pocket Gopher Bait Strychnine Treated Grain (0.05%) (Not EPA Reg.) to be used in runways and burrows to control pocket gophers. February 13, 1985.

EPA SLN No. CA 85 0020. Ventura County Dept. of Agriculture. Registration is for Rodent Bait Zinc Phosphide Treated Grain (2.00%) (Not EPA Reg.) to be used on runways and burrows to control ground squirrels, meadow mice, cotton rats, and Norway rats. February 13, 1985.

EPA SLN No. CA 85 0021. Ventura County Dept. of Agriculture. Registration is for Rodent Bait Block Diphacinone Treated Grain/ Paraffin (0.005%) (not EPA Reg.) to be used in sewers, outdoor placement, and excessively damp locations where unprotected bait would spoil rapidly to control Norway rats, roof rats, muskrats, and wood rats. February 13, 1985.

EPA SLN No. CA 85 0022. Ventura County Dept. of Agriculture. Registration for Pocket Gopher Bait/ Strychnine Treated Grain (0.50%) (not EPA Reg.) to be used on runways underground to control pocket gophers. February 13, 1985.

EPA SLN No. CA 85 0023. Contra Costa County Dept. of Agriculture. Registration is for Pocket Gopher Bait Styrchnine Treated Grain (0.050%) (not EPA Reg.) to be used on runways to control gophers. February 26, 1985.

EPA SLN No. CA 85 0024. Contra Costa County Dept. of Agriculture. Registration is for Starling and Blackbird Bait Starlicide (not EPA Reg.) to be used on orchards and vineyards to control starlings and blackbirds. February 26, 1985.

EPA SLN No. CA 85 0025. Contra Costa County Dept. of Agriculture. Registration is for Feral Pigeon and Crow Bait Starlicide (not EPA Reg.) to be used on roof tops to control feral pigeons and crows. February 26, 1985.

Delaware

EPA SLN No. DE 85 0001. Universal Cooperatives, Inc. Registration is for Paraquat Plus to be used on alfalfa to control weeds between cuttings. (CUP) February 19, 1985.

Florida

EPA SLN No. FL 85 0001. Rhone-Poulenc, Inc. Registration is for Mocap 10% Granylar to be used on sugarcane to control wireworms. February 28, 1985.

EPA SLN No. FL 85 00002. Chemical Group-Uniroyal, Inc. Registration is for

Omite CR to be used on strawberries to control Pacific spiders, strawberry spiders, and two-spotted spiders. February 20, 1985.

Idaho

EPA SLN No. ID 85 0001. Orco, Inc. Registration is for Patrol Ground Squirrel Bait to be used on runways and burrows to control ground squirrels. February 15, 1985.

Illinois

EPA SLN No. IL 85 0001. Universal Cooperatives, Inc. Registration is for Paraquat Plus to be used on no-till sunflowers for preplant or preemergence treatment for annual broadleaf weeds and grasses. February 12, 1985.

New Jersey

EPA SLN No. NJ 85 0001. Lipha Chemicals, Inc. Registration is for Rozol Paraffinized Pellets to be used on apple orchards to control pine and meadow voles.

EPA SLN No. NJ 85 0002. Lipha Chemicals, Inc. Registration is for Roxol Rodenticide Ground Spray Conc. to be used on apple orchards to control orchard mice. January 24, 1985.

EPA SLN No. NJ 85 0004. Penick Corp. Registration is for Scourge Insecticide with SPB–1382/Piperonyl Butoxide 4% + 12% MF Formula II to be used in recreational and residential areas and in municipalities, around the outside of apartment buildings, golf courses, athletic fields, parks, campsites, woodlands, swamps, tidal marshes, and overgrown waste areas to control mosquitoes. February 20, 1985.

EPA SLN No. NJ 85 0005. Universal Cooperatives, Inc. Registration is for Paraquat + Plus to be used on alfalfa to control weeds between cuttings. February 26, 1985.

North Carolina

EPA SLN No. NC 85 0001. Universal Cooperatives, Inc. Registration is for Paraquat Plus to be used on corn and fallow land to control witchweed and grassy weeds (CUP) February 19, 1985.

North Dakota

EPA SLN No. ND 85 0001. Penick Corp. Registration is for Scourge Insecticide with SPB–1382/Piperonyl Butoxide 18% + 54%MF FII to be used in recreational and residential areas, apartment buildings, golf courses, athletic fields, parks, campsites, woodlands, swamps, tidal marshes, and overgrown waste areas to control mosquitoes. February 8, 1985.

EPA SLN No. ND 85 0002. Universal Cooperatives, Inc. Registration is for Paraquat + Plus to be used on no-till sunflowers for preplant or preemergence treatment for control of emerged annual broadleaf weeds and grasses. February 28, 1985.

Texas

EPA SLN No. TX 85 0001. Nalco Chemical Co. Registration is for Nalco 7330 to be used on oil field waters to control slime-forming bacteria and sulfate-reducing bacteria. February 20, 1985.

(Sec. 24, as amended, 92 Stat. 835 (7 U.S.C. 136))

Dated: April 16, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85–9990 Filed 4–30–85; 8:45 am]

BILLING CODE 6560–50–M

[PP 5G3209/T487; FRL–2827–8]

Norflurazon; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the herbicide norflurazon and its desmethyl metabolite in or on certain raw agricultural commodities. These temporary tolerances were requested by Zoecon Corporation.

DATE: These temporary tolerances expire April 2, 1987.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–1830).

SUPPLEMENTARY INFORMATION: Zoecon Corporation, a Sandoz Company, 975 California Ave., Palo Alto, CA 94304, has requested in a pesticide petition (PP 5G3209) the establishment of temporary tolerances for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(*alpha, alpha, alpha*-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-(amino)-2-(*alpha, alpha, alpha*-trifluoro-*m*-tolyl)-3(2*H*)-pyridazinone, in or on the raw agricultural commodities alfalfa forage at 2.0 parts per million (ppm) and alfalfa hay at 5.0 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permits 11273–EUP–41 and 11273–EUP–42, which are being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pecticide be used in accordance with the experimental use permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Zoecon Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 2, 1987. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permits and temporary tolerances. These tolerances may be revoked if the the experimental use permits are revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), 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(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: April 23, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-10359 Filed 4-30-85; 8:45 am]

BILLING CODE 6560-50-M

[PP 5G3191/T486; FRL-2827-7]

Diethatyl-Ethyl; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the herbicide diethatyl-ethyl and its metabolites in or on the raw agricultural commodity cottonseed. This temporary tolerance was requested by Nor-Am Chemical Company.

DATE: This temporary tolerance expires April 2, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1830).

SUPPLEMENTARY INFORMATION: Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, has requested in pesticide petition PP 5G3191 the establishment of a temporary tolerance for residues of the herbicide diethatyl-ethyl and its metabolites (free and bound) determinable as the *N*-acetyl (*N*-(2,6-diethylphenyl) glycine derivative in or on the raw agricultural commodity cottonseed at 0.05 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of the exprimental use permit 45639-EUP-28, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires April 2, 1986. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), 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(j), 68 Stat. 516 [21 U.S.C. 346a(j)])

Dated: April 23, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-10360 Filed 4-30-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Berrien Broadcasting Corp. et al.; Hearing Designation Order

In re applications of:

Berrien Broadcasting Corporation, Berrien Springs, Michigan.	MM Docket No. 85-116, file No. BP-800909AA.
Req: 640 kHz, 0.25 kW, 0.5 kW-LS, U	
WYYS, Inc., WJJQ, Tomahawk, Wisconsin.	File No. BP-801205AH.
Has: 810 kHz, 10 kW, DA-D	
Req: 640 kHz, 1 kW, 10 kW-LS, DA-2, U	
Juarez Communications Corporation, Kingsley, Michigan.	File No. BP-810126AA.
Req: 640 kHz, 1 kW, 10 kW-LS, DA-2 U	
West-State Broadcasters, Incorporated, Zeeland, Michigan.	File No. BP-810330AG.
Req: 640 kHz, 0.25 kW, 1 kW-LS, U.	

For Construction Permit.

Adpted: April 11, 1985.

Released: April 26, 1985.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration: (a) The above-captioned applications for new AM broadcast stations and for changes in the facilities of an existing AM station; (b) petitions to deny the Juarez Communications Corporation (Juarez) application filed by Great Northern Broadcasting System, Inc. (Great Northern), WTCM Radio, Inc. (WTCM) and Radio Station WCCW, Inc. (WCCW); (2) informal objections to the West State Broadcasters, Inc. (West-State) application filed by KFI, Inc.; and (d) relevant pleadings.[1]

2. *International matters.* the WYYS, Inc., and the Juarez applications involve minor conflicts with accepted Canadian allications; these applicants therefore must file minor amendments with the presiding Administrative Law Judge within thirty days of the release of this Order to eliminate these conflicts. Of course, these minor amendments may not cause additional interference or overlap to any existing station or to any pending application. WYYS, Inc., must amend its daytime proposal to eliminate any overlap with the new Canadian assignment at Saint Francis, Ontario. Juarez must amend its nighttime proposal so that a nighttime limit of less than 5 mV/m will be placed into the Saint Francis assignment; it must amend its daytime proposal so as to reduce to an acceptable level interference with the Canadian assignment at Toronto, Ontario. In determining this acceptable level of interference, the presiding Administrative Law Judge shall take cognizance of the need for international coordination.

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[1] These include a motion for extension of time in which to respond to relevant pleadings filed by Juarez Communications Corporation. The request is unopposed and is hereby granted.

3. *Local Public Notice.* Section 73.3580 of the Commission's Rules requires broadcast applicants to give local notice of the filing of their applications. We have no evidence that Berrien Broadcasting Corporation and Juarez Communications have complied with the rule; these applicants must therefore comply with the rule, if they have not, and file the required certification of compliance with the presiding Administrative Law Judge within thirty days of the release of this Order.

4. *Berrien Broadcasting Corp. (Berrien).* Section 73.2080(c) of the Commission's Rules requires, *inter alia*, that applicants for a construction permit for new broadcast facilities file equal employment opportunity programs if they propose to employ five or more full-time employees. Berrieu proposes to employ nine employees and the record does not contain an equal employment opportunity program for Berrien; this applicant must therefore comply with the rule and submit the required EEO program within thirty days of the release of this Order.

5. The information submitted by Berrien does not demonstrate its financial qualifications. The applicant estimates that construction and three months operating expenses will be $60,960. To cover these costs the applicant has $10,000 cash and technical equipment with a value of $5,000. In addition, the applicant asserts that Andrews University will donate to Berrien a studio, tower location, power, telephone service and $36,000 cash. No documentation has been submitted however that indicates the University's willingness or current ability to make these donations. Under these circumstances we cannot find the applicant financially qualified. A financial issue will be specified.

6. *Juarez Communications Corporation.* Great Northern, WTCM and WCCW, all licensees of Traverse City, Michigan, broadcast stations and potential Juarez competitors, have filed petitions to deny this proposal. The complaints are similar and will be considered together.[2]

7. Petitioners allege first that Kingsley is not a community for broadcast station allocation purposes. We disagree. Our test of whether a specified location meets the assignment standard is a liberal one which encompasses all the circumstances. *Teche Broadcasting Corp.*, 52 F.C.C. 2d 970 (Rev. Bd., 1975). Kingsley is an incorporated village with a population of 663 (1980 U.S. Census) located approximately twelve miles from Traverse City; it has an elected village council, provides water, fire, ambulance and sewage services and has its own school system. In addition, the applicant has submitted a list of sixty-six Kingsley businesses and civic organizations. Small size alone will not disqualify a community from consideration for a broadcast allocation. *Musical Heights, Inc.*, 29 F.C.C. 1 (1960), *Kaldor Communications, Inc.*, FCC 84R-26, Mimeo No. 3720, 56 RR 2d 137 (Rev. Bd., 1984). We conclude in view of all of the circumstances presented here, Kingsley is a community to which a broadcast station can be allocated.

8. Concerning the lack of financial qualification, petitioners second area of contention, Juarez proposes construction and three months operating expenses of $45,800. To cover these costs it relies primarily upon a $200,000 commitment letter from the City National Bank of Detroit. Petitioners assertions to the contrary notwithstanding we find that this letter provides a reasonable assurance that a bank loan will be available to the applicant if a construction permit is acquired. *Jay Sadow*, 39 F.C.C. 2d 808, 810 (Rev. Bd., 1973); *Poet's Seat Broadcasting, Inc.*, 78 F.C.C. 2d 1080 (Rev. Bd., 1980). The commitment specifies all relevant terms of repayment, including a security requirement (bonds or cash from two Juarez principals) upon which we believe that the applicant can fairly rely, in light of the principals' active role in the negotiation of the agreement and its submission to us. Further, the bank letter earmarks the funds for the proposed Kingsley station thus assuring that the funds will be made available only for that purpose. *Cannon's Point Broadcasing, Inc.*, 93 F.C.C. 2d 643 (Rev. Bd., 1983). In these circumstances we find that Juarez has demonstrated its financial qualifications.[3] We will therefore deny the petitions to deny.

9. Juarez filed petitions for leave to amend and amendments to its application on November 25, 1981 and August 25, 1983. The 1981 amendment contained additional financial information and the 1983 amendment reported changes in broadcast ownership interests. The amendments are unopposed, are in part required by § 1.65 of the Rules and will not improve the applicant's comparative position. We will therefore grant the petitions for leave to amend and accept the amendment.

10. *West-State Broadcasters, Incorporated.* KFI, Inc., licensee of station KFI, Los Angeles, California, filed informal objections to the West-State application alleging that the applicant had failed to show that its application was acceptable for filing under the Commission's Rules. The applicant responded on November 19, 1981, and filed a petition for leave to amend and an amendment to its application demonstrating that the application is acceptable for filing pursuant to § 73.37(e)(2)(ii) of the Commission's Rules. KFI, Inc., in its reply pleading, conceded that West-State has now demonstrated that its application is acceptable for filing; its informal objections are therefore moot and will be dismissed. Since the amendment clarifies the record and confers no advantage to West-State we will grant the petition for leave to amend and accept the amendment.

11. Except as indicated by the issues specified below the applicants are qualified to construct and operate as proposed.[4] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specify issues to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which proposal (or combination of proposals) would best provide a fair, efficient and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

12. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to the proposal of Berrien Broadcasting Corporation:

a. Whether the applicant has available sufficient funds to meet the

[2] Petitioner's allegations concerning Juarez's intention to serve Kingsley, as opposed to Traverse City, have been mooted by our action. *The Suburban Community Policy, the Berwick Doctrine and the De Facto Reallocation Policy*, 93 F.C.C. 2d 436 (1983); *recon. denied*, 56 RR 2d 835 (1984).

[3] Even if, as petitioners allege, Juarez's cost estimates are in some minor respects too low, the funds from its commitment letter are sufficiently in excess of its estimated costs to cover these errors.

[4] The facilities specified herein are subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

proposed construction and operating costs, and

b. Whether, in light of the evidence adduced pursuant to (a), the applicant is financially qualified to construct and operate as proposed.

2. To determine: (a) The areas and populations which would gain or lose primary aural service from the proposal of WYYS, Inc. and the availability of other primary service to such areas and populations, (b) the areas and populations which would receive primary aural service from the remaining proposals and the availability of other primary service to such areas and populations, and (c), in light thereof and pursuant to Section 307(b) of the Communications Act of 1934, as amended, which of the proposals (or combination of proposals) would best provide a fair, efficient and equitable distribution of radio service.

3. To determine in the event that a choice among the applicants should not be based solely on considerations relating to section 307(b), which of the proposals would on a comparative basis, best serve the public interest.

4. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

13. It is further ordered, that the petition to deny filed by Great Northern Broadcasting System, Inc., is denied.

14. It is further ordered, that the petition to deny filed by WTCM Radio, Inc., is denied.

15. It is further ordered, that the petition to deny filed by Radio Station WCCW, Inc., is denied.

16. It is further ordered, that the informal objection filed by KFI, Inc., is dismissed as moot.

17. It is further ordered, that WYYS, Inc., and Juarez Communications Corporation file amendments to their applications to remove the conflicts with accepted Canadian allocations as set out above in paragraph two (2) with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

18. It is further ordered, that Berrien Broadcasting Corporation and Juarez Communications Corporation comply with the local public notice requirements of § 73.3580 of the Commission's Rules, if they have not done so, and certify as to compliance with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

19. It is further ordered, that Berrien Broadcasting Corporation comply with § 73.2080(c) of the Commission's Rules and file an equal employment opportunity program with the presiding Administrative Law Judge within thirty (30) days of the release of this Order.

20. It is further ordered, that the petitions for leave to amend filed by Juarez Communications Corporation on November 25, 1981 and August 25, 1983, are granted and the concurrently filed amendments are accepted for filing.

21. It is further ordered, that the petition for leave to amend filed by West-State Broadcasters, Incorporated on November 19, 1981, is granted and the concurrently filed amendment to its application is accepted for filing.

22. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street NW., Washington, DC 20554.

23. It is further ordered, that to avail themselves of the opportunity to be heard and pursuant to § 1.221(c) of the Commission's Rules, the parties shall within 20 days of the mailing of this Order, in person or by attorney, file with the Commission, in triplicate, written appearances stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

24. It is further ordered, that pursuant to § 311(a) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, the applicants shall give notice of the hearing as prescribed in the rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay, Assistant Chief,

Audio Services Division, Mass Media Bureau.

[FR Doc. 85-10594 Filed 4-30-85; 8:45 am]

BILLING CODE 6712-01-M

Cape Fear Broadcasting Co.; Hearing Designation Order

In re applications of:

Cape Fear Broadcasting Company, WFNC, Fayetteville, North Carolina.	MM Docket No. 85-115, File No. BP-810122AA.
Has: 940 kHz, 1 kW, 50 kW-LS, DA-N, U	
Req: 640 kHz, 1 kW, 10 kW-LS, DA-D, U	
GDR, INC., Wildwood, Florida.	File No. BP-810616AI.
Req: 640 kHz, 1 kW, U	
Phoenix City Boradcasting, Ltd of Atlanta, Atlanta Georgia.	File No. BP-810729AF.
Req: 640 kHz, 1 kW, 50 kW-LS, DA-2, U	
James S. Rivers, Leesburg, Georgia.	File No. BP-810806AJ.
Req: 640 kHz, 1 kW, 10 kW-LS, DA-N, U	
Brown-Johnson Co., Inc., Winterville, North Carolina.	File No. BP-810806AK.
Req: 640 kHz, 1 kW, 10 kW-LS, DA-2, U	
Vernon H. Baker, d/b/a County Seat Radio, Bluntville, Tennessee.	File No. BP-810806AQ.
Req: 640 kHz, 1 kW, 10 kW-LS, DA-2, U.	
James S. Rivers, Sparta, Georgia.	File No. BPH-810811AC.
Req: 249A, 97.7 MHZ, 3 kW, 91 meters.	

Adopted: April 11, 1985.

Released: April 26, 1985.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the mutually exclusive applications of Cape Fear Broadcasting Company (Cape Fear), GDR, Inc., (GDR); Phoenix City Broadcasting, Ltd. of Atlanta (Phoenix City); James S. Rivers (Rivers); Brown-Johnson Co., Inc. (Brown-Johnson); and Vernon H. Baker d/b/a County Seat Radio (County Seat) [1] for a new AM broadcast station. These applications are linked to each other directly or indirectly through the presence of intervening interlocking proposals.[2] Also before us are an informal objection filed against Brown-Johnson on behalf of NCM Life Communications, Inc. and responsive pleadings. We also have before us the application of James S. Rivers for a new FM broadcast station at Sparta, Georgia, which we have consolidated with the above proposals because of issues common to Rivers' Leesburg, Georgia AM application.

2. *Environmental narrative statement issues.* Since the proposals of GDR, Rivers, Phoenix City and County Seat constitute major environmental actions as defined by Section 1.1305 of the Commission's Rules, they are required to submit the environmental impact information described in Section 1.1311. GDR's environmental narrative statement fails to state the zoning classification of the site and whether construction of the proposed facility has been a source of controversy on

[1] County Seat filed a minor amendment on June 11, 1984, listing other media interests of the applicant's principal and his relatives. This amendment, filed after the November 5, 1981 "B" cut-off date, will be accepted for filing pursuant to Section 1.65 of our Rules.

[2] Groups of this nature are commonly termed "daisy chains."

environmental grounds in the local community; Rivers' environmental narrative statement fails to state whether construction of the proposed facility has been a source of controversy on environmental grounds in the local community; Phoenix City neglected to include any environmental narrative statement in its application; and County Seat's environmental narrative statement fails to state the zoning classification of the site.

3. Accordingly, GDR, Rivers, Phoenix City and County Seat will be required to fill within 30 days of the release of this Order their amended environmental narrative statements with the presiding Administrative Law Judge. In addition, a copy shall be filed with the Chief, Audio Services Division, who will then proceed regarding this matter in accordance with the provisions of § 1.1313(b). Accordingly, Section 1.1317 of the Rules is waived and the extent that the comparative phase of the case will be allowed to begin before the environmental phase is completed. See *Golden State Broadcasting Corp.*, 71 FCC 2d 229 (1979), *recon. denied sub nom. Old Pueblo Broadcasting Corp.*, 83 FCC 2d 337 (1980).

4. *F.A.A. issues.* Since no determination has been received from the Federal Aviation Administration as to whether the FM antenna proposed by Rivers or the AM antenna proposed by County Seat would constitute a hazard to air navigation, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding.

5. *Phoenix City Broadcasting, Ltd. of Atlanta application.* To meet construction and three months' operating expenses of approximately $800,000 Phoenix City relies upon a limited partnership interest of $200,000, a subordinated debt of $250,000 and equipment vendor financing. Only the third of these sources can be credited to it, however, as the letters containing the other commitments do not set forth either a balance sheet or financial statement showing all liabilities and containing current and liquid assets sufficient in amount to meet current liabilities, and, in addition, to indicate financial ability to comply with the terms of the agreement. Accordingly, an appropriate issue will be specified.

6. Applicants proposing operation on a clear channel frequency must cover the entire community of license with the higher of their 10 mV/m or nighttime interference-free contour. Phoenix City's proposed 10 mV/m contour would cover most, but not all, of Atlanta. Because of the other applications pending here, however, the nighttime interference-free contour will be much higher than this. Phoenix City should, therefore, submit an amendment indicating its nighttime interference-free contour and requesting any necessary waivers.

7. The engineering portion of Phoenix City's application must be amended to correct the following deficiencies: the nighttime pattern does not result in 1 ohm loss; and a daytime and nighttime horizontal plot must be submitted to show the correct height. This amendment must be filed with the presiding Administrative Law Judge within 30 days of the release of this Order.

8. Phoenix City requests a waiver of 73.24(g), the blanketing provision of the Commission's Rules. This request will be granted, as the proposed facility requires a close-in transmitter site to meet all coverage requirements, and the applicant accepts the responsibility to correct all blanketing interference complaints.

9. *James S. Rivers application.* The AM material submitted by Rivers indicates that the applicant will have eight employees. The Commission requires that if there will be five or more full-time station employees, the applicant must complete and file Section VI of Form 301, and supply a statement detailing hiring and promotion policies even though there may be only a few members of minorities residing within the proposed service area. Accordingly, the applicant will be required to file this Section VI information within 30 days of the release of this Order with the presiding Administrative Law Judge.

10. While Rivers' AM application includes estimates of construction and operating costs, it does not specify any sources of funding. Accordingly, an appropriate issue will be specified.

11. Section 73.1125 of the Commission's Rules requires that the main studio of an FM station be located within the city of license, but that on a showing of good cause it may be located outside that community. The applicant indicated in Section V–B of Form 301 that its main studio was within Sparta, but the local notice statement dated May 10, 1982 and filed May 14, 1982 indicated that the main studio was outside Sparta. Under these circumstances, the applicant will be required to file with the presiding Administative Law Judge, within 30 days of the release of this Order, either an amended response resolving this discrepancy as to where the main studio will be located, and/or, if applicable, a showing of good cause should it propose to locate its main studio outside the city of license. The presiding Administrative Law Judge may then evaluate this showing and take such action as he deems appropriate.

12. Applicants for new broadcast stations are required by Section 73.3580 of the Commission's Rules to give local notice of the filing of their applications. We have no indication that Rivers published the required notice for its AM application. With respect to its FM application, Rivers published the required notice, but the notice is deficient. Its statement of proposed notice dated May 10, 1982 fails to note antenna height. To remedy this deficiency, the applicant must publish local notice with respect to the AM application, and republish an amended local notice with respect to the FM application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order.

13. In a Memorandum Opinion and Order, FCC 83–48, Mimeo No. 94927, released February 18, 1983, the Commission designated for hearing the renewal applications of several stations licensed to James S. Rivers. A series of issues concerning the operation of Rivers' station WTJH, East Point, Georgia, were raised at that time. Specifically it was alleged, in a Bill of Particulars filed by the Commission's Hearing Branch on March 14, 1983, that James S. Rivers and his son Tolliver R. Rivers, then manager of WTJH, took actions to falsify one of the composite week logs. It was further alleged that both James Rivers and Tolliver Rivers, when interviewed by Commission investigators in March 1981, made repeated and deliberate misrepresentations.

14. Before a hearing was held, the Commission, in a Memorandum Opinion and Order, FCC 83–47, Mimeo No. 4390, released May 24, 1984, granted Rivers' motion for relief by distress sale. Accordingly, these issues were never resolved. Absent a resolution of these very serious questions, however, we cannot find Rivers qualified to be a Commission licensee. Hence we will specify here those issues originally specified at the earlier date.

15. *Brown-Johnson Co., Inc. application.* While Brown-Johnson has submitted credit agreements from equipment suppliers, it has not established other sources of funding to cover construction and operating costs. Accordingly, an appropriate issue will be specified.

16. NCM Life Communications, Inc. filed an informal objection to the Brown-Johnson application contending that the applicant had failed to request a necessary waiver of the nighttime power

limit and had specified Winterville, North Carolina with the intention of serving Greenville.

17. With respect to the nighttime power aspect of NCM's pleading Brown-Johnson filed on March 18, 1983, an amendment reducing its power to the prescribed maximum. Contrary to Cape Fear's argument in its opposition to acceptance of this amendment, we find the elimination of a potentially disqualifying issue to be good cause for the acceptance of a post cut-off amendment under §73.3522. We will therefore accept the amendment. With respect to the question of Brown-Johnson's service intentions, we no longer inquire into this matter. *The Suburban Community Policy, The Berwick Doctrine, and the DeFacto Reallocation Policy*, 93 FCC 2d 436 (1983). Accordingly, NCM's informal objection will be denied.

18. Except as indicated by the issues specified below, all applicants are qualified to construct and operate as proposed.[3] However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding. As the proposals are for different communities, we will specify an issue to determine pursuant to section 307(b) of the Communications Act of 1934, as amended, which proposal (or combination of proposals) would be best provide a fair, efficient, and equitable distribution of radio service. We will also specify a contingent comparative issue, should such an evaluation of the proposals prove warranted.

19. Accordingly, it is ordered, that pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. If a final environmental impact statement is issued with respect to the applications of GDR, Inc., Phoenix City Broadcasting, Ltd. of Atlanta, the AM application of James S. Rivers, and Vernon H. Baker d/b/a County Seat Radio, which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, to determine:

(a) Whether the proposals are consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicants are qualified to construct and operate as proposed.

2. To determine whether there is a reasonable possibility that the tower height and locations proposed by James S. Rivers for its FM application and Vernon H. Baker d/b/a/ County Seat Radio for its AM application would constitute a hazard to air navigation.

3. To determine with respect to the application of Phoenix City Broadcasting, Ltd of Atlanta:

(a) Whether the applicant has available sufficient funds to construct and operate as proposed; and

(b) Whether, in light of the evidence adduced pursuant to (a), the applicant is financially qualified.

4. To determine with respect to the application of James S. Rivers for a new AM station at Leesburg, Georgia:

(a) Whether the applicant has available sufficient funds to construct and operate as proposed; and

(b) Whether, in light of the evidence adduced pursuant to (a), the applicant is financially qualified.

5. To determine with respect to the application of James S. Rivers for a new AM station at Leesburg, Georgia and a new FM station at Sparta, Georgia:

(a) Whether, in light of all the facts and circumstances pertaining thereto, James S. Rivers misrepresented facts to the Commission or was lacking in candor when it filed its application for renewal of license of station WTJH;

(b) Whether, in light of the evidence adduced pursuant to (a), James S. Rivers misrepresented facts to the Commission during the course of the investigation; and

(c) Whether, in light of the information giving rise to the proceding questions, if found to be true, James S. Rivers possesses the requisite character qualifications to be a Commission licensee.

6. To determine with respect to the application of Brown-Johnson Co., Inc.:

(a) Whether the applicant has available sufficient funds to construct and operate as proposed; and

(b) Whether, in light of the evidence adduced pursuant to (a), the applicant is financially qualified.

7. To determine: (a) The areas and populations which would gain or lose primary aural service from the proposal of Cape Fear Broadcasting Company and the availability of other primary service to such areas and populations, (b) the areas and populations which would receive primary aural service from the remaining proposals and the availability of other primary service to such areas and populations, and (c) in light thereof and pursuant to section 307(b) of the Communications Act of 1934, as amended, which of the proposals (or combination of proposals) would best provide a fair, efficient and equitable distribution of radio service.

8. To determine, in the event it is concluded that a choice among the applicants should not be based solely on considerations relating to section 307(b), which of the proposals would, on a comparative basis, best serve the public interest.

9. To determine in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

20. It is further ordered, that § 1.1317 of the Commission's Rules is waived to the extent indicated herein. Within 30 days of the release of this Order, GDR, Inc., James S. Rivers, and Vernon H. Baker d/b/a county Seat Radio shall submit the amended environmental narrative and Phoenix City Broadcasting, Ltd of Atlanta its original environmental narrative, required by § 1.1311 of the Rules, to the presiding Administrative Law Judge, with a copy to the Chief, Audio Services Division.

21. It is further ordered, that the Federal Aviation Administration is made a party to this proceeding.

22. It is further ordered, that Phoenix City Broadcasting Ltd of Atlanta file an amendment to correct the engineering deficiencies specified in paragraphs 6 and 7 above with the presiding Administrative Law Judge within 30 days of the release of this Order.

23. It is further ordered, that Phoenix City Broadcasting Ltd of Atlanta's request for waiver of § 73.24(g) of the Commission's rules IS GRANTED.

24. It is further ordered, that James S. Rivers in reference to its AM station file the model EEO program called for in Section VI of Form 301 within 30 days of the release of this Order with the presiding Administrative Law Judge.

25. It is further ordered, that James S. Rivers file either an amended response resolving the discrepancy as to where the main FM studio will be located, and/or, if applicable, a showing of good cause should it propose to locate its main FM studio outside the city of license, within 30 days of the release of this order with the presiding Administrative Law Judge.

[3] Operation with the facilities specified herein is subject to modification, suspension or termination without right to hearing, if found by the Commission to be necessary in order to conform to the Final Acts of the ITU Administrative Conference on Medium Frequency Broadcasting in Region 2, Rio de Janeiro 1981, and to bilateral and other multilateral agreements between the United States and other countries.

26. It is further ordered, that James S. Rivers publish local notice with respect to the AM application, and republish an amended local notice with respect to the FM application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order.

27. It is further ordered, that the amendment filed by County Seat Radio on June 11, 1984 is accepted for filing.

28. It is further ordered, that the amendment filed by Brown-Johnson Co., Inc. on March 18, 1983 is accepted for filing.

29. It is further ordered, that the informal objection filed by NCM Life Communications, Inc. is denied.

30. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M Street, NW., Washington, D.C.

31. It is further ordered, that to avail themselves of an opportunity to be heard, the applicants shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 30 days of the mailing of this Order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

32. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, given notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 85-10593 Filed 4-30-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Existing Collection in Use Without an OMB Control Number

Title: Survey of State Fire Service Training Systems

Abstract: Data collected in 1981 survey was basis for a reference directory published and distributed in 1982. Information now outdated. This data collection effort required to update and revise the reference directory. Information is used by the National Fire Academy for program planning and by States for resource exchange

Type of Respondents: State or Local Governments

Number of Respondents: 50

Burden Hours: 400.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: April 25, 1985.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 85-10494 Filed 4-30-85; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0022

Title: Flood Insurance Application, Flood Insurance Cancellation, Flood Insurance General Change Endorsement, Request for Policy Processing and Renewal Information, V-Zone Risk, Schedule Property Form Supplemental Addendum

Abstract: Forms needed for the continued sale and servicing of policies under the National Flood Insurance Program (NFIP).

Type of Respondents: Individuals or Households, State or Local Governments, Farms, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, Small Businesses or Organizations.

Number of Respondents: 839,625

Burden Hours: 141,479.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW., Washington, D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: April 25, 1985.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 85-10493 Filed 4-30-85; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-432]

Peoples Federal Savings Association Richmond, IN; Final Action Approval of Conversion Application

Dated: April 25, 1985.

Notice is hereby given that on March 29, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Peoples Federal Savings Association, Richmond, Indiana, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Indianapolis, 115 Washington Street, Suite 1290, Indianapolis, Indiana 46204.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-10545 Filed 4-30-85; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-431]

Broken Arrow Federal Savings and Loan Association Broken Arrow, OK; Final Action Approval of Conversion Application

Dated: April 25, 1985.

Notice is hereby given that on March 29, 1985, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Broken Arrow Federal Savings and Loan

Association, Broken Arrow, Oklahoma for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, Post Office Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Do. 85-10544 Filed 4-30-85; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-430]

Bright Banc Savings Association, Dallas, TX, (Successor to Texas Federal Savings and Loan Association, Dallas, TX; Approval of Application To Withdraw Securities From Listing and Registration

Dated: April 25, 1985.

Notice is hereby given that on March 25, 1985, the General Counsel approved pursuant to delegated authority, the application filed on February 4, 1985, by Bright Banc Savings Association, Dallas, Texas (the "Association") pursuant to Securities Exchange Act ("Exchange Act") 12(d) and Exchange Act Rule 12d2-2(d), to withdraw from listing and registration on the American Stock Exchange (the "Exchange") Certificates of Deposit Maturing July 22, 1988 nd March 21, 1994, originally issued by Texas Federal Savings and Loan Association, Dallas, Texas ("Texas Federal"), which had been consolidated into the Association. Copies of the application are available for inspection at the Public Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C., 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-10543 Filed 4-30-85; 8:45 am]

BILLING CODE 6720-01-M

[No. 85-314]

Securities Exchange Act Disclosure

Dated: April 25, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a request for extension, without revision, of its information collection, "Securities Exchange Act Disclosure" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork burden aspect of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: J. Larry Fleck, Office of General Counsel, Phone: 202-377-6413.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-10542 Filed 4-30-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Intent To Terminate Approval of Agreement

Agreement No.: 217-010648.

Title: Trans Freight Lines, Inc./Double Eagle Lines, Inc., Charter Agreement.

Parties:

Trans Freight Lines, Inc.

Double Eagle Lines, Inc.

Synopsis: The Commission gives notice that it will terminate its prior approval of Agreement No. 217-010648 effective April 2, 1985, the date the parties legally terminated their arrangement. By letter dated April 15, 1985, the Commission was notified of the termination of Agreement No. 217-010648, effective April 2, 1985.

By order of the Federal Maritime Commission.

Dated: April 26, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-10538 Filed 4-30-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Countricorp et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of 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.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 25, 1985.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Countricorp*, White Sulfur Springs, Montana; to become a bank holding company by acquiring 80.8 percent of the voting shares of The First National Bank of White Sulfur Springs, White Sulfur Springs, Montana.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Freeman Bancstock Investments*, and *Inwood Holding Corporation*, both located in Irving, Texas; have applied to become bank holding companies by acquiring 100 percent of the voting shares of Inwood Bancshares, Inc., Dallas, Texas, thereby indirectly acquiring Inwood National Bank of Dallas, Dallas, Texas.

Board of Governors of the Federal Reserve System, April 26, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-10607 Filed 4-30-85; 8:45 am]

BILLING CODE 6210-01-M

First Jersey National 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 in *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 May 23, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Jersey National Corporation*, Jersey City, New Jersey; to engage *de novo*, directly in the activity of leasing of real property. Comments on this application must be received not later than May 17, 1985.

2. *Norstar Bancorp Inc.*, Albany, New York; to engage *de novo* through its subsidary, Norstar Leasing Services Inc., Albany, New York, in making, acquiring and servicing loans and other extensions of credit (including issuing letters of credit and accepting drafts) for its own account or for the account of others; leasing of personal property and acting as agent, broker or adviser in leasing of personal property.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *U.S. Bancorp*, Portland, Oregon; to engage *de novo* directly in data processing activities which include offering automated teller machine services to banks, financial, and other institutions.

2. *U.S. Bancorp*, Portland, Oregon; to engage *de novo* directly in trust company activities and selling money orders, savings bonds, and travelers checks.

Board of Governors of the Federal Reserve System, April 26, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-10608 Filed 4-30-85; 8:45 am]

BILLING CODE 6210-01-M

CB&T Bancshares, 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 May 10, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *CB&T Bancshares, Inc.*, Columbus, Georgia; to merge with First United Bancshares, Inc., Montezuma, Georgia, thereby indirectly acquiring First United Bank, Montezuma, Georgia.

Board of Governors of the Federal Reserve System, April 26, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-10553 Filed 4-30-85; 8:45 am]

BILLING CODE 6210-01-M

Guyan Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of 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.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 23, 1985.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Guyan Bancshares, Inc.*, Gilbert, West Virginia; to acquire 100 percent of the voting shares of American National Bank, Logan, West Virginia.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Peoples Bancorp of Sylacauga, Inc.*, Sylacauga, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples Bank and Trust Company of Sylacauga, Sylacauga, Alabama.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60609:

1. *Charter 17 Bancorp, Inc.*, Richmond, Indiana; to acquire 1.9 percent of the voting shares of Northwest National Bank, Rensselaer, Indiana.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Center Bancorp*, Woodland Hills, California; to become a bank holding company by acquiring 100 percent of the voting shares of Center National Bank, Woodland Hills, California.

Board of Governors of the Federal Reserve System, April 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-10507 Filed 4-30-85; 8:45 am]

BILLING CODE 6210-01-M

Irwin Union Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has 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.

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.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 21, 1985.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Irwin Union Corporation*, Columbus, Indiana; to engage *de novo* through its subsidiary, Irwin Union Capital Corporation, Columbus, Indiana, in the activities of providing portfolio investment advice, general economic information and financial advice to clients; underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in; and providing management consulting advice to nonaffiliated bank and nonbank depository institutions.

Board of Governors of the Federal Reserve System, April 25, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-10508 Filed 4-30-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-85-1526]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-0650. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Report on Low Occupancy, Low-Income Public Housing
Office: Public and Indian Housing
Form Number: HUD-51237
Frequency of Submission: Semi-annually
Affected Public: State or Local Governments
Estimated Burden Hours: 4,400
Status: Extension
Contact: Edward C. Whipple, HUD, (202) 426-0744; Robert Fishman, OMB, (202) 395-7316.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 9, 1985.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 85-10492 Filed 4-30-85; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Coastal Barrier Resources Act; Extension of Public Comment Period Regarding Draft Maps Under Consideration for Inclusion in the Coastal Barrier Resources System

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice is published to announce the extension of the public review and comment period for draft maps under consideration for possible inclusion in the Coastal Barrier Resources System. These maps were made available on Monday March 4, 1985 **Federal Register** Vol. 50, No. 42, Part II, pp. 8689–8702). Comments were to be received by June 30, 1985. In order to conform with the comment period for the draft test made available today, comments on the draft maps will be accepted through July 15, 1985.

DATE: Comments should be received no later than July 15, 1985.

ADDRESS: Coastal Barriers Study Group, U.S. Department of the Interior, National Park Service—498, P.O. Box 37127, Washington, D.C. 20013–7127.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lanzone, Coastal Barriers Study Manager, National Park Service, Department of the Interior, Washington, D.C. 20013–7127, (202) 343–5625.

Dated: April 25, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and wildlife and Parks.

[FR Doc. 85–10585 Filed 4:30–85; 8:45 am]

BILLING CODE 4310-70-M

Availability of Draft Report Regarding Conservation Alternatives for the Coastal Barrier Resources System (CBRS)

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of section 10 of the Coastal Barrier Resources Act of 1982 (16 U.S.C. 3509), the Secretary of the Interior is required to provide recommendations for conservation of the fish, wildlife and other natural resources of the CBRS. He is also required to provide recommendations to the Congress for additions to, or deletions from, the Coastal Barrier Resources System, and for modifications to the boundaries of System units. Recommendations made by the Secretary will be advisory only; any changes to the System will require an act of Congress. Draft maps regarding this requirement were released for public review and comment on March 4, 1985. (Volume 50, No. 42 **Federal Register**, p. 8698).

This notice announces the availability of the draft text that addresses conservation alternatives for the CBRS.

DATE: Comments should be received no later than July 15, 1985.

ADDRESS: Coastal Barriers Study Group, U.S. Department of the Interior, National Park Service—498, P.O. Box 37127, Washington, D.C. 20013–7127.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah Lanzone, Coastal Barriers Study Manager, National Park Service, Department of the Interior, Washington, D.C. 20013–7127, (202) 343–5625.

SUPPLEMENTARY INFORMATION: On October 18, 1982, President Reagan signed the Coastal Barrier Resources Act (CBRA) into law (16 U.S.C. 3509). Section 4 of CBRA establishes the Coastal Barrier Resources System as referred to and adopted by Congress, and Sections 5 and 6 prohibit all new Federal expenditures and financial assistance within the units of that System unless specifically excepted by the Act. These provisions of the Act became effective immediately. The Act also amends and conforms to the Federal flood insurance provisions of the Omnibus Budget Reconciliation Act of 1981 pertaining to undeveloped coastal barriers. The statutory ban on the sale of new Federal flood insurance for new construction or substantial improvements within the System went into effect on October 1, 1983.

Section 10 of CBRA requires the Secretary of the Interior to submit to Congress within three years of passage of the Act a report regarding the Coastal Barrier Resources System. Section 10 requires recommendations on two major issues: (1) Conservation of the fish, wildlife and other natural resources of the CBRS and (2) additions to, or deletions from, the System. Section 10 also requires a summary of the comments received from the Governors of the States, State Coastal Zone Management agencies, other government officials, and the public regarding the System. The Secretary is to consult with the Governors of the affected States regarding proposed recommendations. To this end, the Secretary will invite comments from each affected governor. The governors' comments will be forwarded to the Congress as a part of the report.

Dated: April 25, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85–10586 Filed 4–30–85; 8:45 am]

BILLING CODE 4310-70-M

Fish and Wildlife Service

Availability of Bristol Bay Regional Management Plan and Final Environmental Impact Statement for the Bristol Bay Region, AK

AGENCY: Fish and Wildlife Service.

ACTION: Notice of availability.

SUMMARY: As required by section 102(2)(C) of the National Environmental Policy Act of 1969 and section 1203 of the Alaska National Interest Lands Conservation Act, the U.S. Fish and Wildlife Service has prepared the Bristol Bay Regional Management Plan and final environmental impact statement for the Bristol Bay region of southwestern Alaska.

DATE: Comments may be submitted on or before June 17, 1985, to receive consideration by the Regional Director.

ADDRESS: Comments should be addressed to the Regional Director, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503 (Attn: Clayton Hardy).

FOR FURTHER INFORMATION CONTACT: Clayton M. Hardy, U.S. Fish and Wildlife Service, 1101 E. Tudor Rd., Anchorage, Alaska 99503 (907–786–3484).

Copies of the Bristol Bay Regional Management Plan and final enyironmental impact statement (EIS) are being sent to all agencies and individuals who commented on the revised draft Bristol Bay Cooperative Management Plan and draft EIS. Those individuals wishing to obtain a copy of the document may do so by contacting Mr. Hardy.

Additionally, copies of the plan and final EIS are available for inspection at the Fish and Wildlife Service Regional Office in Anchorage and at the following locations:

Federal Building Resource Library, 701 East Seventh Avenue, Anchorage, Alaska

University of Alaska Achorage Library, Anchorage, Alaska

Z. J. Loussac Library, Anchorage, Alaska

Izembek National Wildlife Refuge Headquarters, Cold Bay, Alaska

Togiak National Wildlife Refuge Headquarters, Dillingham, Alaska

North Star Borough Library, Fairbanks, Alaska
University of Alaska, Elmer E. Rasmussan Library, Fairbanks, Alaska
Alaska State Library (Documents Librarian), Juneau, Alaska
Alaska Peninsula and Becharof National Wildlife Refuge Headquarters, King Salmon, Alaska.

SUPPLEMENTARY INFORMATION: The Bristol Bay Regional Management Plan was prepared in accordance with section 1203 of the Alaska National Interest Lands Conservation Act. This act requires that a comprehensive regional plan for the 31 million acres in southwest Alaska be developed with the goal of conserving fish and wildlife and other resources of the region while at the same time providing for rational and orderly development of the economic resources of the region.

The plan was prepared under the direction of the U.S. Fish and Wildlife Service, the Alaska Land Use Council and its Bristol Bay Study Group. The document explains and evaluates a land use plan for the region, along with five alternatives, that can assist local, federal, state and private land managers by providing a broad regional policy framework or resource management strategy for the area. This plan is a guide to future decisionmaking, not an absolute. The alternatives remain part of the document in order to place in context the rationale for chosen the plan.

Dated: March 20, 1985.

Robert A. Jantzen,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 85-10496 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Draft Environmental Impact Statement for the New Mexico Statewide Wilderness Study; Availability and Notice of Public Hearings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Draft Environmental Impact Statement and public hearings.

SUMMARY: Pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 and section 102 of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a Draft Environmental Impact Statement (EIS) for the New Mexico Statewide Wilderness Study.

ADDRESS: Copies of the Draft EIS are available upon request from the New Mexico State Office, NM (912), Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico, 87504-1449. Comments on the Draft EIS should be sent to this same address.

FOR FURTHER INFORMATION CONTACT: Joe Sovcik, EIS Team Leader, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, (505) 988-6565.

SUPPLEMENTARY INFORMATION: The Draft EIS the New Mexico Statewide Wilderness Study Analyzes 37 Wilderness Study Areas (WSA's) which encompass 786,391 acres of public land in New Mexico. The purpose of this study is to determine the suitability or nonsuitability of these WSA's for recommended inclusion in the National Wilderness Preservation System. Alternatives evaluated include an all wilderness alternative, and alternative which emphasizes manageability, a proposed action, a conflict resolution alternative and a no wilderness alternative.

The Draft EIS contains three volumes. Volume 1 is the Statewide overview which analyzes the Statewide environmental consequences for each alternative and summarizes the site specific impacts for each WSA. Volumes 2 and 3, the appendices, provide a detalied analysis for each of the 37 WSA's.

Written comments should be directed to State Director, NM (912) New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504-1449. Written comments on the Draft EIS must be received by close of business July 29, 1985.

Public hearings have been scheduled for the following dates, times and locations:

June 18, 1985, 3 and 7 p.m., Albuquerque Convention Center, 401 Second St., NW., Albuquerque, NM
June 20, 1985, 3 and 7 p.m., Sweeney Convention Center, 201 W. Marcy St., Santa Fe, NM
June 25, 1985, 3 and 7 p.m., Macey Center, NM Tech. Campus, Socorro, NM
June 27, 1985, 3 and 7 p.m., Branigan Library, 200 E. Picacho, Las Cruces, NM.

Dated: April 26, 1985.

Charles Luscher,

State Director.

[FR Doc. 85-10405 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-FB-M

[5-22599-GPS-009]

Revision and Update of Land Use Management Plans; House Range Resource Area RMP/EIS

AGENCY: Bureau of Land Management, Interior.

ACTION: Progress report and call for nomination of Areas of Critical Environmental Concerns (ACEC).

SUMMARY: The House Range Resource Area is completing the Management Situation Analysis for the House Range RMP and preparing for formulation of Alternative Management Plans. During the issue identification phase, the interdisciplinary team and the public identified concerns. Management review of those concerns identified only two concerns that meet the criteria for planning issues. The remainder were identified and will be addressed as management concerns. The planning issues identifed are rangeland management/forage allocation and the conflict between recreational vehicular use and other resource uses.

ACECs are areas where special management is needed to protect important historic, cultural, scenic or natural values, or areas hazardous to human life or property. ACECs in the House Range Resource Area will be identified and designated as part of our current Resource Management Planning process. If you know of an area on public lands possessing important values or hazards that you feel need special designation and management, we invite you to nominate it to ACEC consideration.

Nomination of possible ACECs in the House Range Resource Area should include the following: Name of Area, Location (legal descriptions or attach map), Important Natural Features or safety hazards, threats of damage to the feature, and type of management recommended.

The formulation of alternatives is next in which we anticipate a minimum of four alternatives addressing the issues of rangeland management/forage allocation and ORV use as well as the management concerns. One alternative will be that of continuing the present management direction and level of management intensity. The other alternatives will address various levels of management intensity and resource development.

The draft environmental impact statement is due to be completed by March, 1986.

For further information contact Thomas L. Jensen, House Range the House Range Resource Area Manager at P.O. Box 778, Fillmore, Utah 84631.

April 19, 1985.

Neil D. Thomas,

Acting District Manager.

[FR Doc. 85-10562 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-DQ-M

[5-22598-GPS-008]

Revision and Update of Land Use Management Plans; Warm Spring Resource Area RMKP/EIS

AGENCY: Bureau of Land Management, Interior.

ACTION: Progress report and call for nomination of Areas of Critical Environmental Concerns (ACEC).

SUMMARY: The Warm Springs Resource Area is completing the Management Situation Analysis for the Warm Springs RMP and preparing for formulation of Alternative Management Plans. During the issue identification phase, the interdisciplinary team and the public identified concerns. Management review of those concerns identified only one concern that meets the criteria for planning issues. The remainder were identified and will be addressed as management concerns. The one planning issue identified is rangeland management/forage allocation.

ACECs are areas where special management is needed to protect important historic, cultural, scenic or natural values, or areas hazardous to human life or property. ACECs in the Warm Springs Resource Area will be identified and designated as part of our current Resource Management Planing. porocess. If you know of an area on public lands possessing important values or hazards that you feel need special designation and management, we invite you to nominate it for ACEC consideration.

Nomination of possible ACECs should include the following: Name of Area, Location (legal descriptions or attach map), Important Natural Features or safety hazards, threats of damage to the feature, and type of management recommended.

The formulation of alternatives is next in which we anticipate a minimum of four alternatives addressing the issue of rangeland management/forage allocation, as well as the management concerns. One alternative will be that of continuing the present management direction and level of management intensity. The other alternatives will address various levels of management intensity and resource development.

The draft environmental impact statement is due to be completed by March, 1986.

For further information contact, Mark Bailey, the Warm Springs Resource Area Manager at P.O. Box 778 Fillmore, Utah 84631.

Neil D. Thomas,

Acting District Manager

April 19, 1985.

[FR Doc. 85-10561 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-DQ-M

[4-19952-I-LM-CA]

California; Proposed Reinstatement of Terminated Oil and Gas Lease

A petition for reinstatement of oil and gas lease CA 11274, embracing lands in the State of California, County of San Bernardino, was timely filed and accompanied by all the required rentals and royalties accruing from June 1, 1983, the date of termination.

The lessee has agreed to new lease terms for rentals and royalties at the rates of $5.00 per acre or fraction thereof and 16⅔% respectively.

The lessee has paid the required $500.00 administrative fee and has reimbursed the Bureau of Land Management for the estimated cost of this **Federal Register** notice.

The lessee having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease effective June 1, 1983, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Dated: April 1, 1985.

Joan B. Russell,

Chief, Leasable Minerals Section, Branch of Lands and Minerals Operations.

[FR Doc. 85-10556 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-84-M

[W-56035]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a)(b)(1), a petition for reinstatement of oil and gas lease W-56035 for lands in Uinta County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessees have agreed to the amended lease terms for rentals and royalties at rates of $7.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessees have paid the required $500.00 administrative fee and $106.25 to reimburse the Department of the cost of this **Federal Register** notice. The lessees have met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-56035 effective September 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 85-10566 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-22-M

[I-21401; 5-00255-GP5]

Realty Action, Competitive Sale of Public Lands in Twin Falls County, ID

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following described lands have been examined and through development of land use decisions based on public input, it has been determined that the sale of the tract is consistent with section 203(a) of the Federal Land Policy and Management Act (FLPMA) of 1976. The land will be offered for sale using modified competitive bidding procedures for no less than the appraised fair market value indicated below. Any bids for less than such value will be rejected as required by FLPMA. The adjacent landowners, Bill Pullin, Ron Waller, Edwin Crockett, Vicki Patrick, James L. Marr and Keith Sligar will be given preference rights as designated bidders in accordance with 43 CFR 2711.3-2. This preference right gives those designated bidders who submit a valid bid the opportunity to match the highest bid. Only sealed bids will be accepted. In the case where two or more designated bidders exercise their preference right, the designated bidders shall be offered the opportunity to agree upon a division of the lands among themselves. In the absence of a written agreement, the preference right bidders will be allowed to continue bidding to determine the high bidder. A bid will also constitute an application for conveyance of the mineral rights, except geothermal, oil and gas. The mineral interests being offered for conveyance

have no known monetary value. Each bidder must submit a fifty dollar ($50.00) non-returnable filing fee for the mineral conveyance (43 CFR 2711.3–1(d)) with the bid. Failure to deposit these sums will result in disqualification as the high bidder. The authorized officer shall then determine whether to accept the next highest bid, withdraw the public lands from the market or re-offer them for sale at a later date.

Legal description	Acres	Market value
T. 11 S., R. 18 E., B.M. Sec. 35: SW¼NE¼	400	$8,000.00

The lands are hereby segregated from appropriation under the public land laws, including the mining laws as provided by 43 CFR 2711.1–2(d). The segregative effect of the NORA shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the **Federal Register** of a termination of the segregation , or 270 days from the date of publication, whichever occurs first.

The patent, when issued, will contain certain reservations to the United States and be subject to existing rights-of-way. Detailed information concerning these reservations as well as additional information concerning the land, terms and conditions of the sale and bidding instructions may be obtained from Jim Pribble or Sharon LaBrecque at the Burley District Office, Bureau of Land Management, 200 South Oakley Highway, Burley, Idaho.

DATES: All sealed bids must be received by 1:30 p.m. on June 26, 1985. At this time all bids will be opened at the Burley District Office.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of publication in the **Federal Register**, interested parties may submit comments to the District Manager, Bureau of Land Management, Route 3, Box 1, Burley, Idaho 83318. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the department of the Interior.

Dated: April 23, 1985.

John S. Davis,

District Manager.

[FR Doc. 85–10557 Filed 4–30–85; 8:45 am]

BILLING CODE 4310–22–M

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Bureau of Land Management, Medford District Advisory Council will be held June 4, 1985.

On June 4, the meeting will begin at 9:00 a.m., in the Oregon Room of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The agenda for the meeting will include:

A discussion of the Medford District's Final Supplemental Environmental Impact Statement on timber, the Forest Service/BLM Interchange, and a statewide Draft Environmental Impact Statement on Wilderness.

The meeting of the advisory council is open to the public. Interested persons may make oral statements to the board following conclusion of its other agenda items on June 4, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by June 3, 1985. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the district office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date signed: April 23, 1985.

Hugh R. Shera,

District Manager.

[FR Doc. 10558 Filed 4–30–85; 8:45 am]

BILLING CODE 4310–33–M

Colorado; Filing of Plats of Survey

April 22, 1985.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 a.m., April 22, 1985.

The plat representing the dependent resurvey of a portion of the First Standard Parallel North (south boundary), the east boundary, a portion of the north boundary, and a portion of the subdividional lines, and the survey of the subdivision of certain sections, T. 5 N., R. 84 W., Sixth Principal Meridian, Colorado, Group 712, was accepted April 1, 1985.

This survey was executed to meet certain administration needs of the U.S. Forest Service.

The plat representing the dependent resurvey of a portion of the south and west boundaries, subdividional lines, and Mineral Survey No. 19801, Sunny Slope and Sunny Slope No. 2 lodes, and the survey of the subdivision of sections 20 and 30, T. 7 S., R. 69 W., Sixth Principal Meridian, Colorado, Group 761, was accepted April 1, 1985.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205.

Kenneth D. Witt,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 10560 Filed 4–30–85; 8:45 am]

BILLING CODE 4310–84–M

Minerals Management Service

Development Operations Coordination Document; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Exxon Company, U.S.A. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4261, Block 330, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 22, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the

public, pursuant to section 25 of the OCS Lands Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 23, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-10555 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-MR-M

Report on Blowout and Fire, Loss of Drilling Unit, Matagorda Island Block 657, Gulf of Mexico Outer Continental Shelf, Offshore the State of Texas

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of blowout report.

SUMMARY: Pursuant to the provisions of section 22 of the Outer Continental Shelf (OCS) Lands Act, 33 U.S.C. 1348, an investigation was conducted into the blowout and loss of drilling unit that occurred on July 20, 1983, involving drilling operations on Well No. 1, Lease OCS-G 4139, Matagorda Island Block 657, Gulf of Mexico, off the Texas coast. A report has been prepared by the Investigative Panel, and copies are now available.

The Investigative Panel consisted of six members, five of whom were Minerals Management Service (MMS) personnel—one from Reston, Virginia; one from Vienna, Virginia; one from Matairie, Louisiana; and two from Lake Jackson, Texas. The other member was Lt. Cmdr. Max Miller, U.S. Coast Guard, New Orleans, Louisiana. Informal hearings were held in Corpus Christi, Texas, on August 11, 1983. Both the operator, Exxon, Inc., and the drilling contractor, Penrod Drilling Company, had key witnesses present.

The investigative findings included in the report cover the following topics:

A. Preliminary Activities
B. Loss of Well Control
C. Attempts at Restoring Well Control
D. Blowout and Fire
E. Emergency Warning and Evacuation
F. Damage
G. Causes and Conclusions
H. Recommendations

Additionally, the Investigative Panel determined the proximate cause of the incident and provided serveral contributing causes associated with the incident. They concluded the report with recommendations that future wells use a revised casing program, controlled drilling procedures when approaching a lost circulation zone, an improved annular preventer maintenance program, and larger diverter lines.

ADDRESS: Copies of the report may be obtained from the Public Information Office, Minerals Management Service, P.O. Box 7944, Metairie, Louisiana 70010.

FOR FURTHER INFORMATION CONTACT: Bill Martin at (504) 838-0848.

Dated: April 22, 1985.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 85-10554 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Mining Plan of Operations at Denali National Park and Preserve; Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9A, David W. Beyers has filed a plan of operations in support of proposed mining operations on lands embracing the LEE BENCH HOWTAY ASSOCIATION CL. #4-#6 Mining Claims within the Denali National Park and Preserve. This plan is available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska.

Robert Peterson,

Acting Regional Director, Alaska Region

[FR Doc. 85-10588 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-70-M

Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Lake Clark National Park Subsistence Resource Commission. The following agenda items will be discussed:

1. Commission vacancies and appointments.

2. Review status of subsistence hunting program for Lake Clark National Park.

3. Procedures for subsistence hunting proposal review and public comment.

4. Final action on proposal recommendation for subsistence hunting within Lake Clark National Park.

DATE: The meeting will begin at 10:00 a.m. on May 11, 1985, and will conclude the same afternoon.

ADDRESS: The meeting will be held at the Newhalen School, Newhalen, Alaska.

FOR FURTHER INFORMATION CONTACT: Paul Haertel, Superintendent, Lake Clark National Park and Preserve, 701 C. Street, Box 61, Anchorage, Alaska 99513.

SUPPLEMENTARY INFORMATION: The Lake Clark National Park Subsistence Resource Commission is authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act, Pub. L. 96-487.

Dated: April 24, 1985.

Roger J. Contor,

Regional Director, Alaska Region.

[FR Doc. 85-10587 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Intent To Prepare a Draft Environmental Impact Statement; North Side Pumping Division Extension, Minidoka Project, ID

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior proposes to prepare a draft environmental impact statement (EIS) on the proposed North Side Pumping Division Extension, Minidoka Project, Idaho. The purpose of the project is to provide for the optimum management and use of several tracts of undeveloped Federal drylands totaling 17,160 acres for irrigation and wildlife enhancement, as well as for other minor purposes. The tracts are located within the existing North Side Pumping Division in Minidoka and Jerome Counties, Idaho.

All the alternatives considered center around an agreement signed in 1981 between the A&B Irrigation District and the Idaho Department of Fish and Game, which establishes some basic concepts to insure a sound and acceptable mix of irrigation and wildlife uses. Under the 1981 Agreement:

1. Certain lands in key locations would be designated as critical wildlife areas and would be protected and managed as escape and winter cover for

wildlife by the Idaho Department of Fish and Game.

2. Lands placed in private ownership for irrigation would have an easement reserved to the United States requiring that: (a) The landowners manage a part of their new lands to provide wildlife habitat, and (b) the landowners permit hunter access on part of their lands.

The recommended plan would provide irrigation service to 10,730 acres of new farmland and 820 acres of existing farmland with an inadequate water supply. Most of the water would be obtained by new ground-water wells, but a small amount of additional pumping from the Snake River also would be required. In addition, 240 acres of land in parcels too small to develop would be sold to adjacent landowners to be irrigated with their existing water supply. Approximately 5,590 acres of land in 72 tracts scattered throughout the existing North Side Pumping Division would be protected, improved, and managed as escape and winter cover for wildlife. In addition to the irrigation and wildlife functions, 840 acres of land would be used for other minor purposes including a public golf course, an irrigation district headquarters, and the continued operation of a sewage effluent disposal area. A no action alternative also will be considered in the EIS. Other potential developments were evaluated in the earlier study efforts but have been excluded from further consideration. These included alternative locations for the critical wildlife areas, different methods of managing wildlife habitat on the new croplands, different means of improving existing wildlife habitat, and alternative ways for controlling agricultural and storm runoff.

A considerable public involvement program was carried out during planning for the project to reach agreement among the interested publics as to project details needed to implement the concepts of the 1981 Agreement. This effort included consideration of the impacts of the various alternatives. Therefore, no formal scoping meetings are planned in connection with preparation of the draft EIS.

Interested public entities and individuals may obtain information on the project and provide input to the draft EIS. A combined planning report/draft EIS is expected to be completed and available for public review and comment by November 1985.

The contact person for this draft EIS is Robert Adair, Bureau of Reclamation, Box 043, 550 West Fort Street, Boise, Idaho 83724, telephone (208) 334-1209.

Dated: April 24, 1985.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 85-10537 Filed 4-30-85; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-205 (Final)]

Carbon Steel Wire Rod from the German Democratic Republic; Rescheduling of Hearing

AGENCY: International Trade Commission.

ACTION: Rescheduling of the hearing to be held in connection with the subject investigation.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigation for 10:00 a.m. on June 5, 1985 to 10:00 a.m. on July 11, 1985.

For further information concerning the conduct of the investigation, hearing proceures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Ann Reed (202-523-0255), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1985 the Commission instituted the subject investigation and schdeuled a hearing to be held in connection therewith for June 5, 1985 (50 FR 13290, April 3, 1985). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from May 20, 1985 to July 1, 1985. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(2)(B)), the Commission must make its final determination in antidumping investigations within 45 days of Commerce's final determination, or in this case by August 14, 1985.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on June 28, 1985, pursuant to section 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on July 11, 1985 at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on July 1, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on July 8, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 8, 1985.

Testimony at the public hearing is governed by §207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see §201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with §207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of section 207.24 (19 CFR § 207.24) and must be submitted not later than the close of business on July 17, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 17, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). 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: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: April 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-10601 Filed 4-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-213]

Certain Fluidized Bed Combustion Systems; Denial of Motion To Permit the Administrative Law Judge To Take Evidence on the Remedy and Public Interest Issues

AGENCY: International Trade Commission.

ACTION: Denial of motion to permit the administrative law judge (ALJ) to take evidence on the remedy and public interest issues.

SUMMARY: Notice is hereby given that the Commission has denied the Commission investigative attorney's (IA) motion to permit the ALJ in the above-captioned investigation to take evidence on the remedy and public interest issues.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0189.

SUPPLEMENTARY INFORMATION: The IA filed a motion requesting that the Commission permit the ALJ to take evidence on the remedy and public interest issues in the above-captioned investigation and that the ALJ grant leave to request interlocutory review of her ruling pursuant to section 210.70 of the Commission Rules of Practice and Procedure. Motion No. 213-2. The ALJ denied the motion for an order requesting permission to take evidence on the remedy and public interest issues. Order No. 2. The ALJ found that most of the issues identified by the IA related to both violation and remedy or public interest issues. Thus, evidence on these issues will be admissible at the evidentiary hearing on violation of section 337. With regard to questions related solely to the remedy or public interest issues, the ALJ found that the Commission must determine if it wants a record developed pursuant to proceeding under the Administrative Procedure Act. The ALJ granted the IA's motion for interlocutory review of this order, Order No. 3, and on March 19, 1985, the IA filed a petition requesting interlocutory review of Order No. 2.

The IA has not shown that the circumstances in this investigation are so different that the Commission should invoke the extraordinary alternative procedure available under § 210.58(b) of the rules. In the absence of such a showing the Commission has denied the motion. At the time the Commission undertakes to decide whether to review the ALJ's initial determination regarding violation of section 337, the Commission will consider whether it is necessary to develop a record before the ALJ on one or more specific issues related to the remedy and public interest.

Copies of the ALJ's order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

By order of the Commission.

Issued: April 22, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-10600 Filed 4-30-85; 8:45 am]

BILLING CODE 7020-02-M

[332-200]

Competitive Position of U.S. Producers of Semiconductors

AGENCY: International Trade Commission.

ACTION: Postponement of public hearing and deadline for filing written submissions.

EFFECTIVE DATE: April 26, 1985.

SUPPLEMENTARY INFORMATION: The public hearing in connection with investigation No. 332-200, which was originally scheduled to be held in Palo Alto, Calif., on June 19, 1985, beginning at 10 a.m., has been postponed until further notice. The deadline for notification of appearances at the hearing and submission of public comments in connection with the investigation will be announced when the public hearing is rescheduled. The original notice of the investigation, which also announced the hearing, was published in the **Federal Register** of November 8, 1984 (49 FR 44691).

By order of the Commission.

Issued: April 26, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-10606 Filed 4-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-248 (Preliminary) and Investigations Nos. 731-TA-259 and 260 (Preliminary)]

Offshore Platform Jackets and Piles From the Republic of Korea and Japan

AGENCY: 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 investigation No. 701-TA-248 (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 from the Republic of Korea (Korea) of offshore platform jackets and piles, provided for in item 652.97 of the Tariff Schedules of the United States (TSUS), which are alleged to be subsidized by the Government of Korea. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by June 3, 1985.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731-TA-259 and 260 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(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 from Japan and Korea of offshore platform jackets and piles, provided for in item 652.97 of the TSUS.

which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in these cases by June 3, 1985.

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, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: April 18, 1985.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–523–4612), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on April 18, 1985 (Korea), and April 19, 1985 (Japan), by Kaiser Steel Corp., Napa, CA; and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, Kansas City, KS.

Participation in the Investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance 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), as amended by 49 FR 32569, Aug. 15, 1984), 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 May 13, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Tedford Briggs (202–523–4612) not later than May 9, 1985, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping 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 May 16, 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 Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). 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 Act 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: April 23, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–10602 Filed 4–30–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 22–49]

Sugar; Institution of Investigation and Scheduling of Public Hearing

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 22(d) of the Agricultural Adjustment Act (7 U.S.C. 624(d)) and scheduling of a public hearing in connection therewith.

SUMMARY: Following receipt on March 29, 1985, of a request from the President for an investigation under section 22 of the Agricultural Adjustment Act, the Commission instituted investigation No. 22–49 for the purpose of determining whether the import fees for sugar set forth in item 956.15 of the Appendix to the Tariff Schedules of the United States (TSUS) may be terminated and whether the import fees for sugar set forth in items 956.05 and 957.15 of the Appendix to the TSUS may be modified to one cent per pound without resulting in sugar being imported or practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the price-support program of the U.S. Department of Agriculture for sugar cane or sugar beets or to reduce substantially the amount of any product processed in the United States from sugar.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Lowell Grant (202–724–0099) or Stephen Burket (202–724–0088), Agriculture Division, Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

The President's letter, which was dated March 29, 1985, stated that "I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that changed circumstances require the termination of import fees for the entry of raw sugar as described in item 956.15 of part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) and a modification of the import fees for TSUS items 956.05 and 957.15 from the current adjustable fees." The President directed the U.S. International Trade Commission "to make an investigation of this matter under section 22 of the Agricultural Adjustment Act of 1933, as amended." The President's letter further stated "The Secretary of Agriculture has also determined and reported to me, pursuant to section 22(b) of the Agricultural Adjustment Act of 1933, as

amended, that a condition exists requiring emergency treatment. I have, therefore, issued a proclamation suspending the import fees for TSUS item 956.15 and modifying the fees for TSUS items 956.05 and 957.15 to one cent per pound. The suspension and modification of these fees will continue in effect pending receipt of the report and recommendations of the United States International Trade Commission and action that I may take thereon."

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (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 (19 CFR 201.16(c)).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on July 16, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 25, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 24, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 27, 1985.

Testimony at the public hearing shall be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs. Posthearing briefs shall not exceed ten (10) pages of textual material, double spaced, on stationery measuring 8½ x 11 inches, and must be submitted not later than the close of business on July 23, 1985. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with the provisions contained in this notice.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 23, 1985. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's 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 shall 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).

For further information concerning the conduct of the investigation hearing procedures, and rules of general application, consult the Commission's Rules of Practices and Procedures, Part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 204.2 of the Commission's rules (19 CFR 204.2).

By order of the Commission.

Issued: April 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-10604 Filed 4-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-147]

Certain Papermaking Machine Forming Sections for the Continuous Production of Paper and Components Thereof; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Gary J. Rinkerman, Esq. and Juan S. Cockburn, Esq., of the Office of Unfair Import Investigations will be the Commission investigative attorneys in the above-cited investigation.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: April 24, 1985.

Arthur Wineburg

Office of Unfair Import Investigations.

[FR Doc. 85-10605 Filed 4-30-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 22-48]

Certain Articles Containing Sugar

AGENCY: International Trade Commission.

ACTION: Institution of an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) and scheduling of a public hearing in connection therewith.

SUMMARY: Following receipt on March 22, 1985, of a request from the President for an investigation under section 22 of the Agricultural Adjustment Act, the Commission instituted investigation No. 22-48 for the purpose of determining whether certain articles containing sugar derived from sugar cane or sugar beets, not within the scope of other section 22 restrictions, and provided for in items 155.35, 156.45, 156.47, 157.10, 182.90, 182.92, 183.01, 183.05, and 184.7070 of the Tariff Schedules of the United States Annotated (TSUSA), are being or are practically certain to be imported under such conditions and in such quantities as to materially interfere with the price support program of the Department of Agriculture for sugar cane and sugar beets.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Lowell Grant (202-724-0099) or Stephen Burket (202-724-0099), Agriculture Division, Office of Industries, U.S. International Trade Commission.

SUPPLEMENTARY INFORMATION:

Background

The President's letter, which was dated March 22, 1985, stated that "I have been advised by the Secretary of Agriculture, and I agree with him, that

there is reason to believe that certain articles containing sugar or sirups derived from sugar cane or sugar beets are practically certain to be imported under such conditions, at such prices, and in such quantities as to materially interfere with the price support program for sugar cane and sugar beets undertaken by the Department of Agriculture." The President directed that the Commission investigate to determine whether such articles containing sugar are "practically certain to be imported under such conditions, as such prices, and in such quantities as to materially interfere with the price support program of the Department of Agriculture for sugar cane and sugar beets, and to report its findings and recommendations to me at the earliest practicable date."

The President's letter also stated "The Secretary has also determined and reported to me, pursuant to section 22(b) of the Agricultural Adjustment Act of 1933, as amended, that a condition exists requiring emergency treatment with respect to certain articles containing sugar or sirups derived from sugar cane or sugar beets as described below, and has therefore recommended that I take prompt action under section 22(b) to restrict the quantity of these articles which may be entered. I have therefore, on January 28, 1985, issued a proclamation establishing quotas for the following articles containing sugar derived from sugar beets or sugar cane, except articles subject to items 958.10, 958.15 or other import restrictions under part 3 of the Appendix to the Tariff Schedules of the United States:

TSUS item	Quota level (short tons)
156.45	3,000
183.01	7,000
183.05	84,000

These quotas will continue in effect pending the report and recommendations of the United States International Trade Commission and action that I may take thereon."

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary of the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11) not later than 21 days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Upon the expiration of the period for filing entries of appearance, the Secretary shall prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation, pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)). Each document filed by a party to this investigation must be served on all other parties to the investigation (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 (19 CFR 201.16(c)).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on July 17, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC 20436. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 26, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 24, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 28, 1985.

Testimony at the public hearing shall be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs. Posthearing briefs shall not exceed ten (1) pages of textual material, double spaced, on stationery measuring 8½ x 11 inches, and must be submitted not later than the close of business on July 24, 1985. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearings briefs or answers which do not comply with the provisions contained in this notice.

Written Submissions

As mentioned, parties to this investigation may file prehearing and posthearing briefs by the dates shown above. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before July 24, 1985. A signed original and fourteen (14) true copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the Commission's 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 shall 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).

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR Part 201).

This notice is published pursuant to § 204.2 of the Commission's rules (19 CFR 204.2).

By order of the Commission.

Issued: April 25, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-10603 Filed 4-30-85; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules

AGENCY: Office of Records Administration; NARA.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a monthly notice of all agency records schedules (requests for records disposition authority) which include records proposed for disposal. The first notice was published on April 1, 1985 (50 FR 12879). Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Comments must be received in writing on or before June 30, 1985.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, D.C. 20408. Requestors must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency. Copies of the schedules are also available for public inspection during the comment period at the Office of the Federal Register, Room 8401, 1100 L Street NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: Each year U.S. government agencies create billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

The monthly public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records covered by the schedule. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

Schedules Pending Approval:

1. Department of the Army, Office of the Adjutant General (NC1-AU-85-12). Records relating to withheld taxes for Korean nationals.

2. Department of the Army, Office of the Adjutant General (NC1-AU-85-13). Individual pay records for Korean nationals not eligible for retirement benefits.

3. Department of the Army (NC1-AU-85-24). Records of various Army organizational offices, 1947-63, including routine correspondence, manuals, bulletins, circulars of an administrative or informational nature, and project files relating to administrative management. Related records of this group with reference and research value will be accessioned by the National Archives.

4. Department of Commerce, International Trade Administration (NC1-151-85-2). Case files relating to trade adjustment assistance to firms and industries.

5. Administrative Office of the United States Courts, Office of Management Review (NC1-116-84-2). Records relating to the review of the management and financial operations of the Federal Courts.

6. Health Care Financing Administration, Office of Administrative Services (NC1-440-85-2). Routine Medicare beneficiary correspondence files consisting of inquiries and complaints received by central office, regional offices, and intermediaries and carriers.

7. Department of the Navy, Naval Data Automation Command (NC1-NU-85-4). Summary records such as copies of repair requests and correspondence relating to upkeep, maintenance, or alteration of vessels.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-10526 Filed 4-30-85; 10:21 am]

BILLING CODE 7515-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-25]

NASA Advisory Council, Space and Earth Science Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee.

DATE AND TIME: May 20, 1985, 9:30 a.m. to 5:30 p.m.; May 21, 1985, 8:30 a.m. to 5:30 p.m.; May 22, 1985, 8:30 a.m. to 12:30 p.m.

ADDRESS: National Aeronautics and Space Administration, FB 10-B, Room 226-A, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Dr. Jeffrey D. Rosendhal, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202-453-1410).

SUPPLEMENTARY INFORMATION: The NAC Space and Earth Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space and Earth Science programs. The Committee is chaired by Louis Lanzerotti and is composed of 27 members.

The meeting will be closed to the public from 4:45 p.m. to 5:30 p.m. on May 20. During this session the Committee will discuss the evaluate candidates being considered for Committee membership. Throughout this session the qualifications of candidates will be candidly discussed and appraised. Since this session ill be concerned throughout with matters listed in 5 U.S.C. 552b(c)(6), it has been determined that this session should be closed to the public. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including Committee members and other participants).

Type of meeting: Open—except for a closed session as noted in the agenda below.

Agenda

May 20, 1985

9:30 a.m.—Introduction, Announcements, Logistical Arrangements, etc.

9:45 a.m.—Status of Office of Space Science and Applications (OSSA) FY 1986 Budget in Congress, Current OSSA Planning and Program Priorities, Prospects for the FY 1987 Budget.

11:15 a.m.—FY 1987 Budget and Program Issues from the Perspective of the Division Directors:

- Astrophysics;
- Solar System Exploration; and
- Earth Science and Applications.

2:15 p.m.—Status Reports on FY 1987 New Start Candidates.

4:45 p.m.—Space and Earth Science Advisory Committee (SESAC) Membership (closed session).

5:30 p.m.—Adjourn.

May 21, 1985

8:30 a.m.—Status of Space Station Program.

9:30 a.m.—Update on Space Station Science Task Force Activities.

10 a.m.—SESAC Study Planning.

1 p.m.—General Discussion of Long-Range Planning, FY 1987 Budget Issues, and Program Priorities.

3:30 p.m.—Formulation of Preliminary Recommendations/Drafting of Committee Position Papers.

5:30 p.m.—Adjourn.

May 22, 1985

8:30 a.m.—General Discussion of Committee Recommendaitons.
10 a.m.—Preparation of Final Committee Position Papers.
11 a.m.—Meeting Summary/ Conclusions and Recommendations; Plans for Next Year.
12:30 p.m.—Adjourn.

Dated: April 25, 1985.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 85-10497 Filed 4-30-85; 8:45 am]

BILLING CODE 7510-01-M

[Notice 85-26]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC) Informal Earth System Sciences Committee (ESSC).

DATE AND TIME: June 8, 1985, 8:30 a.m. to 5:30 p.m.; June 9, 1985, 1 p.m. to 6:30 p.m.; June 10, 1985, 8:30 a.m. to 12:30 p.m.; June 11, 1985, 8:30 a.m. to 12:30 p.m.; June 12, 1985, 8:30 a.m. to 5:30 p.m.; and June 13, 1985, 8:30 a.m. to 5:30 p.m.

ADDRESS: Rosario Resort, Orcas Island, Eastsound, Washington 98245.

FOR FURTHER INFORMATION CONTACT: Mr. Ray J. Arnold, Code EE, National Aeronautics and Space Administration, Washington, DC 20546 (202) 453-1707.

SUPPLEMENTARY INFORMATION: The NASA Advisory Council, Informal Earth System Sciences Committee has been formed to provide advice and counsel to NASA on the future role, responsibilities, and implementation strategies for the Earth Science and Applications program. This committee is chaired by Dr. Francis L. Bretherton and has a total of 17 members.

Type of Meeting: Open.

Agenda

June 8, 1985

8:30 a.m.—Scientific presentations.
1 p.m.—Writing assignments.
5:30 p.m.—Adjourn.

June 9, 1985

1 p.m.—Discussion on the observing strategy.
3:30 p.m.—Writing assignments.
6:30 p.m.—Adjourn.

June 10, 1985

8:30 a.m.—Discussion on the implementation strategy and priorities.
10:30 a.m.—Writing assignments.
12:30 p.m.—Adjourn.

June 11, 1985

8:30 a.m.—Discussion on Agency roles.
10:30 a.m.—Writing assignments.
12:30 p.m.—Adjourn.

June 12, 1985

8:30 a.m.—Deadline for receipt of writing assignments.
1 p.m.—Discussion on the first draft of the report.
5:30 p.m.—Adjourn.

June 13, 1985

8:30 a.m.—Continuation of the discussion on the first draft of the report.
5:30 p.m.—Adjourn.

Dated: April 25, 1985.

Richard L. Daniels,

Deputy Director, Logistics Management and Information Programs Division, Office of Management.

[FR Doc. 85-10498 Filed 4-30-85; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-206]

Southern California Edison Co.; Consideration of Issuance of Amendment to Provisional Operating License and Proposed No Significant Hazards Consideration; Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-13, issued to Southern California Edison Company (the licensee), for operation of the San Onofre Nuclear Generating Station, Unit No. 1 located in San Diego County, California.

By letter dated April 9, 1985, the licensee requested an amendment which would modify license condition 3.E, Steam Generator Inspections. The amendment would modify the schedule for performing an inspection of the steam generators from within six equivalent months of operation from the outage that ended on November 27, 1984 (estimated mid to late June 1985) to during the refueling outage scheduled to begin no later than November 30, 1985. The requirements to submit the inspection program 45 days prior to the shutdown and to obtain Commission approval before resuming power operation after the inspection are unchanged.

Before issuance of the proposed license amendment, the Commission will have made findings by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The basis for the proposed determination is discussed in the following paragraphs.

The present license condition 3.E became effective upon issuance of Amendment No. 80 to the license on September 4, 1984. The basis for this license condition was discussed in the safety evaluation supporting Amendment No. 80 and in the staff's safety evaluation dated February 7, 1984 regarding the results of the previous steam generator inspection. The staff concluded in the February 7, 1984 safety evaluation that a steam generator inspection would be required within six Effective Full Power Months (EFPM) from the previous inspection based on the licensee's inability, at that time, to demonstrate a degraduation rate less than 15% per year, but that the staff would evaluate any additional justification that the licensee may provide for extending this inspection interval.

The licensee's April 9, 1985 amendment request references a report entitled "1985 Reevaluation of Steam Generator Inspection Interval, March 1985" that was submitted for NRC staff review by letter dated March 19, 1985. The purpose of this report is to document the reevaluation of the basis for the current steam generator inspection interval and to provide sufficient information to justify a longer inspection interval. The licensee has reevaluated the intergranular attack degradation rate of the nonsleeved steam generator tubes using the methodology in the March 1985 report. The licensee concludes that the reevaluated intergranular attack rate (10% growth per 15 EFPM) justifies the

resumption of a refueling cycle interval (15 EFPM) for steam generator inspections.

The staff's preliminary evaluation of the March 1985 report indicates that the information presented justifies the licensee's amendment request to extend the schedule for performing the next steam generator inspection until the refueling outage scheduled to begin no later than November 30, 1985 after approximately 10.5 EFPM of operation, assuming optimum operation, since the last inspection. The licensee's analysis shows that the degradation rate is less than 15% per year.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (iv) of actions no likely to involve a significant hazards consideration relates to a relief granted upon demonstration of acceptable operation from an operating restriction that was imposed because acceptable operation was not yet demonstrated. This assumes that the operating restriction and the criteria to be applied to a request for relief have been established in a prior review and that it is justified in a satisfactory way that the criteria have been met. The proposed license amendment is encompassed by this example.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By May 31, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 [in Missouri (800) 342-6700]. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to J. A. Zwolinski: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, Post Office Box 800, Rosemead, California 91770, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions,

supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the licensee's application for amendment dated April 9, 1985, the steam generator inspection interval report submitted March 19, 1985, and the NRC staff's safety evaluation dated February 7, 1984 which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the San Clemente Public Library, 242 Avenida Del Mar, San Clemente, California 92672.

Dated at Bethesda, Maryland, this 25th day of April 1985.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 85–10576 Filed 4–30–85; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Regulatory Commission Advisory Committee on Reactor Safeguards; Subcommittee on Long Range Plan for NRC; Meeting

The ACRS Subcommittee on Long Range Plan for NRC will hold a meeting on May 16, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Thursday, May 16, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will continue to develop a long range plan for the NRC. Topics to be discussed are technical and administrative issues related to the regulation of nuclear power plant safety and safety regulation over the next 5 to 10 years.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

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 therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Richard Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST. Persons planning 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: April 25, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–10575 Filed 4–30–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards; Subcommittee on Systematic Evaluation Program (San Onofre); Meeting

The ACRS Subcommittee on Systematic Evaluation Program (San Onofre) will hold a meeting on May 15, 1985, Room 1046, 1717 H Street NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, May 15, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will review the Integrated Plant Safety Analysis Report (IPSAR) for San Onofre Unit 1.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

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 therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Herman Alderman (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST. Persons planning 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: April 25, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–10574 Filed 4–30–85; 8:45 am]

BILLING CODE 7590–01–M

POSTAL SERVICE

Privacy Act of 1974; Systems of Records

AGENCY: Postal Service.

ACTION: Advance notice of new routine use to be added to an existing system of records, and final notice of the deletion of a temporary routine use.

SUMMARY: The purpose of this document is to provide information for public comment concerning the Postal Service's proposal to add a new routine use to system USPS 050.020, Finance Records—Payroll System, and to publish notice of the deletion of a temporary routine use to that system.

DATE: Any interested party may submit written comments on Part 2 of this notice regarding the proposed new routine use. Comments must be received on or before May 31, 1985. Part 1 became effective February 3, 1985.

ADDRESS: Comments may be mailed to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, SW, Washington, DC 20260-5010, or delivered to Room 8121 between 8:15 a.m. and 4:45 p.m. Comments received may be inspected in Room 8121 between 8:15 am. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, Records Office (202) 245-5568.

SUPPLEMENTARY INFORMATION: Part 1 of this notice deletes temporary routine use No. 28 to system USPS 050.020, Finance Records—Payroll System. In Part 2 of this notice the Postal Service is proposing a new routine use No. 28 for system USPS 050.020, in connection with its plans to participate with Federal agencies and non-Federal entities in efforts to enhance the intergrity of benefit programs whether sponsored by those agencies and entities or by the Postal Service. The Postal Service plans to provide to Federal agencies and non-Federal entities certain postal employee information required in connection with efforts to prevent illegal payments under such benefit programs. Disclosures may be made either upon the request of the Federal agency or non-Federal entity or by the Postal Service on its own initiative, under a cooperative agreement. This routine use, once in effect, will permit the discretionary disclosure of data from the Postal Service's Payroll System files when disclosure is necessary for the Postal Service, the Federal agency or the non-Federal entity to take appropriate corrective action to improve the integrity of benefit programs such as the Food Stamp Program, Aid to Families with Dependent Children, workers' compensation, sick leave, education and home loan programs, etc.

Part 1—Deletion of Temporary Routine Use

Temporary routine use No. 28 to system 050.020 was published in 49 FR 4291; February 3, 1984, to be in effect for a period of one year from date of publication. While in effect, the routine use allowed for the disclosure to the Department of Education of home address information on former postal employees for the purposes of notifying those individuals of their indeptedness to the United States under programs administered by the Secretary of Education and for taking subsequent actions to collect those debts. The effective period of one year elapsed February 3, 1985, and the routine use is being deleted.

Part 2—Proposed New Routine Use

The Postal Service, in connection with direction set by the President's Council on Integrity and Efficiency (PCIE) Long Range Computer Matching Group, has determined that it is prudent to identify current or former Postal Service employees who have improperly received compensation under Federal agency, non-Federal entity, or Postal Service benefit programs, and to prevent illegal payments of such benefits. The Postal Service therefore proposes to undertake or to participate in efforts to eliminate this problem by disclosing certain Postal Service employee information in connection with computer matching operations conducted by the Postal Service or by the requesting Federal agencies or non-Federal entities, as determined through written agreements. The matches will be conducted in accordance with the Office of Management and Budget's Revised Supplemental Guidelines for Conducting Matching Programs (47 FR 21656, May 19, 1982). The Postal Service will obtain a signed agreement from the Federal agency or non-Federal entity specifying that the information disclosed by the Postal Service will be used for purposes of the computer match and for no other purposes and specifying that the information will be safeguarded against unauthorized disclosure.

Postal Service payroll files (USPS 050.020, Finance Records—Payroll System) contain general payroll information including name, social security number, salary, benefit deductions, leave data, addresses, records of attendance and other relevant payroll information. Under a computer matching arrangement, the Postal Service will disclose only information on "matched" employees which is necessary to make a thorough analysis for determining the recipient's status as to eligibility for compensation under the benefit program in question. The Postal Service retains the authority under the proposed routine use to withhold specific data elements if it is believed that the particular elements are not germane to the purpose of such analysis. This analysis, to be conducted by the involved Federal agency or non-Federal entity, or by the Postal Service, is an essential element of the project. The mere existence of an individual's match between the benefit program file and the Postal Service's Payroll System file will not of itself, or without the individual's prior opportunity to respond, be the cause of any benefit reduction or legal collection action.

Disclosure under the proposed routine use is compatible with the Postal Service's personnel management responsibility for oversight of its employees' conduct, particularly with regard to the requirement that these individuals comport themselves in a proper manner and not obtain financial benefits in a fraudulent manner.

Important limitations to the Postal Service's supplying of the data are that the involved parties must: (1) Agree to follow the requirements of the OMB's "Guidelines for Conducting Computerized Matching Programs"; (2) not utilize the information for purposes other than those specifically agreed upon; and (3) not derivatively use the file or information without the Postal Service's specific permission.

A match between the Postal Service's Payroll System File and the Federal agency or non-Federal entity benefit program file is not an indication that any illegality has occurred; the match will alert the participating parties, however, that further study is warranted to see if there is any impropriety. System USPS 050.020 last appeared in 50 FR 6087, February 13, 1985.

Accordingly, the existing temporary routine use No. 28 to system USPS 050.020, Finance Records—Payroll System, is deleted, and it is proposed to add a new routine use No. 28 as follows:

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

28. Disclosure of information about particular current or former postal employees may be made to requesting Federal agencies or non-Federal entities under approved computer matching efforts, limited to only those data elements considered relevant to making a determination of eligibility under particular benefit programs administered by those agencies or entities or by the Postal Service; to improve program integrity; and to collect debts and overpayments owed under those programs.

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Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-10523 Filed 4-30-85; 8:45 am]

BILLING CODE 7710-12-M

Privacy Act of 1974; Matching Program—Postal Service/Department of Agriculture

AGENCY: Postal Service.

ACTION: Notice of a Matching Program—U.S. Postal Service/U.S. Department of Agriculture.

SUMMARY: The U.S. Postal Service USPS) announces a proposal to match by computer certain records in its Payroll System file with the U.S. Department of Agriculture (USDA) Food Stamp Program Files. The match will be made under a written agreement between USPS and USDA. The USPS will perform the match using certain data provided by USDA. A matching report is set forth below.

DATE: Comments must be received on or before May 31, 1985.

ADDRESS: Send any comments to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260–5010. Copies of all written comments will be available for inspection and photocopying between 9:00 and 4:00 p.m. Monday through Friday in Room 8121 at the above address.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, Records Office, (202) 245–5568.

SUPPLEMENTARY INFORMATION: At the request of the USDA, the USPS has agreed to match certain data in USPS payroll system files (USPS 050.020 Records—Payroll System) with USDA Hawaii food stamp recipients files for the purpose of identifying those postal employees receiving food stamps, and determining their eligibility under the Food Stamp Program. Set forth below is the information required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management Budget.

Report of a Matching Program; U.S. Postal Service/U.S. Department of Agriculture

a. *Authority:* 39 U.S.C. 404.

b. *Program Description:* It is proposed that the U.S. Department of Agriculture (USDA) will submit to the U.S. Postal Service (USPS) a computer tape containing the names and social security numbers (SSNs) of its Hawaii food stamp recipients which the USPS will match against its payroll system file (SUPS 050.020). For matched employee names and SSNs (i.e., "hits") the USPS will disclose to USDA the following information from its payroll file: name, SSN, and annual gross wage which USDA will use to make a determination of eligibility under the Food Stamp Program. USPS 050.020, Payroll System, was last published in 50 FR 6087, February 13, 1985.

c. *Period of the Match:* The matching program will begin in [month] 1985 and end no later than September 30, 1986.

d. *Security:* Only the USPS personnel who perform the match will have access to the USDA computer tape. They will us it for the purpose of the match and for no other purpose and will safeguard it from unauthorized access. Likewise, the postal employee information disclosed to USDA will be used by authorized USDA personnel only for the purpose of the match and for no other purposes and will be safeguarded from unauthorized access

e. *Disposition of Records:* The USPS will not retain or copy the tape provided by USDA, and will return it upon completion of the match. All information compiled as a result of this matching effort will be destroyed as soon as the determination is made that it relates to a legitimate, non-fraud situation.

f. *Other Comments:* No bestowed rights, privileges or benefit will be terminated solely on the basis of a "hit" or the records provided by the USPS in connection with this program.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85–10524 Filed 4–30–85; 8:45 am]

BILLING CODE 7710–12–M

Privacy Act of 1974; Matching Program—Postal Service/State of Indiana Employment Security Division

AGENCY: Postal Service.

ACTION: Notice of a Matching Program—U.S. Postal Service/State of Indiana Employment Security Division.

SUMMARY: The Postal Service (USPS) announces a proposal to match by computer certain USPS records in its Payroll System file with the State of Indiana Employment Security Division (IESD) wage and unemployment insurance claims files. The match will be made under a written agreement between the USPS and IESD. The IESD will perform the match using certain data provided by the USPS. A matching report is set forth below.

DATE: Comments must be received on or before May 31, 1985.

ADDRESS: Send any comments to Records Officer, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, DC 20260–5010. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m. Monday through Friday in Room 8121 at the above address.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, Records Office (202) 245–5568.

SUPPLEMENTARY INFORMATION: At the request of the USPS, the IESD has agreed to match certain data in USPS payroll system files (USPS 050.020, Finance Records—Payroll System) with IESD wage and unemployment insurance claims files for the purpose of identifying any postal employees working in the State of Indiana who are employed by another employer (other than the Postal Service) and who are fraudulently receiving partial unemployment compensation or workers' compensation. Set forth below is the information required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Report of a Matching Program; U.S. Postal Service (USPS) State of Indiana Employment Security Division (IESD).

a. *Authority:* 39 U.S.C. 404.

b. *Program Description:* The USPS Inspection Service (IS) proposes to submit to the IESD a computer tape containing only the social security numbers (SSNs) of Indiana postal employees which the IESD has agreed to match against its wage and unemployment insurance claims files. For matched SSNs (i.e., "hits") the IESD will provide the IS with the following information from its files: individual name, employer name and address, the most current five quarter wage information, and the most current unemployment benefit information. Using the information provided by IESD, the IS will compare it to USPS payroll files, including its workers' compensation periodic payroll file, and produce a printout of suspect cases for further investigation. USPS 050.020, Payroll System, was last published in 50 FR 6087, February 13, 1985.

c. Period of the Match: The matching program will begin in [month] 1985 and end no later than September 30, 1986.

d. *Security:* Only the IESD personnel who perform the match will have access to the USPS computer tape; they will use it for the purpose of the match and for

no other purpose, and will safeguard it from unauthorized access. The IS personnel will have access only to the details of the "hits" and not other information or names in the IESD files, and the USPS tape and all information obtained by the IS will be maintained in locked cabinets, and safeguarded against unauthorized access.

e. *Disposition of Records:* The IESD will not retain or copy the tape provided by the USPS. Upon completion of the match, the IESD will return the USPS tape to the IS. Except for any individual investigative case file that may be established within the parameters of system USPS 080.010, Inspection Requirements—Investigative File System (last published in 48 FR 10964, March 15, 1983), all other information compiled as a result of this matching effort will be destroyed as soon as the determination is made that is relates to a legitimate, non-fraud situation.

f. *Other Comments:* No USPS bestowed rights, privileges or benefit will be terminated solely on the basis of a "hit" or the records provided by the IESD in connection with this program.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-10525 Filed 4-30-85; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-21976; File No. SR-NYSE-85-8]

Self-Regulatory Organizations; Notice of Filing of and Order Granting Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc.; Relating to New York Stock Exchange Participation in the Central Registration Depository

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice is hereby given that on March 18, 1985, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described in Items, II and III below, which Items have been prepared by the NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The Exchange is proposing minor language changes to certain rules which require submission of applications for registration of personnel in order to effectuate the Exchange's participation in the Central Registration Depository.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposes rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The New York Stock Exchange intends to become a participant in the Central Registration Depository ("CRD"). The CRD is a computerized application processing system operated pursuant to an agreement between the National Association of Securities Dealers ("NASD") and the North American Securities Administrators Association ("NASAA"). Currently, member organizations, which are also NASD members, must submit applications for registration of securities personnel to both the Exchange and NASD. The CRD system will be utilized to process applications for registration of personnel of member organizations which are also members of the NASD. Applications will continue to be deemed to be filed with an approved by the Exchange. Therefore Exchange participation will elimiate duplicate filing of applications with the Exchange by dual NYSE/NASD member organizations. It is expected that cost savings for both the Exchange and member organizations will result from utilization of the CRD.

In order to effectuate the Exchange's participation in the CRD, technical changes to Rules 311 (Formation and Approval of Member Organizations), 321 (Formation of Corporate Affiliates), 345 (Employee—Registration, Approval, Records) and 720 (Registration of Options Principals) are necessary. These changes will make it clear that any filing or submission required under these rules made with an authorized agent of the Exchange will be deemed to be a filing with the Exchange. The Exchange's jurisdiction under Rules 476 and 477 in regard to such persons and such filings will not be adversely affectd by these changes. The Exchange will announce to its membership, through an Information Memo, the revised submission procedures for application as a result of its participation in the CRD.

Statutory Basis for the Proposed Rule Change

The proposed amendments to Rules 311, 321, 345 and 720 to accommodate Exchange participation in the CRD are consistent with Section 6(b)(5) of the Act in that they will foster cooperation and coordination among self-regulatory organizations engaged in regulating persons handling securities transactions. The proposed amendments will not affect the ability of the Exchange to examine and verify the qualifications of natural persons associated with members, pursuant to Section 6(c)(3) of the Act. In addition, the proposed amendments will not affect existing procedures of the Exchange for compliance with Section 6(b)(7) of the Act in providing for procedures for disciplining members and persons associated with members or denying, barring or otherwise limiting access by members and persons associated with members where appropriate.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule changes do not impose any burden on competition.

. C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants or Others.

The Exchange has neither solicited nor received written comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

The NYSE has requested accelerated approval of the proposed rule change in view of the potential for reduced paperwork in filing applications for approval of certain associated persons by member organizations and its belief that participation in the CRD will not inhibit the Exchange's ability to surveil its member organizations.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the

requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of the proposal in that the Exchange is currently prepared to begin participation in the CRD and thereby will be enabled to benefit immediately from such participation. The Commission believes that accelerated approval is appropriate because cost savings could thereby be maximized for the NYSE and its member organizations by reducing duplicative paperwork for NYSE member organizations that are also members of the NASD. In addition, the proposed amendments to Exchange Rules 311, 321, 345 and 720 are technical in nature and clarify that registration applications filed with authorized designees (*i.e.* the CRD) are to be considered as filed with the Exchange.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the file number in the caption above and should be submitted by May 22, 1985.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 23, 1985.

John Wheeler,

Secretary.

[FR Doc 85-10517 Filed 4-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14486; File Nos. 812-6023 and 812-6024]

Applications and Opportunity for Hearing; Sun Life Insurance and Annuity Company of New York et al.

April 24, 1985.

Notice is hereby given that Sun Life Insurance and Annuity Company of New York (the "Company"), a New York stock life insurance company with its executive office at 67 Broad Street, New York, New York 10004; Sun Life (N.Y.) Variable Account A and Sun Life (N.Y.) Variable Account B (the "Accounts"), registered under the Investment Company Act of 1940 ("Act") as unit investment trusts and established by the Company in connection with the proposed issuance of certain variable annuity contracts ("contracts"); and Clarendon Insurance Agency, Inc., the principal underwriter for the contracts, (collectively, "Applicants") filed applications on January 14, 1985, and amendments thereto on March 18, and April 23, 1985, for an order pursuant to section 6(c) of the Act, exempting Applicants from the provisions of sections 26(a)(2)(C) and 27(c)(2) of the Act to the extent necessary to permit transactions described in the applications. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and rules thereunder for a statement of the relevant provisions.

Sections 26(a)(2)(C) and 27(c)(2)

Applicants request exemption from sections 26(a)(C) and 27(c)(2) to the extent necessary to deduct from the Accounts a daily mortality and expense risk charge equal to an effective annual rate of 1.3% of net assets (.80% for mortality risks and .50% of administrative expense risks.) Applicants state that the mortality and expense risk charge compensates the Company for the risk that annuitants under the contracts will live longer as a group than had been anticipated in setting the annuity rates guaranteed in the contracts, and for the risk that the guaranteed contract maintenance charge will prove insufficient to cover the administrative costs incurred in regard to the contracts. Applicants represent that the deferred sales charge (which is equal to the amount withdrawn divided by .95, minus the amount withdrawn, and subject to a maximum of 5% of purchase payments) assessed in connection with certain full or partial withdrawals will recoup their expected distribution costs associated with registering and distributing the contracts. Applicants further represent that the Company does not expect to realize a profit from the mortality and expense risk charge, and has determined that it is reasonable in amount with respect to comparable annuity products. This latter representation is based upon its analysis of publicly available information about comparable annuity products in light of the products' particular annuity features, taking into consideration such factors as annuity rate guarantees, current charge levels, sales loads and expense charge guarantees. The Company undertakes to maintain and make available to the Commission upon request memoranda setting forth the basis for this representation. Applicants also represent that the Accounts will only invest in a mutual fund if such fund undertakes to have a Board of Directors with a disinterested majority formulate and approve any plan under Rule 12b-1 to finance distribution expenses.

Notice is further given that any interested person wishing to request a hearing on the applications may, not later than May 20, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the applications will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc 85-10513 Filed 4-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23672; 70-6714]

Columbia Gas System, Inc.; Extension of Authorization To Issue Common Stock Pursuant to Dividend Reinvestment Plan

April 24, 1985.

Columbia Gas System, Inc. ("Columbia"), a registered holding

company, has filed an application-declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder.

On May 3, 1982 (HCAR No. 22486) this Commission authorized Columbia to issue and sell up to 3,000,000 shares of its authorized, but unissued common stock from time to time through April 30, 1985 pursuant to its Dividend Reinvestment Plan ("Plan"). As of April 23, 1985, 2,031,415 of the 3,000,000 shares had been issued through the Plan, and 968,585 shares remain registered for issuance pursuant to the Securities Act of 1933.

Columbia now proposes that the prior Commission authorization for issuance of the remaining shares of common stock be extended through April 30, 1986. The continued issuance of common stock through the Plan will provide Columbia with an additional source of common equity capital. The funds generated from the issuance of common stock will be added to Columbia's general funds. These funds will be used, together with funds available and those to be generated from operations, to satisfy the demands upon such general funds, including the capital expenditures program of Columbia's subsidiaries.

The application-declaration 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 May 14, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in 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 application-declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-10512 Filed 4-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21954; SR-NYSE-85-12]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 1, 1985, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The NYSE is proposing to amend its rate schedule to recover the incremental bond ticker network and delayed prices ticker network expenses resulting from Western Union rate increases that became effective on January 31, 1985. The rate schedule is being changed, retroactive to February 1, 1985, to allow for the separation of communications costs from the ticker display fees.

The fee for bond ticker display service has been $89.00 for the first unit and $4.85 for each additional unit. Under the new structure, the implicit first unit fee is $108.50 where communication facilities are provided ($48.50 ticker display fee plus the $60.00 communications fee) and $48.50 if no communication costs are involved. Additional unit fees are to remain the same. Similarly, the fee for bond ticker printer service which has been $271.00 has been increased to $298.50 ($250.00 for the bond ticker printer plus $48.50 for ticker display). The delayed prices services fee for leased lines subscribers also has been increased from $296.00 to $330.00.

According to the NYSE, this proposed rule change will affect all subscribers to either the bond network or the delayed network in the same manner, since the rates for each network are being raised by the same percentage (22 percent for bond display subscribers and 11 percent for delayed prices service via leased lines subscribers). It also will affect all printer subscribers in the same manner because each printer subscriber will be charged the full costs of his printer. As the present fees apply equally to all members, non-member broker-dealers and others who subscribe to these services, the increases, likewise, will apply. The NYSE informed data recipients of the likelihood of a rate change by a notice dated March 1, 1985, and intends to inform them of the precise rates by notices accompanying their April 1985 statements.

The Exchange cites Sections 6(b)(4) and 6(b)(5) of the Act as the statutory bases for the proposed rule change. According to the NYSE, the proposed rule change relates to Section 6(b)(4) because that section requires an exchange to have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities. It also relates to Section 6(b)(5) to the extent that the Exchange's recovery of its costs with respect to its electronic dissemination of bond last sale prices and equity last sale prices on a delayed basis serves to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market and to protect investors and the public interest.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and the subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-85-12.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the NYSE.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 19, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-10518 Filed 4-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21985; SR-PSE-85-6; PHLX-85-9]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Philadelphia Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change; Order Approving Proposed Rule Change; Notice of Filing and Order Granting Accelerated Approval and Partial Accelerated Approval to Proposed Rule Change

The Pacific ("PSE") and Philadelphia ("Phlx") Stock Exchanges submitted proposed rule changes, respectively, on April 1 and 4, 1985, pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] to amend certain PSE and Phlx policies concerning new option series.

I. Description of the Proposals, Their Purpose and Statutory Basis

A. Proposals Being Approved in this Release

The proposed rule changes would amend PSE's and Phlx's policies to allow: (1) Strike price intervals of $2.50 for individual stock options with strike prices of $25.00 or less; and (2) the addition of series of individual stock options until the first calendar day of the month in which the option expires, or until the fifth business day prior to expiration in "unusual market conditions."[3]

Currently, the policies of both Exchanges require strike price intervals of $5.00 for stocks trading below $200.00, and $10.00 for stocks trading at or above $200.00. In addition, the exchanges currently allow the introduction of new individual stock option series only until 45 days prior to the series' expiration.

In their filings, both PSE and Phlx stated that permitting strike price intervals of $2.50 for options with strike prices of less than $25.00 would enhance depth and liquidity in lower priced options by making at-the-money or near-the-money puts and calls in these option series more readily available. In addition, with regard to the introduction of new option series until the beginning of the expiration month, or until five business days prior to expiration under unusual market conditions, PSE stated that the proposal is consistent with the policy concerning the introduction of new index option series recently approved by the Commission.[4]

Furthermore, PSE and Phlx noted that this portion of their respective proposals is substantially identical to rule changes filed by the Chicago Board Options ("CBOE") and American ("Amex") Stock Exchanges, and recently approved by the Commission.[5] Finally, both Exchanges believe that these proposed rule changes are consistent with Section 6(b)(5) of the Act because they will facilitate transactions in securities by providing market participants with greater flexibility in their investment opportunities and strategies.

B. Proposal Only Being Noticed in This Release

PSE also is proposing a one year pilot program which would allow the listing of individual equity options with two near-term expiring series available at all times. The amended expiration cycle would allow a maximum of four expiration months to trade at any given time.[6] For example, in the January, April, July, October cycle the proposal would allow the introduction of an option series with a February expiration (beginning on the Monday following the December option series' expiration), so that during this cycle there would be four expiration months open simultaneously: January and February (the two near-term expiring series), and April and July. Next, upon expiration of the January series, the proposal would allow introduction of a March expiration series. This would allow the Exchange to retain two open near-term expiring series (February and March) and a maximum of four expiring series (February, March, April, and July).

In this connection, PSE indicated that the industry's experience with index options is that consecutive, near-term expiration month cycles can attract substantial investor interest. The PSE believes that the additional equity option series in the second near-term expiration month should provide investors with greater flexibility in their short-term investment opportunities, while not affecting their long term investment abilities. Nevertheless, because the industry has no experience in the use of near-term consecutive expiration months for equity options, PSE has requested implementation of this program on a one year pilot basis. In addition, because the proposed rule change is intended to facilitate transactions in securities, and will provide the PSE with greater flexibility to list a more complete range of option series for investors, PSE states that its proposal is consistent with Section 6(b)(5) of the Act.

II. Solicitation of Comments

The Commission is publishing this Release to solicit comment on the PSE and Phlx proposed rule changes described above in Sections I.A. and B. Persons interested in commenting on this proposal should submit six copies of their comments within 21 days from the date of publication of this notice in the **Federal Register**. Comments should be sent to the Secretary of the Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the proposed rule changes, including amendments, and all documents relating to the proposed rule changes, except those that may be withheld from the public pursuant to 15 U.S.C 552, are available for inspection and copying at the Commission's Public Reference Room. Copies of the filings are also available at the PSE and Phlx.

III. Date of Effectiveness of the Proposed Rule Changes Described in Section I.B. and Timing for Commission Action on this Proposal

With respect to the proposed rule changes described in Section I.B., within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (2) as to which the self-regulatoy organization consents, the Commission will either by order approve such proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Approval of Proposed Rule Change

As indicated, the Commission recently has approved proposed rule changes of

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[1] 15 U.S.C. 78s(b) (1982).

[2] 17 CFR 240.19b-4 (1984).

[3] Although the Phlx's original proposal did not include the unusual market condition provision, the Phlx subsequently amended its filing to include such a provision. *See* letter from Barbara M. Rotherberg, Senior Vice President and General Counsel, Phlx, to Heidi Coppola, Attorney, Market Regulation, SEC dated April 12, 1985.

[4] In Securities Exchange Act Release No. 21362 (September 28, 1984), 49 FR 39135 (October 3, 1984), the Commission approved a proposed rule change allowing the addition of series of index options until the first calendar day of the month.

[5] Securities Exchange Act Release No. 21929 (April 10, 1985), 50 FR 15258 (April 17, 1985). (File Nos. SR-CBOE-85-1; SR-AMEX-85-6). No comments were received on these changes.

[6] Recently, the Commission solicited comment on a substantially similar CBOE proposed rule change. Securities Exchange Act Release No. 21707 (February 4, 1985), 50 FR 5459 (February 8, 1985). At CBOE's request, however, action regarding this proposal has been deferred.

the CBOE and which are substantially identical to the PSE and Phlx proposals described above in Section I.A.[7] For the reasons stated above, and in the order approving the CBOE and Amex proposals, the Commission believes that this portion of the PSE's proposal and the Phlx proposal is consistent with the requirements of the Act applicable to a national securities exchange and, in particular, Section 6 and the rules and regulations thereunder. In addition, the Commission finds good cause for approving these proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof in that CBOE's proposed rule change, which is substantially similar, was published for comment over 30 days ago,[8] and no comments were received in response to that publication.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes by the PSE and PHLX are approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary

April 25, 1985.

[FR Doc. 85-10514 Filed 4-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21986; SR-PSE-85-4]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

April 23, 1985.

The Pacific Stock Exchange, Inc. ("PSE") submitted on February 12, 1985, copies of proposed rule changes pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to modify Articles II (Government), III (Elections, Meetings, Terms of Office, Proxies), and VIII (Member Firm Requirements) of the PSE Constitution, and Rule 1 (Dealings upon the Exchange) of the PSE Rules to provide that: (1) "regular" meetings of PSE's Board of Governors ("Board") could be held without notice and that "special" meetings of the Board could be held on four days' written notice though any Board member could waive such notice; (2) a PSE Board member elected as a representative of the public would be exempted from PSE's existing restriction that no Board member may serve for more than two consecutive three-year terms; (3) the period within which PSE's Nominating Committee must meet would be changed from "not less than thirty-five days" to "not less than sixty-five days" before an election; (4) the period within which members may nominate by petition would be changed from "at least twenty days" to "at least forty-five days" before an election; and (5) the term "floor representative" as defined in PSE Rule 1, Section 4(a) would be replaced by the term "floor member."

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission Release (Securities Exchange Act Release No. 21804, March 4, 1985) and by publication in the **Federal Register** (50 FR 9739, March 11, 1985). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-10516 Filed 4-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IA-968; File No. 803-45]

Fidelity Management & Research Co.; Application and Opportunity for Hearing

April 25, 1985

Notice is hereby given that Fidelity Management & Research Company ("Applicant"), 82 Devonshire Street, Boston, Massachusetts, 02109, filed an application on December 24, 1984, requesting an order of the Commission pursuant to section 206A of the Investment Advisers Act of 1940 (the "Act"): (1) exempting Applicant's advisory fee arrangement with a limited partnership to be established by Applicant from the prohibitions of section 205(1) of the Act, and (2) exempting Applicant from the recordkeeping requirements of section 204 and Rules 204-2 (b) and (c) under the Act to extent those provisions require separate records to be maintained for each limited partner in the partnership. Applicant further requests an order from the Commission pursuant to section 210(a) of the Act granting confidential treatment to the Limited Partnership Agreement ("Partnership Agreement") attached as Exhibit A to the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions thereof.

Applicant states that it is registered as an investment adviser under the Act. Applicant proposes to form and become the general partner of a limited partnership (the "Partnership") which will include a limited number of sophisticated institutional investors as the limited partners. According to the application, the Partnership will invest principally in domestic and foreign business enterprises experiencing poor operating results or which are in a weak financial condition, including those involved in work-outs, liquidations, spinoffs, reorganizations, mergers, bankruptcy or similar situations. The Partnership may also invest in leveraged buy-outs. Applicant represents that the Partnership will be exempt from registration as an investment company under section 3(c)(1) of the Investment Company Act of 1940. Applicant also represents that the Partnership interests will be sold in a private offering exempt from registration under the Securities Act of 1933.

According to the application, limited partnership interests will only be offered to institutional investors and each limited partner will be required to make a minimum investment of $2,500,000. No limited partner will be permitted to contribute more than 10% of the Partnership's total capital if such investment would cause the Partnership to need to register under the Investment Company Act of 1940. A limited partner may neither withdraw from the Partnership nor assign its Partnership interest without the Applicant's consent.

Applicant represents that the Partnership Agreement will require that Applicant contribute to the Partnership's capital an amount approximately equal to 1.01% of the aggregate capital contributions by all the limited partners. The Applicant will be solely responsible for the management and administration

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[7] *See* note 5, *supra*.

[8] The Commission solicited comment on the CBOE proposal in Securities Exchange Act Release No. 21794 (February 26, 1985), 50 FR 8601 (March 4, 1985).

[9] Similarly, because the AMEX proposal was substantially identical to the CBOE proposal, the Commission approved the AMEX proposal on an accelerated basis. *See* Securities Exchange Act Release No. 21929, note 5, *supra*.

of the Partnership's business, including the making of all investment decisions on behalf of the Partnership.

Applicant will also be responsible for all of its administrative and operating expenses, including office, telephone and travel expenses, and salaries and fees of all of its personnel, and for the organizational and offering expenses of the Partnership (other than any brokerage commissions payable to broker-dealers). Applicant states that the Partnership will pay Applicant an annual management fee equal to 2% of the net asset value of the Partnership's assets. Applicant further states that the Partnership will be responsible and will pay for all of its direct expenses, including all legal, auditing, brokerage, interest and tax expenses.

Applicant represents that it will maintain financial records for the Partnership and will provide semi-annual reports to the limited partners on the affairs of the Partnership. Applicant further represents that the Partnership will be audited annually by an independent certified public accountant selected by Applicant. Applicant will provide to the limited partners an annual report of the Partnership accompanied by the independent accountant's report.

According to the application, in addition to the management fee, Applicant will be allocated 1% of the net income and net losses of the Partnership and the limited partners 99% of Partnership net income and net losses until such time as the limited partners have been allocated cumulative net income of the Partnership (net of cumulative losses) equal to 72% of their paid in capital contributions. Thereafter, Partnership net income and net losses will be allocated 20% to Applicant and 80% to the limited partners.

The application states that Applicant does not intend to make distributions during the initial five years of the Partnership; however, within 90 days after the end of any taxable year within the Partnership's five year investment period, Applicant, in its sole discretion, may elect to distribute to each limited partner an amount up to 50% of all realized net income for such taxable year in proportion to the allocation of net income for that taxable year to such limited partner. It is represented that if Applicant should receive distributions in excess of what Applicant is ultimately entitled to receive on the liquidation of the Partnership, Applicant will be required in effect to contribute sufficient amounts to the Partnership to cause the limited partners to be distributed the full amount to which they are entitled. Applicant may also distribute securities in kind to the partners ratably in proportion to their interests.

According to the application, if market quotations are not readily available or if the General Partner determines such value to be unreflective of current fair market value, it will make a good faith determination of the value of the securities. Applicant represents that if 67% in interest of the limited partners request, Applicant will obtain at the expense of the Partnership a valuation of any securities other than marketable securities from an independent firm of investment bankers selected by 67% in interest of the limited partners. Prior to the exercise of such right, the Partnership will obtain an opinion of counsel to the effect that the exercise of such rights will not jeopardize the tax status of the Partnership.

Applicant proposes to maintain the designated books and records for the Partnership rather than for each limited partner. Applicant further states that it will maintain capital accounts for each limited partner reflecting each limited partner's contributions, allocations and distributions.

Applicant requests an exemption from section 205(1) of the Act to the extent necessary to permit it to receive the proposed share of the profits of the Partnership. Applicant also requests an order exempting it from the provisions of section 204 of the Act and of Rule 204–2 (b) and (c) thereunder to the extent that such provisions might otherwise require it to maintain the designated books and records with respect to each limited partner. Applicant represents that it will comply with all other applicable provisions of Rule 204–2.

Applicant further requests an order under section 210(a) of the Act for confidential treatment of the form of Partnership Agreement designated as Exhibit A to the application. Applicant states that the essential terms of the Partnership Agreement have been disclosed in the application; the Partnership Agreement itself constitutes trade secret or commerical or financial information that is privileged and confidential; there will be no public offering of the partnership interests; and prospective investors will be provided with a copy of the Partnership Agreement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 17, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–10578 Filed 4–30–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23673; 70–6985]

Middle South Utilities, Inc., et al.; Proposed Amendments to Domestic and Foreign Bank Loan Agreements

April 25, 1985.

Middle South Utilities, Inc. ("MSU"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, its electric generating subsidiary, Middle South Energy, Inc. ("MSE"), P.O. Box 61000, New Orleans, Louisiana 70161, and MSU's electric utility subsidiaries, Arkansas Power & Light Company, P.O. Box 551, Little Rock, Arkansas, Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174, Mississippi Power & Light Company, P.O. Box 1640, Jackson, Mississippi 39205, and New Orleans Public Service Inc., 317 Baronne Street, New Orleans, Louisiana 70112, have filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to sections 6(a), 7, and 12 of the Public Utility Holding Company Act of 1935 ("Act").

MSE was incorporated in 1974 to own and finance certain future generating capacity of the Middle South system. All of its common stock is owned by MSU. MSE is in the final stages of completing and placing in commercial operation the first unit of the Grand Gulf Project ("Unit No. 1"), a two-unit, nuclear-fueled generating station located near Natchez, Mississippi. Work on the second unit of the Grand Gulf Project has been reduced pending commercial operation of Unit No. 1. MSE owns 90% of the Grand Gulf Project, and South Mississippi Electric Power Association, Inc., an association of Mississippi electric power cooperatives, owns the remaining 10%.

By order in this proceeding dated June 26, 1984 (HCAR No. 23341), MSE was authorized to amend its revolving bank loan agreements, Mortgage and Deed of Trust, Availability Agreement, and Power Purchase Advance Payment Agreement for the purpose of increasing its financing capacity and extending the completion date for Grand Gulf Unit No. 1. MSE now proposes further amendments to its revolving bank loan agreements.

As of March 31, 1985, MSE had $1,565,914,000 in revolving credit borrowings outstanding under its $1,711 million loan agreement with Manufacturers Hanover Trust Company and Citibank, N.A., as co-agents, and a group of domestic banks ("Domestic Bank Loan Agreement") and $354,086,000 in revolving credit borrowings outstanding under its $378 million loan agreement with Credit Suisse First Boston Limited, as agent, and a group of foreign banks ("Foreign Bank Loan Agreement"). Under the terms of the Domestic Bank Loan Agreement and the Foreign Bank Loan Agreement, revolving credit borrowings outstanding thereunder are scheduled to convert to term loans no later than June 30, 1985.

MSE proposes to enter into amendments to the Domestic Bank Loan Agreement and the Foreign Bank Loan Agreement in order to facilitate these conversions and to set forth the definitive terms for the timing of and conditions for the resulting term loans. Among other things, MSE proposes to extend the maturity date for the term loan under the Domestic Bank Loan Agreement to some time in 1989. In connection with this extension, MSE would agree to make mandatory prepayments of principal at regular intervals in order to reduce the amount of the term loan prior to maturity. MSE also proposes to change the schedule of payments under the Foreign Bank Loan Agreement to provide for semi-annual mandatory prepayments of one-eighth of the aggregate amount of the term loan which matures on February 5, 1989.

The amended declaration and any further 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 May 21, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in 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 declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-10584 Filed 4-30-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14489; 812-6041]

Merrill Lynch, Pierce, Fenner & Smith Inc., et al.; Application

April 25, 1985.

Notice is hereby given that Merrill Lynch, Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), 165 Broadway, New York, New York 10080, ML Tax-Advantged Fund, L.P. (the "Partnership"), Merrill Lynch & Co., Inc., (ML&Co."), the independent general partners of the Partnership ("Independent General Partners"), Merrill Lynch, Tax-Advantaged Investments Inc., a proposed Delaware corporation (the "Management Company"), and such future partnerships to be formed by Merrill Lynch under the terms applicable to the Partnership ("Subsequent Partnerships") (collectively, the "Applicants") filed an application on February 6, 1985, for an order of the Commission, requesting: (1) A determination that the Independent General Partners are not "interested persons" of the Partnership as defined in section 2(a)(19) of the Investment Company Act of 1940 ("Act") solely by reason of being general partners thereof; (2) an exemption from section 19(b) of the Act and Rule 19b-1 so that the Partnership may make capital gains distributions more frequently than annually; and, (3) pursuant to sections 6(c) and 17(d) of the Act and Rule 17d-1 thereunder, an exemption authorizing certain joint investments by the Partnership in certain partnerships ("ML Partnerships") in which Merrill Lynch or ML&Co.: (a) Act as general partner or have an equity interest in the general partner of the ML Partnership; (b) are co-investing in the ML Partnership with the Partnership; or, (c) are receiving fees for providing services to the ML Partnership. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions thereof.

According to the application, the Partnership will be organized under Delaware law pursuant to a limited partnership agreement ("Partnership Agreement") and will register under the Act as a closed-end, non-diversified management investment company. The Partnership will also file a registration statement under the Securities Act of 1933 ("Securities Act"). The Partnership's investment objectives are current income, long-term capital appreciation and receiving the tax advantages associated with certain investments, such as real estate, research and development, equipment leasing and oil and gas properties. It is intended that the Partnership will concentrate in real estate financings, triple-net leased realty and government-assisted housing. Other investments, including venture capital investments, may also be made by the Partnership. It is expected that the Partnership will acquire between 15 and 20 investments during its projected fixed term of 10 years, with limited possible extensions as prescribed in the Partnership Agreement.

Applicants state that Merrill Lynch Tax Investments Co., L.P. (Managing General Partner") and at least four individuals ("Individual General Partners") will be the general partners of the Partnership ("General Partners"). The Managing General Partner, a partnership controlled by the Management Company, will provide management and administrative services to the Partnership. The Managing General Partner and the Management Company will be registered under the Investment Advisers Act of 1940.

A majority of the Individual General Partners will be noninterested persons, and will perform the same duties and have the responsibilities and obligations of noninterested, corporate directors of registered investment companies under the Act. The Partnership will be managed solely by the Individual General Partners, except that the Managing General Partner, subject to the Individual General Partners' guidance and review, will be responsible for directing the Partnership's portfolio investments and the admission of limited partners to the Partnership. Applicants state that the Partnership Agreement will provde that the Managing General Partner may be removed by a majority vote of the Individual General Partners or by vote

of limited partners. Individual General Partners may be removed for cause by a two-thirds vote of the remaining Individual General Partners or by vote of the limited partners. The Partnership Agreement authorizes only limited managerial rights to the limited partners, including voting rights, the giving of consents and approvals, and the right to vote on certain matter such as the sale of a substantial portion of Partnership assets. The Partnership Agreement will also restrict the right of the Managing Generla Partner to withdraw from the Partnership unless advance notification is given, a suitable replacement is designated, a majority in interest of limited partners consent and the substitute general partner agrees to assume all duties and responsibilities of the Managing General Partner without receiving compensation in excess of that payable under the Partnership Agreement.

Partnership units will be offered at a price of $1,000 per unit. Limited partners must subscribe for a minimum of five units and meet the following suitability standards: (i) New worth, exclusive of homes, furnishings and automobiles, exceeds the greater of (a) $60,000 in excess of the purchase price for units, or (b) four times the price of units purchased; and (ii) expected income during the current and next three tax years of $60,000. Applicants believe these standards exceed those under state blue-sky laws applicable to public offerings of tax advantaged partnerships, as well as those standards generally applicable to public offerings by specific partnerships of the type in which the Partnership will invest. Applicants also submit that the Partnership's suitability standards will not preclude investment by those for whom the Partnership has been designed, viz., persons making investments of an amount that is not by itself economically practical for individual management other than in the context of a portfolio of pooled tax-advantaged investments.

Applicants state that because the Partnership affords diversification of risk accords only minimum managerial rights to the limited partners provides a general reduced risk of Partnership liability for actions in tort or contract against limited partners, and obligates the General Partners to take appropriate action to protect limited partners, the Partnership has not obtained insurance coverage for limited partners. Applicants further state that such policies are not typical for real estate, oil and gas or equipments partnerships. Merrill Lynch expressly undertakes that the Parntership will periodically review the appropriateness of obtaining an error and omissions policy for the Partnership.

According to the application, Merrill Lynch projects that it will organize a new limited partnership each year with investment objectives similar to those of the Partnership. Applicants represent that all Subsequent Partnerships will: (i) Retain the Management Company as their management company; (ii) elect to register as closed-end, non-diversified management investment companies under the Act; (iii) adopt the Partnership's suitability standards; and, (iv) adopt investment objectives similar to that of the Partnership. To avoid filing separate applications for each Subsequent Partnership, Applicants week that the requested order on behalf of the Partnership be made applicable to Subsequent Partnerships on the same terms and conditions applicable to the Partnership.

Applicants state that under section 2(a)(19) of the Act, the Individual General Partners, by virtue of being partners of the Partnership, are "affilitated persons" of the Partnership as defined in the Act. In addition, Applicants state that the Individual General Partners may also be deemed "interested persons" of the Partnership as defined in the Act because they are interested persons of the investment adviser and principal underwriter of the Partnership. Applicants state that Individual General Partners are affiliated persons of the Managing General Partner because they are "co-partners" of the Managing General Partner. Applicants also state the Managing General Partner is an affiliated person of the Management Company and Merrill Lynch because the Managing General Partner may be deemed to be under common control with the Management Company, the investment adviser of the Partnership, and Merrill Lynch, the principal underwriter.

In order to ensure compliance with section 10, and enable the Individual General Partners to assume the responsibilities of directors who are not interested persons under the Act, Applicants request exemption from the provisions of section 2(a)(19) to the extent that the Individual General Partners would otherwise be deemed to be interested persons of the Partnership, the Managing General Partner, the Management Company or Merrill Lynch solely because such Individual General Partners are general partners of the Partnership and co-partners of the Managing General Partner. Applicants assert that the Partnership has been structured to make the Individual General Partners the functional equivalent of noninterested directors of incorporated investment companies, and therefore Applicants submit that the requested exemption is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants state that the Partnership is scheduled to terminate on December 31, 1995, subject to the right of the Individual General Partners to extend the term for two additional two-year periods. Although Individual General Partners will have authority to reinvest Partnership revenues, Applicants expect that cash received from Partnership portfolio investments will be reinvested only to the extent necessary to meet staged-payment obligations on the Partnerships's investments or for working capital reserves. To the extent cash received is not utilized by the Partnership, it will be distributed at least annually. Applicants state that Section 19(b) of the Act prohibits any registered investment company from distributing, long-term capital gains more frequently than once every 12 months. Rule 19b–1(b) prohibits registered investment companies from making more than one distribution of long-term capital gains in any one taxable year.

The purposes of section 19(b), according to the application, is to prevent shareholders of investment companies from confusing dividends of interest income with distributions of capital gains, to relieve pressure on investment company managers from realizing such gains, to mitigate improper sales practices related to the distribution of such gains, and to eliminate administrative expenses incurred with frequent gain distribution. Applicants submit that the principal concerns section 19(b) was directed against are not applicable to the Partnership because: (1) Distributions of capital gains to limited partners will be identified, hence there is only a minimal possibility of confusion; (2) the Partnership's finite term requires that all investments must be liquidated, and the Partnership does not expect to make further portfolio investments after liquidation; and (3) the Partnership will not offer its securities after the initial offering period, consequently no sales practices will refer to past distributions. Unless relief from section 19(b) is granted, Applicants state, limited partners will be prevented from utilizing the capital gain distributions for their own purposes and the Partnership will

be compelled to invest such funds in marketable short-term securities. For these reasons, Applicants request an exemption from the provisions of section 19(b) of the Act and Rule 19b–1 to permit the Partnership and Subsequent Partnerships to make distributions of long-term capital gains more frequently than once every tax year.

Applicants state that the purpose of the Partnership will be to invest a substantial portion of its assets in offerings in which: (1) Merrill Lynch or its affiliates acts as placement agent; (2) Merrill Lynch or its affiliates may be a general partner or have a general partnership interest; (3) Merrill Lynch or its affiliated entities may have co-invested in the ML Partnership as a limited partner; (4) Merrill Lynch or an ML&Co. affiliate may be receiving compensation in the form of advisory, brokerage or other fees for providing services for the ML Partnership; and (5) Merrill Lynch or an ML&Co. affiliate may have a minority interest in the general partnership of the ML Partnership. Applicants also state that Merrill Lynch or its affiliates have made loans to several ML Partnerships suitable for Partnership investment. All investments of the Partnership, including ML Partnerships, will be selected on the basis of factors set forth in the Partnership's registration statement.

Section 17(d) of the Act, and Rule 17d–1 prohibit a registered investment company, acting as principal, from effecting any transaction in which such registered investment company is a joint or joint and several participant, in contravention of such rules adopted by the Commission. According to Applicants, relief from the provisions of section 17(d) and Rule 17d–1 is necessary to effectuate the purposes of the Partnership. Moreover, Applicants request that the order permitting certain joint transactions with ML Partnerships be granted on an open-ended basis pursuant to section 6(c) of the Act, rather than on an individual basis for each investment. The Partnership is projected to acquire between 15 and 20 investments and each investment will be acquired at the time originally issued. Offering periods for tax-advantaged investments, Applicants state, range from four to eight weeks. Therefore, in terms of transaction volume and time constraints, filing individual exemptive applications and receiving exemptive orders for each investment prior to the closing thereof would be impractical and may preclude the Partnership from obtaining significant tax advantages available only if the portfolio investment is acquired at the time of issuance. Applicants state they also considered the potential of the Management Company acquiring portfolio investments on behalf of the Partnership and then seeking an exemptive order applicable to a multitude of investments; however, significant tax benefits of portfolio investments inure only to the beneficial owner and transfers would diminish the tax benefits to the Partnership.

Applicants contend that section 17(d) of the Act and Rule 17d–1 are not applicable when Merrill Lynch or an affiliate of Merrill Lynch ("ML Affiliate") merely acts as a placement agent for a ML Partnership in which the Partnership invests. Applicants state that section 17(e) of the Act governs purchase transactions by a registered investment company where an affiliate acts as broker. Under the terms of its registration statement, the partnership will acquire ML Partnerships where Merrill Lynch acts as placement agent at a price net of sales commissions. It is expcted that either the Partnership will pay the net price to Merrill Lynch as placement agent for the ML Partnership, or it will be immediately reimbursed by Merrill Lynch or the Management Company in the amount of the Commissions. Applicants do not seek exemptive relief from section 17(e), but in order to insure that the terms of the transactions are fair and reasonable and do not involve overreaching on the part of any person concerned, and in recognition of the potential conflicts of interest when the Partnership purchases securities in offerings in which Merrill Lynch acts as placement agent, Applicants consent to certain conditions applicable also to Partnership acquisitions of other ML Partnerships.

In connection with its request for an order pursuant to section 17(d) and Rule 17d–1 thereunder, permitting the Partnership to invest in ML Partnerships, Applicants consent to the following terms and conditions:

A. With respect to all transactions applicable to the Partnership:

(1) Information concerning all offerings in which Merrill Lynch or a ML Affiliate is involved, as general partner or placement agent, that involve securities eligible for purchase by the Partnership, will be provided to the Independent General Partners of the Partnership.

(2) All investments in ML Partnerships must be reviewed by the Independent General Partners, prior to the time of investment, and they must determine that: (a) There is no overreaching of the Partnership and that the terms of the transaction are reasonable and fair to the limited partners of the Partnership and (b) that the investments are consistent with the policies of the Partnership as recited in its filings under the Act and Securities Act. The Independent General Partners will record in their minutes the information and materials on which these determinations are made.

(3) No General Partner of the Partnership or Management Company or any officer or director of the Management Company will invest in any offering in which the Partnership invests.

(4) Documents relating to information provided to the Independent General Partners, made pursuant to condition (1), and the information and materials referred to in condition (2), will be maintained and preserved by the Partnership for a period of at least six years and will be available for inspection by the Commission in accordance with section 31(b) of the Act as if they were required records thereunder.

B. With respect to Partnership investments where Merrill Lynch or ML Affiliates are co-investors ("Co-investment"):

(5) Each Co-investment will be made by the Partnership on the same basis, in terms of both chronology and price, with that of Merrill Lynch or the ML Affiliate. If the Partnership chooses to purchase a Co-investment security on a basis different from that of Merrill Lynch or a ML Affiliate, an application for an order pursuant to Section 17(d) of the Act and Rule 17d–1 will be filed with the Commission. If such an order is not obtained prior to closing of the particular Co-investment transaction, the Management Company will purchase such security on behalf of the Partnership. If and when the order is issued, the Management Company will sell the security to the Partnership for the original purchase price, plus, to the extent permitted under the terms of such order, costs incurred by the Management Company in connection with its purchase and holding of such security.

(6) Each proposed Co-investment will be reviewed by the Independent General Partners of the Partnership who will make a determination that any such investment by Merrill Lynch or a ML Affiliate would not disadvantage the Partnership in the making of such Co-investment, maintaining its Co-investment position or disposing of such Co-investment.

(7) If Merrill Lynch or a ML Affiliate proposes to sell a Co-investment

security also held by the Partnership, notice of such proposed sale will be given to the Partnership and the Partership will be given the opportunity to participate in such sale. The basis of the Independent General Partners' decision whether to participate in such sale will be recorded in their minutes.

(8) All determinations made by the Independent General Partners pursuant to conditions (5), (6), and (7) will be kept and maintained in the Partnership's records in accordance with Condition (4).

C. With respect to those investments by the Partnership in ML Partnerships for which Merrill Lynch acts as placement agent ("ML Agent Investments"):

(9) ML Agent Investments will be acquired by the Partnership net of selling commissions.

(10) The opportunity to purchase securities in ML Agent Investment offerings will be made available to all Partnerships as well as to any other investment entity managed by Merrill Lynch that has investors other than Merrill Lynch and invests in securities of the types in which the Partnerships invest ("Pooled Entities"). Purchase orders by Pooled Entities will be treated on an equal basis and to the extent demand exceeds availability, the Pooled Entities' investments will be proportionately reduced.

(11) Orders for purchases of ML Agent Investment securities by the Partnership will be placed during the first month of the offering period, or the first one-third of the offering period, whichever is longer.

(12) The Partnership will maintain records indicating its compliance with conditions (9), (10), (11) in accordance with terms of condition (4).

D. With respect to Partnership investments where Merrill Lynch or a ML Affiliate acts as General Partner ("ML GP Investment"):

(13) The Partnership will not invest more than 35% of its partners' capital contributions in ML GP Investments.

(14) Partnership investment in ML GP Investments, whose offering is exempt from the registration requirements of the Securities Act, will not be made by the Partnership unless and until at least 35% of the limited partnership interests sold are purchased by institutional investors not affiliated with Merrill Lynch or by individuals.

(15) The Partnership will maintain records indicating compliance with conditions (13) and (14) in accordance with terms of condition (4).

E. With respect to Partnership investments in a ML Partnership to which Merrill Lynch or a ML Affiliate is committed to make loans or provides advisory or other services for compensation ("ML Service Investment"):

(16) Information concerning the services to be performed by Merrill Lynch or a ML Affiliate and the compliance to be received, to the extent known at the time of investment, will be furnished to the Independent General Partners prior to the time the Partnership invests in a ML Service Investment.

(17) The independent General Partners will consider such services and fees in connection with their approval of investments as required by and in conformance with condition (2).

(18) The Independent General Partners will not differentiate the terms of a ML Service Investment from other investments solely by reason of the fact that Merrill Lynch or a ML Affiliate receives compensation therefrom.

(19) The Independent General Partners will preserve in their minutes records of the basis of their considerations in accordance with the terms of condition (4).

Applicants submit that the above conditions will minimize the potential conflicts of interest and make participation by the Partnership consistent with the protection of investors and the provisions, policies and purposes fairly intended by the Act, and that the participation of the Partnership is not on a basis different from or less advantageous than that of other participants. Applicants represent that the terms of the exemptive order if and when issued pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, will be disclosed in the Partnership's prospectus. Applicants conclude that the Partnership will provide an investment alternative not presently available to investors and that the Partnership could not operate in the absence of the requested exemptive order. Applicants therefore request the Commission to issue an order, pursuant to Sections 6(c) and 71(d) of the Act, and Rule 17d–1 thereunder, permitting the Partnership to make certain joint transactions on the terms and conditions set forth herein.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 20, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–10579 Filed 4–30–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–21989; SR–MSR B–85–10]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Rule Change

April 25, 1985.

The Municipal Securities Rulemaking Board ("MSRB"), Suite 800, 1818 N. Street NW., Washington, D.C. 20036–2491 on March 7, 1985 submitted copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 and Rule 19b–4 thereunder to amend MSRB rule G–12 on uniform practice. The amendment provides greater clarity in the rule by specifying a time prior to the record date after which interest payment checks must be attached on deliveries or registered securities.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 21837, published in the **Federal Register** (50 FR 11278, March 20, 1985). No comments on the proposed rule change were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

John Wheeler,

Secretary.

[FR Doc. 85–10581 Filed 4–30–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34-21990; SR-MSRB-85-6]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Rule Change

April 25, 1985

The Municipal Securities Rulemaking Board, ("MSRB") Suite 800, 1818 N. Street NW., Washington, D.C. 20036-2491 on March 1, 1985 submitted copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 and rule 19b-4 thereunder to reorganize rules G-19 on suitability, G-26 on discretionary accounts, and G-27 on supervision, and to provide an interpretation concerning the application of rule G-19 to recommendations made during investment seminars and to customer inquiries made in response to advertisements published by a dealer.

The MSRB is revising the language of rule G-19 to require a municipal securities dealer to have reasonable grounds, based upon information available from the issuer of the security or otherwise, for recommending a purchase, sale, or other transaction in a security. With respect to supervision, the board is incorporating the present provisions of rule G-26(c) into rule G-27 so that rule G-27 contains all the supervision-related responsibilities applicable to municipal securities dealers. Rule G-26 is being withdrawn by the MSRB, and the rule will be reserved for future rulemaking.

Notice of the proposed rule change was given in Securities Exchange Act Release No. 21819, published in the **Federal Register** (50 FR 9932, March 12, 1985). One comment was received, from the Public Securities Association ("PSA").[1] While the PSA generally supports the MSRB's proposal to require prior written authorization for discretionary accounts, it believes no such authorization should be required for what it termed "investment management accounts." The PSA also raised questions with respect to the amendments concerning suitability of recommendations.

Discussion

The Commission has determined to approve the MSRB's proposal. With respect to the PSA's comment that prior written authority is not necessary for investment management accounts, the Commission is of the view that there should not be an exception made for these types of accounts, and that customers with such accounts also would benefit from the protection afforded by the MSRB's proposal. The Commission recognizes that certain investment management accounts may already require some prior authorization from customers.[2] However, because the term "investment management account" may apply generically to a broad range of investment accounts and is not limited to any strict legal definition, an exemption, in addition to having serious definitional problems, could result in such accounts not being covered by a rule requiring prior written authorization.

For these reasons, the Commission believes that the MSRB's proposed amendments to rules G-26 and G-27 regarding discretionary accounts are appropriate without an exemption for investment management accounts.

The PSA also expressed concern over the MSRB's proposed amendment to rule G-19 relating to suitability. Specifically, although the PSA supported the requirement in new section G-19(c)(i) that a professional recommending that a customer engage in a transaction in a municipal security have "reasonable grounds" for such transactions "based upon information available from the issuer . . . or otherwise," it suggested that this requirement is insufficiently precise. The PSA suggested that the basis for a professional's recommendation should be limited to the characteristics of the coupon and maturity of the security, its rating by a nationally recognized agency (if any) and its call provisions.

The Commission believes that limiting the requirement in this way would be unnecessarily restrictive. It would be likely to discourage professionals from considering any unique or unusual characteristics peculiar to a particular security, but nevertheless important and material to the investor. The Commission believes that the rule should possess sufficient flexibility to allow for any other factors which may be unanticipated, and therefore cannot be specified. The Commission is also aware that by providing such flexibility, there may be some compromise with regard to precision and predictability. The Commission, however, believes that these concerns may be largely assuaged by future interpretations of the rule by the MSRB, as well as by further industry experience with the new requirement. Accordingly, the Commission believes that the amendment to rule G-19 is appropriate as proposed by the MSRB.

Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and in particular, the requirements of section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 9(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3(a)(12).

John Wheeler,

Secretary.

[FR Doc. 85-10582 Filed 4-30-85; 8:45 am]

BILLING CODE 8010-01-M

[1] Letter from Peter E. Hoey, Chairman, Sales and Marketing Committee, Public Securities Association to John Wheeler, Secretary, SEC, dated April 2, 1985.

[2] Written authorization of discretionary power over accounts is specifically required by the rules of the self-regulatory organizations. *See* New York Stock Exchange Rule 408; National Association of Securities Dealers, Inc., Rules of Fair practice, Article III Section 15.

[Release No. 34-21970; File No. SR-NYSE-85-13]

Self-Regulatory Organizations; Proposed Rule change by New York Stock Exchange, Inc.; Relating to Bond Listing Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 8, 1984, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Listing Fee for:

Instruments evidencing ownership of future interest and principal payments on a previously-issued debt security—$10,000 per series.[1]

[1] A series (or class) comprises all eligible instruments evidencing payments on the same debt security, having the same sponsor, and sharing other common or related specifications. The Exchange will ordinarily accept the sponsor's determination as to whether instruments that it sponsors and that evidence payments on the same debt security are part of the same or different series.

The new fee is to be effective upon filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Self-Regulation Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) *Purpose*—The purpose of the proposed rule change is to establish a fee for the listing of instruments that are repackagings of previously-issued debt securities whose issuance does not entail the raising of new debt capital. While the Exchange has been listing this type of instrument for over two years—member organizations have repackaged United States Treasury Bonds in zero coupon form—it has not heretofore promulgated a separate listing fee for such instruments. The proposed fee, which is a one-time charge, is set at $10,000. The Exchange believes this figure is reasonable for an issue that does not involve the raising of new capital.

(2) *Statutory Basis*—The basis under the 1934 Act for the proposed rule change is the requirement under section 6(b)(4) that an exchange have rules that provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will impose no burden on competition.

(C) Self-Regulatory Organizaiton's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in futherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 22, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–10583 Filed 4–30–85; 8:45 am]

BILLING CODE 8010–01

SYNTHETIC FUELS CORPORATION

Draft Comprehensive Strategy

AGENCY: Synthetic Fuels Corporation.

ACTION: Availability of Draft Comprehensive Strategy and Invitation of Public Comment.

SUMMARY: This notice invites public comment on a draft of the Comprehensive Strategy of the United States Synthetic Fuels Corporation.

DATE: Comments should be submitted on or before May 15, 1985.

ADDRESS: Comments should be sent to Thomas J. Corcoran, Chairman of Comprehensive Strategy Subcommittee of the Board of Directors, U.S. Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586.

Dated: April 26, 1985.

United States Synthetic Fuels Corporation.

Leonard Rawicz,

Vice President, General Counsel and Secretary.

This is an early draft of the Comprehensive Strategy of the U.S. Synthetic Fuels Corporation. This draft has not been extensively reviewed by staff or discussed by the Board. It contains draft recommendations and conclusions designed to stimulate discussion; the Board may change these in later drafts. It refers to technical appendices that are not yet complete and makes reference to numbers that are not yet available or ready for release.

This early draft is being released to the public for information only. It does not represent the final judgments of the Board on the matters discussed.

Synthetic Fuels Corporation Comprehensive Strategy Draft

April 22, 1985.

Introduction

This Comprehensive Strategy was adopted by the Board of Directors of the U.S. Synthetic Fuels Corporation ("the Corporation") on June XX, 1985 and is hereby submitted and proposed to the Congress, pursuant to section 126(b)(2) of the Energy Security Act ("the Act").

Since three new members were appointed to the Board of Directors ("the Board") in December 1984, the Board has been working to formulate an approach to the national synthetic fuels program that is appropriate under current conditions. The Statement of Objectives and Principles adopted in January 1985 and the Business Plan adopted in February 1985 reflect the conclusions the new Board reached early in its review of the energy and economic environment and of synthetic fuels projects. This Comprehensive Strategy builds on those earlier documents. It describes:

- The energy and synthetic fuels outlook and the changes in that outlook since the Act was enacted in 1980.
- Experience under the national synthetic fuels program established by the Act.
- The Board's views on the feasibility and desirability of pursuing the national synthetic fuel production goal established by the Act.
- The Board's recommendations on the Corporation's objectives and schedules for their achievement.

including a recommended phased strategy for accomplishing the recommended national synthetic fuels objectives.

• Plans for implementing Phase I of the recommended strategy. Appendices to this document contain background material, including the reports required by the Act to be part of the Comprehensive Strategy.

The Energy and Synthetic Fuels Outlook

Since enactment of the Energy Security Act of 1980, the energy outlook has changed dramatically and much has been learned about synthetic fuels economics and technology. This section sets forth the Board's views on the current outlook and some of the implications for the synthetic fuels program.

The Outlook for Energy Prices and Supplies

In 1980, events in the Persian Gulf had recently caused world oil prices to triple for the second time since 1972; there were gasoline lines in urban areas; and memories of the natural gas crisis of 1976 were still fresh. It was widely believed that energy prices would continue escalating and energy supplies would continue being unreliable indefinitely. Rapid development of a domestic synthetic fuels production capacity seemed a natural response.

However, since 1980, the normal workings of supply and demand in the world oil market, aided by deregulation of domestic energy markets, have resulted in a remarkable change in the situation and the outlook for the future:

• The price of oil in world and U.S. markets has declined in dollar terms.

• Oil production outside the OPEC nations has increased relative to world oil consumption, reducing OPEC's oil sales more than one-third.

• The world oil supply system has proven surprisingly stable, as illustrated by the steady decline in world oil prices during a lengthy war between two major oil exporters in the Persian Gulf.

• The U.S. Strategic Petroleum Reserve has become large enough to provide a significant buffer against sudden supply interruptions and the price pressures that would otherwise result.

As a result of these developments, current forecasts of oil supply, demand and price are almost all sanguine, projecting no major price increases over the rest of the 1980s and only slow increases thereafter. However, such forecasts are all based on the assumption that there will be no disruptions of energy supplies. Furthermore, even if the possibility of supply disruptions is discounted, history has shown that long-term energy price forecasts are unreliable, volatile and strongly influenced by short-term trends: when prices were increasing rapidly, it was widely assumed they would continue increasing without limit; now that they have been stable for a few years, the tendency is to assume they will remain that way indefinitely.

Today, just as in 1980, the only thing certain about the energy future is that it is uncertain and will be full of surprises. However, there are fundamental economic reasons to expect the prices of scarce and depletable natural resources, such as oil, to increase, on average, over time. Long before such a resource is physically exhausted, its owners foresee the time when it will be even more scarce and more valuable; even without a seller's cartel, rational producers begin conserving their limited supplies for that future sellers market. As they do so, current supplies on the market decrease, current prices rise above production costs, and expected future supplies increase, reducing the potential payoff from conservation. Equilibrium is reached when sellers expect prices to rise just fast enough so that their oil in the ground is as good as, but no better than, money in the bank; this equilibrium is optimal for sellers and encourages an economically efficient allocation of the limited supplies over time.

This elegant and simple economic theory cannot predict all the surprises and complications that arise in the real world—revolutions, new technologies, discoveries of additional supplies, etc. But it does help explain much of what has happened in the world energy markets over the past fifteen years, and provides a rationale for thinking that synthetic fuels will become economic sometime in the not-too-distant future. The market price of oil (and, to a lesser extent, natural gas) does not depend on production costs for the lowest-cost producers, but rather on expected future supplies and demands. Barring discoveries of new oil fields comparable to those in the Middle East, prices will tend to continue increasing, on average, but with unpredictable fluctuations.

Other fossil fuel resources, particularly coal and oil shale, will not experience the kinds of price increases likely for oil and gas. Because these other resources are so plentiful relative to any reasonable expectation of demand, their prices will be determined largely by production costs for many decades. As a result, the conversion of these plentiful resources into substitutes for natural oil and gas will almost certainly become economic someday. This prospect puts a limit on the future price of the scarcer natural fuels. In fact, if the large-scale production of these substitutes at reasonable cost becomes an option for the future, convincing owners of low-cost natural fuels that hoarding will not pay large dividends, the current prices of the natural fuels might decrease.

Although oil and (to a lesser extent) natural gas prices can be expected to increase someday, making alternative supplies economic, most current forecasts put this day in unknown but distant future. Whether these forecasts are right or not, they have greatly reduced the private sector's interest in developing energy supplies. Not only do energy investments look less profitable now than they did a few years ago, but lower revenues from existing operations have left energy companies short of cash and vulnerable to corporate mergers and takeovers. The entire industry is undergoing retrenchment and restructuring, and is reluctant to take on large, risky ventures with long-term payoff. Budgets for exploration and development of oil and gas, especially in the frontier areas where the major finds of the future must be made, are being reduced. And investments in alternative supply sources, such as synthetic fuels, are not faring well in corporate capital allocation decisions.

The changes in the energy outlook since 1980 have clearly reduced the urgency of developing a large synthetic fuels production capability. However, as discussed further below, uncertainty about the energy future and some special features of the synthetic fuels business still provide a compelling case for a national synthetic fuels program with objectives other than large-scale production. The development of secure sources of economical and clean energy for the future requires a national effort with continuity and a long-term focus, and should not be turned on or off when every short-term fluctuation in energy prices or price forecasts.

Synthetic Fuels Developments

While the energy situation in general has been improving, government programs and private activities have been adding significantly to the nation's knowledge of and experience with synthetic fuels. Feasibility studies and detailed engineering designs of commercial plants have been conducted. A few pioneer plants have been constructed, and some of these are in the early stages of operation. Among the most important developments arising from these activities have been the following:

• Estimates of the capital costs of pioneer synthetic fuel plants have increased as designs have become more detailed. It is now clear that pioneer plants to produce high-quality synthetic fuels from shale will have capital costs in the range of $100,000 (1985 $) per barrel of daily capacity, while plants using coal will be even more costly to construct; and these estimates apply to plants large enough to capture economies of scale. At these capital costs, the 50,000 barrel per day (bpd) plants that, in 1980, were sought to be optimal would each cost more—and perhaps much more—than $5 billion to construct.

• Those projects that have been constructed have generally met construction budgets and schedules based on detailed engineering design. However, there is still great uncertainty about how well and at what cost a plant will operate once it is constructed—factors that are critical to project economics. Experience in other chemical processing industries, even with mature technologies, indicates that actual production levels ultimately can be significantly higher or lower than design estimates, depending on equipment reliability, how well the several processes within any plant work in combination, etc. It will take some years of operation before it will be known how well any particular plant will operate; and the industry will need experience with different types of plants before it can be said with confidence which processes, in which combinations, are best.

• Some of the pioneer projects that have been built—including some on which private firms have spent large sums of their own money—have encountered technical problems with their processes or environmental controls that will, at best, be expensive to fix in these plants. These problems have set back by several years plans for follow-on projects, as potential sponsors wait to see how they are solved and with what implications for costs.

• Those pioneer plants that have performed as expected are suggesting ways to accomplish significant improvements in costs and performance in follow-on plants. While this is encouraging for the long-term future of the industry, it is further reason for both private and public investors to limit their exposure in the pioneer plants that will not be competitive with follow-on plants.

In summary, experience to date with commercial synthetic fuels production is similar to experience in other industries: Early optimism fades as the pioneers confront the realities of designing, constructing and operating complex and unproven technologies; but, as experience accumulates and problems are solved, the industry gains confidence with the technology and unit costs decline. With a few more years of experience with a broader range of technologies, the synthetic fuels industry will be in position to expand to meet market demand when the economic conditions are right.

The Implications for Synthetic Fuels

Because of these developments in energy markets and in synthetic fuels projects, it is now generally acknowledged that the production of marketable synthetic fuels (at least from coal or oil shale) will not be a large-scale economical alternative to natural fuels for a decade or more—assuming no significant disruptions in energy supplies. Plants based on current technology, even if large enough to take advantage of all economies of scale, simply cannot produce marketable fuels from coal or oil shale at costs than can compete with natural fuels at likely prices.

There are a few specialized situations not involving the production of marketable fuels in which coal synthetic fuel technologies may be more nearly economic. For example, in an integrated chemical complex a coal gasification plant can provide feedstock, process fuel, heat and power in a highly efficient manner. A similar but more important situation arises in the production of electricity: compared to other ways of using coal to produce electrical power, gasifying coal to operate a combined cycle power plant is energy efficient, allows generation capacity to be added in smaller units, and produces much less air pollution. These "niche" positions will provide natural opportunities for the development of synthetic fuel technologies that can be applied economically but on a limited basis in the short run, while improving the technologies that can be used to produce marketable fuels from coal when the market is right in the longer run.

Tar sands and heavy oil resources are more economical sources of marketable fuels than are coal and oil shale. However, while these resources can yield fuels that are (or can be) "synthetic fuels" under the definitions of the Act, they differ from coal and oil shale in several fundamental ways: They are much smaller in size, and hence do not offer the same potential as a large-scale, long-run source of fuel; and they are producible with moderate extensions of well-proven technology that, in most cases, the private sector can manage quite well when the market calls for it. Thus, while production of fuels from tar sands and heavy oils is worth pursuing, especially as an option that might be expanded relatively quickly in response to a sudden increase in energy prices, these resources do not offer the kind of fundamental, long-term alternative to conventional oil and gas that is offered by coal and oil shale resources, and may not require as much of the kind of special assistance the Corporation was created to provide.

Experience in synthetic fuels production and in similar industrial processes suggests that production costs can be reduced significantly—as much as 25–35 percent—below the levels encountered in the pioneer plants. This cost improvement does not usually result from spectacular technological breakthroughs but from "learning by doing". For this reason, even though pioneer synthetic fuels plants cannot compete economically with natural fuel sources, there is a much better chance that synthetic fuels production will be economical after the nation has built and operated a series of pioneer plants. However, the risks of going first and the very liklihood that subsequent plants will be more economical discourage private firms from undertaking the pioneer plants. Even with a determined public program to reduce the risks and provide an economic incentive to firms to undertake the initial projects, it will take ten years or more to develop the base of knowledge and experience that will give the private sector the confidence to expand production rapidly and to a large scale.

Experience Under the National Synthetic Fuels Program

When the Energy Security Act was passed in 1980, it contemplated a massive, crash program of commercial synthetic fuels projects. Because the Corporation was not yet operational, the Act provided funds for the Department of Energy to provide financial assistance (authorized under other legislation) to those projects that were "ready to go;" under this "fast start" program DOE approved assistance to three projects—Colony, Parachute Creek and Great Plains.

The Corporation issued its first solicitation for project proposals in December 1980, as required by the Act, and began evaluating proposals in early 1981. Because the Department of Energy had just funded the strongest and most mature projects, those available to the Corporation were, by definition, not "ready to go." Changes in the Corporation's Board and management during 1981 caused some uncertainty

among sponsors, staff and others about the direction of the program. But, most importantly, with energy prices softening and the realities of pioneer plant economics becoming apparent, sponsors were losing interest or were increasing the amount of assistance they needed from the Corporation.

In 1982, the Corporation began emphasizing the Act's mandate that "prior to the approval of a comprehensive strategy" the Board should assist projects that "incorporate a technological diversity of processes, methods and techniques * * *", as the best was to develop the knowledge and information the nation would need to develop a large scale commercial industry when this became appropriate. This approach was validated by Congressional action in 1984, when the Corporation was directed to make its project decisions without regard to the national production goal, at least until the comprehensive strategy is approved by Congress.

As a result of the continuing deterioration of the short-term market potential for synthetic fuels, the Corporation has been unable to conclude financial assistance agreements with any of the larger projects that were under consideration several years ago. Some of these projects withdrew their proposals, while others let their schedules slip as they reconsidered their involvement and are now inactive. Still others have indicated to the Corporation that, in order to justify the projects to their boards and shareholders, they would now need much higher levels of Corporation support—levels of support that raise serious questions in the mind of the Corporation Board about the value of the projects to the nation and the taxpayers. The Corporation has been able to conclude agreements with only two small projects in special circumstances. [This may change by the time the Comprehensive Strategy is completed in June, depending on what happens to Great Plains and the other LOI projects.]

The change in the situation over the past five years can be illustrated by a summary review of the three commercial projects that were assisted by the Department of Energy before the Corporation became operational and the two projects the Corporation has assisted:

• *The Colony Project (DOE):* Tosco Corporation, a minority partner with the Exxon Corporation in this large (50,000 bpd) shale oil project, had a loan guarantee from the Department of Energy for 75 percent of its share of the capital costs. After investing almost a billion dollars in the project, Exxon decided to withdraw and the project was terminated; the guaranteed loan was repaid in full.

• *Great Plains (DOE):* This large (23,000 bpd oil equivalent) coal-gasification project has a $1.5 billion loan guaranteed by the Department of Energy. It is a commercial project in terms of scale, large enough to take advantage of economies of scale and using relatively well-proven foreign technology. It was constructed within budget and on schedule and is successfully beginning operation. However, the project will be unable to repay the DOE-guaranteed loan from project revenues, despite an arrangement that yields above-market prices for the synthetic natural gas produced. The sponsors have applied for price supports that would allow the loans to be repaid; the Corporation has issued a letter of intent to provide such price supports.

• *Parachute Creek, Phase I (DOE):* This moderate-size (10,400 bpd), single retort shale oil project sponsored by Unocal has a $400 million price support agreement from DOE but has encountered technical problems that may prevent it from producing enough, soon enough, to collect much of the money available. Because of these problems, other projects that had planned to use the same technology must be reconsidered. The much-larger Phase II project planned by Unocal, which has a $2.7 bilion letter of intent from the Corporation, is inactive.

• *Coolwater (SFC):* This small (4,300 bpd oil equivalent) project was designed to demonstrate a new coal gasification technology for use in electric utility combined cycle plants; its sponsors were intersted in technological data and experience and were willing to pay to get it. The project was modified to assure that it was a commercial plant for the Corporation's purposes and was the first project with which the Corporation signed an agreement—a price guarantee of $120 million. It has been built and operated successfully and is yielding valuable information that will significantly improve the cost and operating characteristics of follow-on commercial plants using this gasification technology for either power generation or synthetic fuels production.

• *Dow Syngas (SFC):* This small (5,172) bpd oil equivalent) commercial project will gasify coal to produce both fuel and power within an integrated industrial complex—one of the "niche" positions in which coal gasification will first be economical. The Corporation is providing a $620 million price guarantee. The project is on schedule and has encountered no significant problems.

This experience with actual pioneer plants suggests that the very large projects contemplated in 1980 are neither appropriate nor necessary under current conditions. This is confirmed by a review of the projects that were under consideration by the Corporation when the new Board arrived in December 1984. This review demonstrated that the larger projects (and even most of the smaller ones) could not now be undertaken responsibly without significant restructuring, which has been underway where possible.

The Board's Conclusions

On the basis on its understanding of the general energy situation and of the specifics of the projects that have been assisted or considered for assistance under the Act, the Board has reached the following conclusions regarding the current status of the synthetic fuels industry:

• Projects large enough to take advantage of economies of scale (i.e., producing multiples of 10,000 bpd), even when technological risks are small, are uneconomic at present and are too large for private sponsors to undertake for the experience. Such projects are of interest to private sponsors only with significant subsidies on a "per barrel" basis, and produce enough barrels to require multi-billion dollar subsidies.

• Smaller commercial projects, using commercial technology and commercial-scale equipment, can be much more nearly economical in particular applications in the chemical or power generation industries, or where project sponsors expect to earn their profits from follow-on activities rather than from the project itself. The total subsidies necessary to make such projects interesting to private sector sponsors can be much less than for the larger projects, even though the "per barrel" subsidy may be larger.

• At this point in the development of a commercial synthetic fuel capability, the appropriate next step for many technologies involves commercial plants that do not try to capture all economies of scale, but that are large enough to provide much of the information and experience necessary to remove technological and enviromental uncertainties from larger projects that might be undertaken later.

• There are real trade-offs involved in choosing between larger and smaller plants: Larger plants would be more direct models for the commercial plants of the future and, because their unit operating costs would generally be

lower, would be more likely to continue operating for many years adding to experience and maintaining an infrastructure of skilled personnel and organizations; smaller plants would provide most of the knowledge and experience necessary to design and build the larger plants of the future, at less cost and with less risk, and would be easier to modify or shut down if this turned out to be the best thing to do. Although these trade-offs must be evaluated on a case-by-case basis, in most cases it appears likely that the smaller plants will generally be preferable.

The National Synthetic Fuel Production Goal

Section 125 of the Energy Security Act of 1980 ("the Act") establishes a national synthetic fuel production goal "of achieving a synthetic fuel production capability equivalent to at least 500,000 barrels per day of crude oil by 1987 and of at least 2,000,000 barrels per day of crude oil by 1992, from domestic resources." Section 126(b) of the Act directs the Board of Directors ("the Board") of the Corporation to "establish a comprehensive strategy to achieve the national synthetic fuel production goal."

Appendix A described in quantitative terms what would be required to accomplish the national production goal, using one possible combination of resources and technologies. Conceivably, with a concerted national effort comparable to wartime mobilization, this plan could be carried out. However, it would be extremely costly and disruptive to do so, and it is unlikely that the deadlines specified in the Act could be met. Under current price and cost forecasts, the financial resources of the Corporation—even the full $88 billion authorized, of which only about $8 billion is currently available—would not be adequate to induce private investment on the required scale.

The plan described in Appendix A is *not* recommended by the Board. It is intended only to illustrate the magnitude of what would be required if the nation should choose to pursue the national production goal, even with relaxed time deadlines and increased financial resources. The plan is intended to be illustrative only, and does not go into details about specific technologies, locations or projects; the implied inclusion or exclusion of any specific technology, location or project does not represent a Board conclusion that such a technology, location or project should or should not be included in any actual large-scale commercial industry. Some of the key features of this plan (or of any of the many others that could be drawn up to accomplish or approximate the goal) are:

[What follows will be expanded and modified on the basis of analytic work being performed by staff.]

- To meet the goal of 500,00 barrels per day (bpd) production capacity in place by (the end of) 1987 would require widespread use of proven technologies (e.g., steam injection) or tar sands and on certain heavy oil resources that can qualify as synthetic fuels resources under the Act. In effect, this would force development of costly and risky heavy petroleum resources in preference to similar heavy oils that are too economical to meet the Act's legal definition of a "synthetic fuel resources." The coal and oil shale projects now beginning or soon to begin operations could contribute only about XXXXX bpd toward the 500,000 bpd goal, and no other coal or oil shale projects could be producing by 1987.
- To meet the goal of 2,000,000 bpd by 1992 would require maximum development of tar sands and (qualifying) heavy oil resources, and simultaneous investments in dozens of multi-billion dollar coal and shale oil plants. These large plants (e.g., costing $5 billion dollars each and producing 50,000 bpd each) would either use proven technologies with limited potential for improvement or try more advanced technologies and run the risk of not working without time- and money-consuming fixes.
- The economic cost of accomplishing the national production goal would be about $XXX billion in investment. Although there is great uncertainty about future energy prices and plant operating cost and performance, the projects should be able to cover operating costs, so that continuing subsidies would not be required if construction costs were fully subsidized. However, if capital costs (including interest) had to be repaid from product revenues, the required energy prices would be on the order of $$XXX per barrel; on the Corporation's median energy scenario, approximately $XXX billion in price guarantee assistance would be necessary to accomplish the 2 million bpd goal.

Although other plans could be developed to accomplish (or approximate) the national production goal, they would differ only in details from the plan outlined above and in Appendix A. Any plan driven by the objective of putting in place a large synthetic fuels production capacity as soon as possible, without regard to technological or market realities, would have to be similar, involving the simultaneous investment in dozens of duplicative projects using unproven and/or unimproved technology; the costs and risks of any such plan would be comparable to those of the proposed plan.

It is the Board's judgment that any plan that might be developed to pursue the national production goal would have unreasonable costs and risks and would not be the best way to develop a strong, commercially viable synthetic fuels industry for the next century. Therefore, the Board does not recommend that the national production goal be maintained as the objective of the national synthetic fuels program, even if the deadlines are relaxed to reflect logistical realities. Under current conditions, it is simply unnecessary and unwise to push for large production levels independent of future developments.

Recommended Objectives, Schedule and Strategy

In recommending that the national production goal *not* be the objective of the national synthetic fuels program, the Board is not suggesting that a large synthetic fuels program should never be developed in the United States. There is no question in the Board's mind that synthetic fuels could provide most of the fuels the nation demands (and, for that matter, satisfy a large foreign demand) in an environmentally acceptable manner, and may someday do so. However, it is too soon to know when or if this may be a good idea, or how it should be done when and if it is a good idea. The issue is one of timing and strategy, not whether a synthetic fuels industry is an option worth developing.

This section outlines the rationale for a continued synthetic fuels program under current conditions and sets forth the Board's recommendations concerning the objective, schedule and strategy for the national synthetic fuels program.

Rationale for a Publicly-Supported Synthetic Fuels Program

The basic rationale for using governmental authorities and funds to encourage investment in commercial synthetic fuels projects is that such projects will yield benefits to the nation at large that are not fully captured by the investors in the projects. These "external" or "social" benefits are of several possible types: The economic and political benefits of decreased reliance on foreign oil supplies; the possibility that near-term world oil prices may be lower if the nation has a credible long-term synthetic fuels option; the ability to increase synthetic

fuels production more quickly and economically when and if it becomes desirable to do so.

Under current conditions in the world oil market, there is no strong argument for producing large quantities of expensive synthetic fuels to displace cheaper natural fuels, either domestic or imported. However, there is still a compelling argument that the nation *may* want to increase synthetic fuels production to a large scale sometime in the next decade or so, and hence the capability to do so economically and with acceptable environemntal impact is worth having—as an "insurance" policy against an uncertain but costly event. Thus, at the present time the most important external benefit from investing in synthetic fuels is the knowledge and experience that will allow the private sector to expand production on its own if and when this becomes desirable.

Until some pioneer commercial plants have been built and operated, the technical, economic and environmental risks of building large synthetic fuels plants will be a serious constraint on the nation's ability to expand synthetic fuels production rapidly. Because these pioneer plants are too large, too risky and, under current conditions, too unprofitable to be attractive to private investors, they will not be built now without governemnt subsidies. Whether such subsidies are appropriate, when and for what types of plants, depends on the magnitude and nature of the external "learning" benefits associated with the different types of plants, in different combinations.

In concept, it would be possible to calculate the learning benefits expected from each possible project in a portfolio of possible projects and then optimize the number and type of projects assisted. As a practical matter, this is impossible and hence a great deal of judgment is necessary to determine which projects deserve how much public assistance. Nonetheless, it is useful to undertake some quantitative assessment of the potential benefits of various types of projects, to estimate the order of magnitude of the benefits and to determine which types of projects, with what timing, might provide the desired "insurance" in the most cost-effective way.

The Corporation has contracted for and performed itself analyses of the learning benefits of pioneer projects. Some of the results are reported in Appendix XXX. In summary, these analyses suggest that pioneer plants built now have the potential of significantly improving the cost and performance of future plants, and that the cost savings to the nation are large enough, soon enough and certain enough to justify some public investments. However, to maximize the net benefits from near-term investments, it is necessary to assure that the right kinds of pioneer projects are undertaken; the program of publicly-supported projects should be no larger or more duplicative than necessary to learn what needs to be learned; and, depending on how the technology and the environment develop over time, the actual outcome may or may not ba a large production program. Insurance is worth buying if one is careful about how much and what kind one buys; and one is usually better off if one never collects on it.

The Board's Recommended Objective, Schedule and Strategy

Based on consideration such as those above, the Board recommends the following:

- *The objective* of the national synthetic fuels program should be to establish, in a cost-effective way, a base of commercial knowledge and experience that will allow the private sector to expand synthetic fuels production to any desired level, efficiently and cleanly, when and if market or national security considerations make this appropriate.
- *The schedule* for accomplishing this objective should be flexible, should reflect both the likely timing of the market and the time it will take to develop the knowledge/experience base in a cost-effective way, and may be different for different synthetic fuel resources and technologies; under current conditions, there is little reason to rush but good reasons to continue making progress toward the longer-term objective.
- *The strategy* should be a phased, adaptive one, in which results and events are analyzed before decisions are made concerning how, when and whether to continue; in the near term, projects should be designed to provide, in a cost-effective way, knowledge to inform later decisions, not necessarily to be models for the projects that will be built in the long run.

More specifically, the Board recommends that:

- The Corporation continue to operate under the Statement of Objectives and Principles adopted in January 1985, and specifically to design its program to "improve the national base of knowledge and experience about both the technological and environmental aspects of selected synfuels options, in order to reduce the technical and environmental uncertainties that might limit the rate and extent of synfuels production nationally."
- The Corporation continue working to implement the Phase I Business Plan adopted by the Board in February 1985, as described in more detail in the next section.
- No additional funding beyond what is currently available to the Corporation be considered at this time.
- The Board report back to Congress within 3 years [Board discussion of the appropriate time is required], describing Phase I progress and results to date and making recommendations for Phase II, if any.

There is, of course, no way to predict just what will occur in the future, either in the synthetic fuels program or in the energy and economic environment, and hence no way to know what the Corporation might report or recommend. There are many possibilities, depending on how well and in which areas Phase I has succeeded in reducing the technical and environmental uncertainties surrounding synthetic fuels technology, and on the energy price outlook. For the sake of illustration, four simple cases can be described.

I. If actual or forecast energy prices are again increasing, and the Phase I program has succeeded in reducing the environmental and technical uncertainties surrounding promising synthetic fuel technologies, the Board may conclude that little or no further government assistance is necessary—the private sector has the economic incentive and the technological base to undertake on its own investments in capacity and in further technological improvements.

II. If actual or forecast energy prices are again increasing, and there remain significant uncertainties about promising options, the Board may recommend a continued or even expanded program to reduce these uncertainties as quickly as possible, perhaps in the kind of fully commercial projects that were originally contemplated in the Act but that are not appropriate now.

III. If the energy price outlook is still sanguine, and the Phase I program has succeeded in reducing the environmental and technical uncertainties, the Board would probably recommend that nothing further be done—the technology is ready when the market is.

IV. If the energy price outlook is still sanguine, and there remain significant technical and environmental uncertainties about synthetic fuels development, the Board might recommend a small program of

continued research to improve knowledge and experience further.

Implementing Phase I of the Business Plan

The Business Plan adopted by the Board in February identified certain combinations of resource and technology that are of priority interest in the Phase I program. Based on further analysis of the status of technology and of potential projects, the Board has defined more specifically what needs to be done within each of the priority resource-technology combinations and how much financial assistance from the Corporation might be required.

In the Business Plan, the Board identified those resource categories and subcategories that are potentially of greatest significance as a source of synthetic fuels, and then identified the kinds of technologies necessary to assure the nation's capability to expand synthetic fuels production from each of these. Because of the wide variation in processing characteristics across subcategories of the "coal" resource, compared to the relative homogeneity of processing characteristics within the shale resource, this process resulting in more coal projects than shale projects, as indicated in the listing below. This outcome reflects the Board's judgment about what is required in each area to accomplish the Board's objective, and does not suggest that the Board thinks coal is more "important" or more "economical" than shale.

The Board's current views on implementing the Phase I Business Plan are outlined below. Those resource-technology categories in which projects are underway are included for completeness. Where no project is now underway, an "Example Desired Project" is described for illustrative purposes; in most cases, these are descriptions of specific projects that are actually before the Corporation or that are expected, on the basis of current discussions. However, the mention of any project, explicitly or by implication, does not mean that the Board has decided to assist that project, that other projects are not welcome, or that agreement has yet been reached between the Corporation and sponsors regarding the project configuration.

Priority Coal Technologies

Fixed Bed Gasification, Dry Bottom, High Pressure

Project Underway: Great Plains—Lurgi gasification of No. Dakota lignite to produce 23,000 bpd (crude oil equivalent) of synthetic natural gas.

Status: The Great Plains plant is completed, in operation, nearing design production rate, approximately on schedule. Improved emission control system may be needed, is under study. Corporation price supports are under consideration to allow project to repay DOE-guaranteed loan.

Fixed Bed Gasification, Slagging Bottom, High Pressure

Example Desired Project: Gasification of high-rank bituminous coal; plant should be minimum size necessary to demonstrate commercial-scale process.

Statue: Coporation will issue a solicitation. Preliminary discussions have been held with a utility engaged in feasibility study of 180 mw projects; sponsor considering reducing size of project.

Fluidized Bed Gasification, High Pressure

Example Desired Projects: Gasification of high-rank bituminous coal; plant should be minimum size necessary to demonstrate commercial-scale process, to minimize risk of scale-up from small pilot plant.

Status: Candidate project has been proposed under existing solicitation; discussions are exploring ways in reduce project size, reduce technological risks.

Entrained Solids Gasification, Slurry Feed, High Pressure

Project Underway: Coolwater—gasification of high-rank bituminous coal to produce 4,3000 pbd (coe) of medium-BTU gas to operate utility combined cycle power plant.

Status: Coolwater plant is complete, operating at capacity, producing approx. 90 mw of power; ready for extended operation to demonstrate plant reliability and equipment life.

Project Underway: Dow Syngas—Gasification of low-rank western coal to produce 5,170 bpd (coe) of medium-BTU industrial fuel gas.

Status: Dow Syngas pilot plant operating; construction of commercial plant to be completed in 1987

Entrained Solids Gasification, Dry Feed, High Pressure

Example Desired Project: Gasification of high-rank Bituminous coal; plant should be minimum size necessary to demonstrate commercial-scale process, to minimize risk of scale-up from pilot plant.

Status: Candidate project proposed under Corporation solicitation, others under discussion; projects may need modification to comply with Business Plan, meet other criteria.

Priority Shale Oil Technologies

Underground Mining/Surface Retorting of Western Shale

Project Underway: Parachute Creek Phase I, utilizing Union B technology in single 10,400 bpd retort, with raw shale oil upgrading.

Status: Project has been constructed but has encountered difficulties in the spent shale disposal section of the retort; discussions underway to explore addition of carbon-burning retort to project.

Example Desired Project: Mining and surface-retorting project using retort capable of handling shale fines; project should be minimum size necessary to demonstrate commercial-scale process.

Status: Corporation interested in proposals but taking no action to solicit them, pending outcome of discussions with Cathedral Bluffs and Parachute Creek.

Modified In Situ (MIS) Recovery of Western Shale

Example Desired Project: Project involving minimum number of commercial scale MIS retorts necessary to demonstrate commercial process, with minimum surface retorting necessary to process shale incidentially mined and surface retort involving carbon burning and/or fines handling.

Status: Discussions are underway with Cathedral Bluffs to explore modifying the project that has a letter of intent from the Corporation, to reduce mining/surface retorting and use an acceptable surface retorting technology.

Priority Tar Sands/Heavy Oil Technologies

Projects Using In Situ and/or Surface Recovery of Heavy Petroleum

Example Desired Project: A set of projects involving resources typical of relatively large deposits, where Corporation assistance is required to characterize the resource and technologies.

Status: A letter of intent is outstanding with one project; others are under consideration; additional solicitation(s) will be issued; no detailed project listing is possible at this time.

Secondary Priority Resource-Technology Combinations

The Business Plan lists several resource-technology combinations as "secondary priority," meaning that strong projects that are under consideration or that may come to the Board's attention will be considered in Phase I, within the limits of funding availability, but that the Board does not

intend to actively solicit or develop projects in these areas. Example projects in this secondary priority category are described below.

Example Project: Surface mining and retorting of Eastern oil shale, using retort applicable to Western shale; project should be minimum size necessary to demonstrate commercial process.

Status: Several projects are under consideration or discussion.

Example Project: Project producing synthetic fuel from peat, promising to overcome some of peat's inherent disadvantages as a synthetic fuel resource.

Status: One project has a letter of intent from the Corporation but has asked for additional time to reassess technology and economics.

Example Project: Project using true in-situ processing of near-surface western oil shale.

Status: One project has a letter of intent; discussions with sponsors underway.

Example Project: Direct hydrogenation project.

Status: Preliminary discussions have been held with several potential sponsors.

Example Project: Coal-water fuel project at minimum size necessary to demonstrate production of fuel of quality and at cost that is attractive to potential electric utility users; must demonstrate that project would not compete with unsubsidized producers of such fuels.

Status: Corporation solicitation is inactive, pending future Board review of status, competition in the industry.

Conclusions

The Board of Directors of the U.S. Synthetic Fuels Corporation is convinced that the nation will benefit from a limited program of modest-size commercial projects as outlined in the Phase I program above. Until the projects have been more fully defined and the financial assistance terms negotiated, it is not possible to say how much it might cost to implement the suggested Phase I Business Plan. However, a rough estimate for each of the categories is presented below:

Priority Coal Technologies	$XXXX million.
Priority Oil Shale Technologies.	$XXXX million.
Priority Tar Sands/Heavy Oil Technologies.	$XXXX million.
Secondary Priority Categories	$XXXX million.
Total	$XXXX million.

[More specific conclusions and recommendations to be formulated and discussed by the Board.]

[FR Doc. 85-10521 Filed 4-30-85; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 11-85]

Series U-1987 Notes

April 25, 1985.

The Secretary announced on April 24, 1985, that the interest rate on the notes designated Series U-1987, described in Department Circular—Public Debt Series—No. 11-85 dated April 18, 1985, will be 9¾ percent. Interest on the notes will be payable at the rate of 9¾ percent per annum.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-10539 Filed 4-30-85; 8:45 am]

BILLING CODE 4810-40-M

Customs Service

[T.D. 85-74]

Recordation of Trade Name; American Fan Retail Association, Inc.

AGENCY: Customs Service, Treasury.

ACTION: Notice of Recordation.

SUMMARY: On February 1, 1985, a notice of application for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "AMERICAN FAN RETAIL ASSOCIATION, INC." was published in the **Federal Register** (50 FR 4828). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views or arguments submitted in opposition to the recordation and received not later than April 12, 1985. No responses were received in opposition to the notice.

Accordingly, as provided in § 133.14, Customs Regulations (19 CFR 133.14), the name "AMERICAN FAN RETAIL ASSOCIATION, INC." is recorded as the trade name used by American Fan Retail Association, Inc., a corporation organized under the laws of the State of Delaware, located at 125 Walnut Avenue, Bronx, New York 10454. The trade name is used in connection with fans manufactured in Taiwan and Hong Kong.

DATE: May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5765).

Dated: April 26, 1985.

Edward T. Rosse,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 85-10541 Filed 4-30-85; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 84
Wednesday, May 1, 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).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, May 6, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance: Southwest Thrift & Loan Association, an operating noninsured industrial bank located at 283 South Escondido Boulevard, Escondido, California.

Application for Federal deposit insurance and consent to exercise full trust powers: First Signature Bank & Trust Company, a proposed new bank to be located at 65 Lafayette Road, North Hampton, New Hampshire.

Application for Federal deposit insurance for a state-licensed branch of a foreign bank: Bank of the Philippine Islands, Makati, Philippines, for Federal deposit insurance of deposits received at and recorded for the accounts of its branch to be located at 805 Third Avenue, 28th Floor, New York, New York.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, a liquidating agent of those assets:

Case No. 46,216-SR (Amendment)—Sharpstown State Bank, Houston, Texas.

Case No. 46,217-NR (Amendment)—Swope Parkway National Bank, Kansas City, Missouri.

Case No. 46,218-NR (Amendment)—Coronado National Bank, Denver, Colorado.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda: Memorandum and resolution re: FFIEC Supervisory Policy, entitled "Securities Lending," which discusses several areas of supervisory concern involving securities lending transactions and sets forth prudent operating guidelines for depository institutions engaged in securities lending activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: April 29, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-10669 Filed 4-29-85; 3:14 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, May 6, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Notice of acquisition of control: Names of acquiring parties and name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof: Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.: Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: April 29, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-10670 Filed 4-29-85; 3:14 pm]

BILLING CODE 6714-01-M

3

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 50, Page (unknown), Date of publication—April 30, 1985.

PLACE: Board Room, 6th Floor, 1700 G St., NW., Washington, DC. 20552.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Martha Gravlee (202–377–6677).

CHANGES IN THE MEETING: The meeting previously scheduled for Thursday, May 2, 1985, has been cancelled.

No. 8, April 29, 1985.

John M. Buckley, Jr.,

Acting Secretary.

[FR Doc. 85–10671 Filed 4–29–85; 3:20 pm]

BILLING CODE 6720–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, May 6, 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. Implementation of the Board's Program Improvement Project.
2. Building proposals regarding the Federal Reserve Bank of Chicago.
3. Proposed purchase of a telephone system within the Federal Reserve System.
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any item carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Jospeh 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: April 26, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85–10610 Filed 4–29–85; 9:18 am]

BILLING CODE 6210–01–M

5

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Friday, May 3, 1985, at 11:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Inv. 731–TA–254 [Preliminary] (Heavy-walled rectangular welded carbon steel pipes and tubes from Canada—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary. (202) 523–0161.

[FR Doc. 85–10599 Filed 4–26–85; 4:49 pm]

BILLING CODE 7020–02–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 29, May 6, 13, and 20, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 29

Wednesday, May 1

2:00 p.m.
Discussion of Low level Waste Issues (Public Meeting).

4:00 p.m.
Affirmation Meeting (Public Meeting) (if needed).

Thursday, May 2

10:00 a.m.
Discussion of Modified Rule on Material False Statements (Public Meeting).

3:00 p.m.
Periodic Briefing on NTOLs (Open/Portion may be closed—Ex. 5 & 7).

Week of May 6—Tentative

Wednesday, May 8

10:30 a.m.
Briefing by AIF on State of the Industry (Public Meeting).

Thursday, May 9

10:00 a.m.
Briefing on Brookhaven Report on Independent Safety Organization (Public Meeting).

2:00 p.m.
Executive Branch Briefing (Closed—Ex. 1).

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed).

Friday, May 10

2:00 p.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (Public Meeting).

Week of May 13—Tentative

Wednesday, May 15

10:00 a.m.
Briefing on Final Rule on Backfitting (Public Meeting).

Thursday, May 16

10:00 a.m.
Mid-Year Budget and Program Review (Public Meeting).

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed).

2:30 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6).

Week of May 20—Tentative

Thursday, May 23

9:30 a.m.
Discussion of Pending Investigation (Closed—Ex. 5 & 7).

10:30 a.m.
Discussion/Possible Vote on Full Power Operating License for Palo Verde-1 (Public Meeting).

2:00 p.m.
Discussion on Shoreham Adjudication Matter (Closed—Ex. 10) (Tentative).

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed).

ADDITIONAL INFORMATION: Affirmation of "Petitions for Review of ALAB–800 (In Re Long Island Lighting Company)" (Public Meeting) was held on April 23.

Discussion of Diablo Canyon-2 Contested Issues scheduled for April 23, *cancelled.*

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado, (202) 634–1410.

Julia Corrado,

Office of the Secretary.

[FR Doc. 85–10573 Filed 4–26–85; 4:12 pm]

BILLING CODE 7590–01–M

federal register

Wednesday
May 1, 1985

Part II

Department of the Interior

Bureau of Land Management

43 CFR Parts 3040, 3100, 3130, and 3200
Oil and Gas Leasing; Geothermal Resources Leasing; National Petroleum Reserve, Alaska; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3040, 3100, 3130, and 3200

Exploration Activity; Oil and Gas Leasing; National Petroleum Reserve, Alaska; and Geothermal Resources Leasing; General; Amendment Consolidating Oil and Gas and Geothermal Geophysical Exploration and Lease Bonds, and Increasing Minimum Bond Amount Requirements

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would amend the existing regulations covering bond requirements for oil and gas leasing and geothermal leasing activities by consolidating twelve different types of bonds, seven for oil and gas and five for geothermal. The proposed consolidation would provide for only four types of bonds covering oil and gas as well as geothermal activities, and exploratory as well as drilling activity, thus reducing the administrative burden. Requiring fewer bonds would not only reduce public confusion, but also would represent a net cost savings. The proposed increased bond amount would cover current surface restoration costs and the value of Federal royalties, and would simplify and consolidate the bonding requirements structure.

DATE: Comment period expires July 1, 1985. Comments received or postmarked after this date may not be considered in the decisionmaking process on a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Department of the Interior, Bureau of Land Management, 18th and C Street NW., Washington, D.C. 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mona Schermerhorn, (202) 653-2236.

SUPPLEMENTARY INFORMATION: Present oil and gas regulations in 43 CFR Part 3100, Subpart 3104 require that "prior to the commencement of drilling operations, the lessee or operator or designated operator shall submit a surety or personal bond * * * in an amount of not less than $10,000 conditioned upon compliance with all terms and conditions of the lease." In lieu of the $10,000 individual compliance bond, a lessee or operator may furnish a bond of not less than $25,000 to cover all leases and operations in any one State, or a bond of not less than $150,000 to cover leases and operations nationwide.

In addition, prior to commencement of any geophysical exploration operations, parties or lessees filing a notice of intent or permit application for exploratory work must furnish at the same time a bond of not less than $5,000 for each planned exploration, or in lieu thereof, a $25,000 statewide or $50,000 nationwide exploration bond. Where a lease bond or operator's bond has already been furnished, it may be conditioned by a rider to cover exploration operations and a separate exploration bond need not be posted (43 CFR 3045.4).

In the National Petroleum Reserve—Alaska, a $100,000 corporate surety bond must be furnished prior to issuance of each lease or, in lieu thereof, a $300,000 bond covering an entity's oil and gas activities on the entire Reserve in accordance with the leasing regulations at 43 CFR Part 3134.

Present Federal geothermal regulations at 43 CFR Parts 3206 and 3209 pertaining to geothermal lease and geophysical exploration bonding are similar to those for oil and gas with two exceptions. The minimum bond for statewide lease coverage is $50,000 instead of $25,000. Also required is a separate bond of not less than $5,000 for indemnification for damages to persons or property required on an individual lease basis regardless of whether the lessee has filed a lease compliance, statewide, or nationwide bond (43 CFR 3206.1-1(c)). This requirement for a separate bond to indemnify surface owners had also been required under the oil and gas regulations until it was removed from the regulations on October 15, 1976 (41 FR 45566).

Under this proposed rulemaking there would be only four types of bond covering oil and gas and geothermal activities, with allowance for National Petroleum Reserve—Alaska coverage under the nationwide bond. The requirement for a $5,000 geothermal bond protecting surface owners in 43 CFR 3206.1-1(c) would be removed. The regulations in §§ 3045.4, 3104, 3134, 3206, and 3209 would be changed to reflect the four basic bond requirements proposed:

(1) An individual bond in the amount of $25,000 would be required of each lessee or operator for any exploratory and drilling activity undertaken on an individual lease or any activity undertaken for a single exploratory project, except those in National Petroleum Reserve—Alaska. Each separate drilling (on separate leases) or exploratory project would require an individual $25,000 bond unless a statewide bond or nationwide bond was furnished.

(2) A statewide bond in the amount of $150,000 would provide the bondholder coverage within a single State for all drilling on all of his/her leases and for all of his/her exploratory work, except in the National Petroleum Reserve—Alaska.

(3) A nationwide bond in the amount of $500,000 would cover all drilling and exploration activity conducted by a single party regardless of the number of States affected. A nationwide bond would be required where drilling or exploratory activity by a single party occurs in more than one State. This new requirement would reduce administrative problems incurred in handling multistate bonding by single operators and provide a simpler, more direct, cost-effective solution. Further, single operators that have lease activities in more than one State are generally operating in more than two or three States—for example, throughout the Rocky Mountain Region. Thus, for the great majority of operators, carrying a nationwide bond would be less costly than carrying multiple statewide bonds for individual States. Exploratory work and leases in the National Petroleum Reserve—Alaska would also be covered by a nationwide bond. Separate statewide bonds provided before the proposed rulemaking becomes effective would not have to be replaced by a nationwide bond until they expire or become due for renewal.

(4) Under existing regulations, a National Petroleum Reserve—Alaska $100,000 bond covers a single lease in the National Petroleum Reserve—Alaska, and is required prior to issuance of such a lease. Bond coverage is also required prior to issuance of an exploration permit for operations in areas where no lease has been issued. Multiple leases by a single party in the National Petroleum Reserve—Alaska may be bonded by a reserve-wide $300,000 bond in lieu of single $100,000 lease bonds. Under the proposed rulemaking, a nationwide bond would also cover leasing and exploration activities on the National Petroleum Reserve—Alaska. Holders of National Petroleum Reserve—Alaska lease bonds would be permitted to obtain a rider to include coverage of off-lease as well as on-lease exploration operations in the National Petroleum Reserve—Alaska without an increase in the amount of bond coverage.

The increases in the amount of bond coverage provided in this proposed rulemaking would make the bonds

commensurate with current restoration costs. In recent years, the Bureau of Land Management (BLM) has encountered an average of 10 instances annually where individual operators have left well locations without properly plugging and abandoning the holes, or properly reclaiming the disturbed surface at the well site.

Costs involved in down-hole plugging and abandonment procedures, covering cementing, rig time, and miscellaneous costs, range from an estimated $20,000 to $75,000 per well, when depths range from 5,000 feet to 15,000 feet. Costs involved in surface reclamation at the individual well sites range from an estimated $5,000 to $25,000 per site, depending on the environmental and terrain configurations. This means that total costs of plugging, abandonment, and reclamation could range from $25,000 to $100,000 per site.

Accordingly, during the course of a year, the typical 10 instances of improper abandonment would involve an unrecoverable expense for BLM of from $200,000 to $750,000 for plugging and abandonment and from $50,000 to $250,000 for reclamation, or a total of $250,000 to $1,000,000, less the small proportion now covered by bonds.

Delinquencies in royalty payments also demonstrate the need for higher bond levels. The Minerals Management Service has analyzed current delinquent billings that would require the bond to be called to protect the interest of the Government. Since October 1, 1984, 69 Federal onshore leases have gone into default for non-payment of royalties totaling $4.6 million. An examination of bonds in force for these leases shows a total deficiency of $1.2 million in bonding to cover the defaulted royalties.

Also, the number of bankruptcies among royalty payors is on the rise. As of January 31, 1985, MMS had been notified of 12 bankruptcies involving companies with royalty payment responsibilities. In all instances, MMS is seeking approval of the bankruptcy court to collect the royalties by calling the bond. It is expected that the bonds in these cases will be insufficient to cover the total royalty liability in all 12 cases.

Under this proposal, single exploratory project minimum bond coverage would be raised from $5,000 to $25,000; coverage of drilling activity on a single lease would be raised from $10,000 to $25,000. The statewide exploratory bond coverage would be raised from $25,000 ($50,000 for geothermal exploration) to $150,000; statewide coverage for drilling activity on leases would be raised from $25,000 to $150,000. Required coverage for nationwide activity would be raised from $50,000 for exploration and from $150,000 for drilling on leases to $500,000 for both exploration and drilling activities. For the National Petroleum Reserve-Alaska, exploration and lease coverage could be included in a nationwide bond in lieu of separate lease and exploration bonds covering the entire Reserve.

During a period of 1 year following the effective date of this rulemaking, all current lessees holding nationwide, statewide, and individual bonds covering geophysical exploration, geothermal resources, and oil and gas leasing, will be required to submit replacement bonds in the amounts specified.

The public is encouraged to offer any suggestions that would improve the present bonding system. We solicit comments on the following topics: Ways of reducing possibly duplicative Federal and State bonding requirements; whether the proposed bonding requirements are sufficient to cover the actual costs of closing and abandoning drill holes and wells; and possible alternatives to bonding such as imposing a reclamation fee. The public is urged to suggest new and innovative approaches to bonding.

The principal authors of this proposed rulemaking are Mona Schermerhorn and Lois Mason of the Division of Fluid Mineral Leasing, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

The $250 increase in annual bond premium costs imposed on small operators is insignificant compared to their well-drilling and other operating expenses. The costs that would be occasioned by this proposed rulemaking would fall equally on all entities, regardless of size.

Information collection requirements associated with this rulemaking have been submitted to the Office of Management and Budget for review. This proposed rulemaking would provide for a new revised consolidated single bond form to replace existing forms 3045–3, 3104–1, 3104–2, 3104–8, 3106–4, 3200–11, 3200–12, 3200–13, and 3200–16, which were assigned Office of Management and Budget clearance numbers 1004–0128 and 1004–0074.

List of Subjects

43 CFR Part 3040

Oil and gas exploration, Public lands—mineral resources.

43 CFR Part 3100

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—classification, Public lands—mineral resources, Surety bonds.

43 CFR Part 3130

Alaska, Mineral royalties, Oil and gas reserves, Public lands—mineral resources, Surety bonds.

43 CFR Part 3200

Environmental protection, Geothermal energy, Mineral royalties, Public lands—classification, Public lands—mineral resources, Surety bonds.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Geothermal Steam Act of December 24, 1970 (84 Stat. 1566), the Department of the Interior Appropriations Act for Fiscal Year 1981 (Pub. L. 96–514), the Act of May 21, 1930 (30 U.S.C. 301–306), the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*), Groups 3000, 3100 and 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations, is amended as set forth below.

PART 3040—[AMENDED]

1. Section 3045.4 is amended by revising paragraph (a) to read as follows:

§ 3045.4 Bond requirements.

(a) For each planned exploration, the party or parties filing the notice of intent or application for a permit shall simultaneously file, and a lessee, prior to commencing geophysical operations on a lease, shall file with the authorized officer a bond, as described in § 3104.1 of this title, in the amount of at least $25,000, conditioned upon full and faithful compliance with all of the terms and conditions of this subpart, the notice of intent, permit and/or lease. In lieu thereof, the party or parties may file

a statewide bond in the amount of $150,000 covering all oil and gas exploration operations in the same State or a nationwide bond in the amount of $500,000 covering all oil and gas exploration operations in the nation. Holders of statewide and nationwide bonds shall also be deemed to have bond coverage for leasing activities as required in §§ 3104.2 and 3104.3 of this title, and geothermal exploration operations and leasing activities as required in §§ 3206.5, 3206.6, and 3209.4 of this title. Holders of National Petroleum Reserve-Alaska oil and gas lease bonds as required in § 3134.1 of this title shall be permitted to obtain a rider to include the coverage of oil and gas exploration operations within the National Petroleum Reserve-Alaska.

* * * * *

PART 3100—[AMENDED]

§ 3104.2 [Amended]

2. Section 3104.2 is amended by removing the figure "$10,000" wherever it appears, and inserting, in its place, the figure "$25,000", and adding at the end thereof a new paragraph (c) to read as follows:

* * * * *

(c) This bond shall satisfy the bonding requirement of a lessee on its lease under § 3045.4(a) of this title.

§ 3104.3 [Amended]

3. A. Section 3104.3(a) is amended by removing the figure "$25,000" and inserting, in its place, the figure "$150,000", and adding at the end thereof two sentences reading as follows: "This bond shall also satisfy the provisions for a statewide bond in §§ 3045.4(a), 3206.6, and 3209.4 of this title. A nationwide bond shall be furnished in lieu of a statewide bond when coverage is required in more than 1 State."

B. Section 3104.3(b) is amended by removing the figure "$150,000" and inserting, in its place, the figure "$500,000", and adding at the end thereof two sentences reading as follows: "This bond shall also satisfy the provisions for a nationwide bond in §§ 3045.4(a), 3206.6, and 3209.4 of this title. However, a nationwide bond shall be required where leases are held and operations will be conducted in more than 1 State."

PART 3130—[AMENDED]

§ 3134.1 [Amended]

4. Section 3134.1 is amended by: (A) Amending paragraph (a) by changing the period at the end of the second sentence thereof to a comma, and adding the phrase "or maintains and furnishes a nationwide bond as set forth in § 3104.3(b) of this title."

(B) Amending paragraph (b) by inserting, in the first sentence, following the figure "$300,000", the phrase "or a nationwide bond as provided in § 3104.3(b) of this title.".

(C) Amending paragraph (c) by removing the words "$100,000 lease bond or a $300,000 National Petroleum Reserve-Alaska-wide" after the words "surety on a".

(D) Amending paragraph (d) by removing from the first sentence the words "$100,000 lease bond or $300,000 NPR-A-wide" following the word "new", by removing the second sentence in its entirety, by inserting the phrase "$100,000 lease" following the word "separate" in the third sentence, and by adding the phrase "or a nationwide bond" in the third sentence following the phrase "a $300,000 NPRA-wide bond".

(E) Amending paragraph (e) by removing the phrase "Subparts 3104 and 3318" and inserting, in its place, the phrase "§§ 3045.4(a), 3104.2, 3104.3(a), 3206, and 3209".

§ 3134.1–2 [Amended]

5. Section 3134.1–2 is amended by redesignating the existing section as paragraph (a) and adding a new paragraph (b) reading as follows:

* * * * *

(b) The holders of an oil and gas lease bond for a lease on the National Petroleum Reserve-Alaska shall be permitted to obtain a rider to include the coverage of oil and gas geophysical exploration operations within the boundaries of the National Petroleum Reserve-Alaska.

PART 3200—[AMENDED]

§ 3206.1–1 [Amended]

10. Section 3206.1–1 is amended by:

(A) Revising paragraph (a) to read as follows:

(a) Bonds shall be either corporate surety bonds or personal bonds.

* * * * *

(B) Amending the second sentence in paragraph (b) by removing the figure "$10,000" and inserting, in its place, the figure "$25,000"; and

(C) Removing paragraph (c) in its entirety.

§ 3206.3–1 [Amended]

11. Section 3206.3–1 is amended by:

(A) Amending the first sentence by removing the figure "$10,000" and inserting, in its place, the figure "$25,000"; and

(B) Amending the second sentence by inserting the word "one" after the phrase "Where there is more than".

§ 3206.3–2 [Amended]

12. Section 3206.3–2 is amended by correcting the word "more" to read "mere".

§ 3206.5 [Amended]

13. Section 3206.5 is amended by removing the figure "$150,000" and inserting, in its place, the figure "$500,000" and adding at the end of the section a new sentence to read as follows: "This bond shall also satisfy the bonding requirements contained in §§ 3209.4, 3045.4, and 3104.3(b) of this title."

§ 3206.6 [Amended]

14. Section 3206.6 is amended by removing the figure "$50,000" and inserting, in its place, the figure "$150,000", and adding two sentences as follows: "This bond shall also satisfy the bonding requirements contained in §§ 3209.4, 3045.4, and 3104.3(a) of this title. If an operator anticipates expanding activities into more than one State, a nationwide bond may be furnished in lieu of statewide bonds."

§ 3206.7–2 [Amended]

15. Section 3206.7–2 is amended in the first sentence of the paragraph by removing the figure "$150,000" and inserting, in its place, the figure "$500,000" and by removing the figure "$50,000" and inserting, in its place, the figure "$150,000".

§ 3209.4–1 [Amended]

16. Section 3209.4–1 is amended by:

(A) In paragraph (a) removing the figure "$5,000" and inserting, in its place, the figure "$25,000;" and

(B) Redesignating paragraph (b) as paragraph (c) and inserting a new paragraph (b) to read as follows:

* * * * *

(b) In lieu thereof, the party or parties may file a statewide bond in the amount of $150,000 covering all geothermal exploration operations and leasing activities in the same state or a nationwide bond in the amount of $500,000 covering all geothermal exploration operations and leasing activities in the nation. These bonds shall also satisfy the bonding requirements contained in §§ 3045.4, 3104.2, and 3104.3 of this title.

* * * * *

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

March 22, 1985.

[FR Doc. 85–10489 Filed 4–30–85; 8:45 am]

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federal register

Wednesday
May 1, 1985

Part III

Department of Agriculture

Agricultural Marketing Service

Wheat and Wheat Foods Research and Nutrition Education; Wheat Industry Council Budget for Fiscal Year 1986; Notice

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education; Wheat Industry Council Budget for Fiscal Year 1986

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of the Wheat Industry Council Budget for fiscal year 1986.

SUMMARY: This notice presents the proposed July 1985 through June 1986 budget of the Wheat Industry Council. Publication of budget information in the Federal Register is required by the Wheat and Wheat Foods Research and Nutrition Education Act. The purpose is to provide information concerning the emphasis and direction of the Council's nutritional education program for the upcoming year. In addition, it provides those end product manufacturers, who are required to pay assessments on purchases of processed wheat to fund the program, an opportunity to reserve the right to seek a refund of assessments paid.

FOR FURTHER INFORMATION CONTACT: Lowry Mann, Livestock and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: 202/447-2650.

SUPPLEMENTARY INFORMATION: The Wheat and Wheat Foods Research and Nutrition Education Act of 1977 (7 U.S.C. 3401-17) authorized a research and nutrition education program for wheat and wheat foods. Formal rulemaking procedures, including a public hearing, were followed in developing the Wheat and Wheat Foods Research and Nutrition Education Order which provides the framework for the program.

In a March 1980 referendum wheat end product manufacturers approved the Wheat and Wheat Foods Research and Nutrition Education Order. The Order provides for a program of research and nutrition education for wheat and wheat-based foods to be administered by a 20-member Wheat Industry Council. The Order requires that all nonexempt wheat end product manufacturers be assessed up to 5 cents per hundredweight of processed wheat purchased to finance the program. The Order limited the assessments to 1 cent per hundredweight during the first 2 years of the program. The assessment will remain at the 1 cent level for fiscal year 1986 (July 1985–June 1986). Wheat end product manufacturers who purchase less than 2,000 hundredweight of processed wheat per year, those who are defined as retail bakers, and processed wheat used in the manufacture of exempt end products are not assessed.

The Wheat and Wheat Foods Research and Nutrition Education—Rules and Regulations require all nonexempt wheat end product manufacturers to register with the Wheat Industry Council; 1333 H Street, NW., Suite 1200; Washington, D.C. 20005 (Phone: 202/682-2130). Assessments are due and payable to the Wheat Industry Council on or before the 30th day following the end of each firm's quarterly reporting period.

Wheat end product manufacturers who wish to reserve the right to request refunds of assessments to be paid during the Council's upcoming fiscal year must submit such notification to the Wheat Industry Council by registered or certified mail within 60 days after publication of this notice in the **Federal Register.** In order to receive a refund of assessments paid, an end product manufacturer must first reserve that right, then pay the assessment on or before the 30th day following the end of the quarterly reporting period. The refund must then be requested on the appropriate form within 60 days following the end of the quarterly reporting period.

The primary objective of the Council's 1985–86 program is to increase consumer awareness of the benefits of wheat foods through an effective nutrition education program. The program includes generic television commercials, media appearances by university nutritionists, television public service spot announcements, releases to food writers, audio-visual materials for health and nutrition speakers and lecturers, and a wheat foods logo.

The Wheat Industry Council budget for fiscal year 1986 is as follows:

Wheat Industry Council—July 1, 1985–June 30, 1986, Budget

Income:		
From Assessments	$1,000,000	
Carryover from 1985 Budget	114,000	
Total		$1,114,000
Program Expenses:		
Media Tour	50,000	
Color Page Release	50,000	
TV PSA	50,000	
Media	234,500	
Consumer Materials	45,000	
Conferences/Comm. Mtgs.	15,000	
Supplies, Expenses	55,000	
Employment Compensation	200,000	699,500
Medical/Nutrition Research Committee	50,000	50,000
Industry Communications:		
Council Communications:		
The Reporter	20,000	
Newsgram	12,000	
Special Mailings	6,000	
Council Meetings/Travel Committee Expenses	49,000	
Supplies/Postage	3,500	
Employment Compensation	20,000	110,500
Administration:		
Administration Costs (Rent, Liability Insurance, Telephone, Property Tax)	86,000	
Assessments/Registration	22,500	
Professional Services	8,000	
Miscellaneous	2,500	
Employment Compensation	55,000	174,000
USDA:		
Administration	50,000	
Repayment of Referendum Costs	30,000	80,000
Total Expenses		1,114,000

Done at Washington, D.C.: April 26, 1985.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 85-10530 Filed 4-30-85; 8:45 am]

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federal register

Wednesday
May 1, 1985

Part IV

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule and Request for Comments

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2749-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to amend its regulations under the Resource Conservation and Recovery Act (RCRA) by listing as hazardous three wastes generated during the production of linuron and bromacil. The Agency also is proposing to add linuron and bromacil to the list of commercial chemical products which are hazardous wastes when discarded. The effect of this proposed regulation would be to subject these wastes to the hazardous waste management standards contained in 40 CFR Parts 262–266, Part 124, and the permitting requirements of Parts 270 and 271.

DATES: EPA will accept public comments on this proposed rule until July 1, 1985. Any person may request a hearing on this amendment by filing a request with Eileen B. Claussen, whose address appears below, by May 16, 1985.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the regulatory docket "Listing Linuron and Bromacil." Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

The public docket for this amendment is located in Room S-212A, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Wanda LeBleu-Biswas, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION:

I. Background

On May 19, 1980, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published a list of hazardous wastes generated from specific sources. This list has been amended several times, and is published in 40 CFR 261.32. EPA today is proposing to add to the list two wastes from the production of linuron and one waste from the production of bromacil. The two wastes from linuron production are the wastes from the decanter (K119), and the wastes from the spill control trap (K120); the wastewater from product filtration and water washing (K121) is the waste from bromacil production.

The hazardous constituents in these wastes include carcinogenic, teratogenic, reproductive, and otherwise chronically and acutely toxic organic compounds. They typically are present in high concentrations in the wastes. The hazardous constituents also are mobile and persistent, and can reach environmental receptors in harmful concentrations if these wastes are mismanaged. In addition, both linuron wastes are ignitable, with flash points of 80° F and 85° F (K119 and K120, respectively); waste K119 also is corrosive, with a pH less than 2. Evaluated against the criteria for listing hazardous wastes (40 CFR 261.11(a)(3)), EPA has determined that these wastes are hazardous because they are capable of posing a substantial present or potential threat to human health and the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Both linuron and bromacil are commercial chemical products and have adverse health effects. Accordingly, EPA is proposing to add them to the list of commercial chemical products which are hazardous wastes when discarded (40 CFR 261.33(f)).

The Agency notes that the Hazardous and Solid Waste Amendments of 1984 (HSWA) require EPA to determine whether or not to list wastes from the production of linuron and bromacil within 15 months of the bill's enactment (see section 222(a) of HSWA, 42 U.S.C. 3001(f)).

II. Summary of the Regulation

A. List of Wastes

This proposed regulation would list as hazardous two wastes generated during the production of linuron and one waste from the production of bromacil. The residual wastes are:

- K119—Wastes from the decanter in the production of linuron.
- K120—Wastes from the spill control trap in the production of linuron.
- K121— Wastewater from product filtration and water washing in the production of bromacil.

In 1983, one domestic company produced linuron and bromacil at one location; the annual production capacity is not available. Based on engineering judgment, however, EPA estimates the volume of waste generated per year from linuron production by the process described here to be approximately 2.5-5.0 kkg of waste K119, and 1.25–2.5 kkg of waste K120; approximately 10,000 kkg of waste K121 are generated from bromacil production.

Linuron production typically is a continuous process consisting of reacting a dichloroaniline with phosgene, then reacting the isocyanate intermediate with a hydroxylamine to form the linuron product. The wastes are formed as residuals at two points in the production of linuron. After the linuron goes through two distillations steps, the light ends from the second distillation go through a decanter. When the decanter (which has a volume of 500–1000 kg) is filled (about once each month of operation, or five times per year), it is dumped and the contents incinerated. These wastes, a mixture of water, oranics, and solids from the decanter, are waste K119. Waste K120 comes from the spill control trap, which is an integral part of the initial distillation process. This trap receives water with entrained solvent and some solids from the distillation area on a continuous basis. The trap also receives wastewater intermittently, such as when spills occur, from the bromacil production process, which is physically located adjacent to the linuron process. When the trap (which has a volume of about 250–500 kg) is filled (about once each month of operation, or about five times per year), it is dumped and the contents incinerated.

Bromacil is manufactured in a batch process, consisting of mixing methyl acetoacetate in a xylene solution with sec-butyl urea, and adding sodium methoxide to drive the reaction to completion. The uracil intermediate is extracted, then brominated to form bromacil. The product is filtered, washed, and refiltered, and the filtrate discharged to a biotreatment system; this wastewater is waste K121.

The listing background document (available from the public docket at EPA Headquarters—see "ADDRESSES" section—and from the EPA Regional Libraries) and the sources cited there describe this production process in detail. Certain sections of the

background document, however, are confidential business information (CBI); these CBI sections will be deleted from the document that is available to the public.

As derived from sampling and analyses, these wastes typically contain significant concentrations of the toxic constituents:

Waste No.	Constituent [1]	Concentration in PPM
K119	Chlorobenzene	407,000
	Linuron	1,600
K120	Chlorobenzene	395,200
	Bromacil	2,400
K121	Bromacil	2,400

[1] 3,3',4,4'-Tetrachloroazobenzene (TCAB) and 3,3',4,4'-tetachloroazoxybenzene (TCAOB) also are expected to be present in the wastes from linuron production. TCAB and TCAOB are structurally related to the chlorinated dioxins and dibenzofurans (CDDs and CDFs). As is true for the CDDs and CDFs, TCAB and TCAOB induce a variety of toxic effects at extremely low doses, they bind with high affinity to the "TCDD receptor" (in this respect they are as potent as 2,3,7,8-tetrachlorodibenzofuran (TCDF)). TCAOB is teratogenic in mice, causing cleft palate, hydronephrosis and hydrops. In these studies, the ED50 (dose eliciting 50% of the maximal response) for TCAOB is about 200 times that of 2,3,7,8-tetrachlorodibenzodioxin (TCDD), *i.e.*, the teratogenic potency of TCAOB is only about 200 times less than that of TCDD, one of the most potent teratogens known. For TCDD, the VSD for the reproductive effects (1.8 fg/kg/d) (Kimbrough, 1984) and the 10^{-6} lifetime excess cancer risk level dose (7 fg/kg/d) are the same order of magnitude. Since TCDD is about 200 times more potent a teratogen than TCAOB, we estimate its VSD for reproductive effects to be $200 \times 1.8 = 400$ fg/kg/d. TCAB and TCAOB also are immune system and liver toxicants. The health effects of TCAB and TCAOB are more fully discussed in the HEEP (EPA, 1985). TCAB is presumed to be present in these wastes based on published reports that linuron itself contains about 9 ppm. The presence of TCAOB is inferred because it is the oxidation product of TCAB. CDC determined that 1 ppb of TCDD in soil is a reasonable level at which to begin consideration of action to limit human exposure to down-contaminated soil (Kimbrough, 1984). CDC's 1 ppb estimate is the level of concern in a residential situation would therefore yield about 200 ppb as the level of concern for TCAOB. Because of their structural and physicochemical resemblance to TCDD and TCDF, TCAB and TCAOB are predicted to be almost insoluble in water, soluble in aprotic organic solvents, and to adsorb strongly to organic soil constituents. In the absence of solubilizing solvents, the principal hazard to human health is expected to arise from dusts and sediments containing these chemicals. The presence of TCAB in these wastes is of concern because of its structural resemblance to TCDD, the potency of its biochemical and systemic toxic effects, and the fact that it degrades to TCAOB. Since the degradation rate is not known, the Agency is not able presently to determine a level of concern for this toxicant in these wastes. Because the Agency has no definite information regarding the concentration of these toxicants in the waste, we, therefore, are not including them as constituents of concern. We solicit data on their concentration, and may include them as constituents of concern in the final listing if additional data is received to indicate that they are present at significant levels.

Based on their toxicity, mobility, and persistence, the concentrations of these toxicants are of significant concern (see discussion below).

These hazardous constituents have carcinogenic, teratogenic, reproductive, or other effects. Chlorobenzene, in several subchronic studies, caused histopathologic changes in the liver and kidneys of rats, mice, and dogs (EPA, 1984). Reproductive effects noted in a study in dogs include decreased spermatogenesis, tubular atrophy, and epithelial degeneration (EPA, 1984).

There is limited evidence that linuron is a potential human carcinogen (EPA, 1980–85b, CBI). There also is slight evidence that linuron is teratogenic in rats (EPA, 1980–85a). Mutagenicity tests with linuron have shown both positive and negative results; these data, therefore, are inadequate for assessing its mutagenic potential (EPA, 1980–85a; and b, CBI).

In a long-term assay, bromacil was carcinogenic to male mice; thyroid hyperplasia was noted in rats (EPA, 1980–85b, CBI). Bromacil also caused slight fetotoxic effects, causing decreased fetal weight and delayed caudal ossification in rats (EPA, 1980–85a). Its reproductive effects in mice include increased incidence of spermatocyte necrosis (EPA, 1980–85b, CBI).

These compounds, therefore, exhibit toxicological properties of regulatory concern. For additional information on the toxicity of the hazardous constituents, see the Health and Environmental Effect Profiles (HEEPs), available from the public docket at EPA Headquarters—see "ADDRESSES" section—and from the EPA Regional Libraries.

These constituents are very mobile, with expected exposure pathways via ground water and volatilization. The water solubility of a given toxic constituent is indicative of its mobility potential (*i.e.*, the likelihood that it will be released from a management site and become dissolved in a water resource). Leaching is a concern because most of these compounds are soluble in water and so could leach out of the wastes, potentially contaminating ground water. The water solubility of the hazardous constituents are fairly high: linuron, 75 mg/l (EPA, 1980–85a); bromacil, 815 mg/l (EPA, 1980–85a); and chlorobenzene, 488 mg/l (EPA, 1980–85a). The Ambient Water Quality Criterion (AWQC) for chlorobenzene (derived from toxicity data) is 0.488 mg/l. Therefore, if chlorobenzene present in the waste leached into ground water, and contaminated a drinking water well at only 10% of its solubility limit, the resulting chlorobenzene concentration would be 100 times its AWQC.

If linuron or bromacil were to contaminate a drinking water well downstream from a disposal facility at only 10% of their theoretical solubility limit (*i.e.*, 7.5 and 81.5 ppm concentrations respectively), the users of such a contaminated well would be at high risk (10^{-4} to 10^{-3} in the case of linuron, and 10^{-1} in the case of bromacil) for the development of benign or malignant tumors.[1]

Chlorobenzene also is volatile, a factor which increases its potential release to air. Its vapor pressure is 10 mm Hg at 22.2° C (Sax, 1979), indicative of its potential to release to air when improperly contained, posing an additional threat to human health and the environment if these wastes are improperly managed. For linuron, with a vapor pressure of 1.5×10^{-5} mm Hg at 24° C (EPA, 1980–85a), and bromacil, with a vapor pressure of 8×10^{-4} mm Hg at 100° C (EPA), 1980–85a), emission to air is not an exposure pathway of great concern.

The Agency considers a material to be persistent if it persists in the environment long enough to be detected, since it may result in exposure to humans in the same period of time. Chlorobenzene and bromacil have been detected repeatedly in ground and surface water surveys, which provides an indication of their environmental persistence. These constituents can migrate from the matrix of a waste, through air, soil, and water, and will persist in the environment. Chlorobenzene has been found in ground water, surface water, soil, and air (JRB, 1984). It also was detected in school and basement air, basement sumps, and in solid surface samples at the Love Canal site (JRB, 1984). The Agency has no data indicating detection of linuron in water, but its estimated half-life in water is about two months (EPA, 1980–85a), sufficient time for it to reach environmental receptors and pose a substantial hazard to human health and the environment. Bromacil has a half-life of about six months in soil, and has been detected at low levels in Florida citrus soils a year after application (EPA, 1980–85a). Bromacil also was detected at higher levels (0.3 and 32 mg/l in a Michigan river (EPA), 1980–85a).

These data demonstrate the mobility and persistence of these hazardous constituents in the environment. (See the background document and HEEPs for additional details on the fate, transport, and mismanagement of these constituents.)

Due to the high concentrations of the hazardous constituents in these wastes, the toxic effects of these constituents, and their mobility (via both leaching and volatilization) and persistence in the

[1] These risks were calculated as follows:

Risk = conc. in water × daily water consumption × 1/body weight × $q1^*$.

For linuron: risk = 7.5 mg linuron/L × 2L/day × 1/70 kg × (0.0006 – 0.0098)/mg/kg/day = 10^{-4} to 10^{-3}.

For bromacil: risk = 81.5 mg bromacil/L × 2L/day × 1/70 kg × 0.064/mg/kg/day = 10^{-1}.

($q1^*$ is an estimate of the upper limit of the slope of the dose-response data obtained from an animal cancer assay, and/or epidemiology studies. It enables an assessment of the excess cancer risk to humans resulting from lifetime exposure to a carcinogen.)

environment, EPA concludes that these wastes pose a substantial present or potential hazard to human health and the environment, when improperly stored, transported, disposed of, or otherwise managed. The Agency, therefore, is proposing to add these wastes to the hazardous waste list in 40 CFR 261.32.

B. Addition of Linuron and Bromacil to § 261.33(f)

Linuron is a herbicide used for selective weed control in corn (field and sweet), sorghum, soybeans, carrots, celery, parsnips, potatoes, cotton, wheat, and non-crop areas, such as roadsides, vacant lots, golf course fairways and tees, sod farms, alleys, streets, and fence rows. Bromacil is a non-selective photosynthesis inhibitor herbicide.

For the reasons listed above linuron and bromacil also should be regulated as discarded commercial chemical products, pursuant to 40 CFR 261.33. Section 261.33(f) is a list of commercial chemical products or manufacturing intermediates which are identified as hazardous wastes when discarded. Substances are listed as hazardous if they exhibit one or more hazardous waste characteristics identified in 40 CFR 261.21, 261.22, 261.23, and 261.24, or have been shown in reputable scientific studies to have toxic, carcinogenic, mutagenic, or teratogenic effects on humans or other life forms, unless the Administrator concludes after considering certain factors that the waste is not capable of posing a substantial present or potential hazard to human health or the environment even when improperly managed. (See 40 CFR 261.11(a)(3).) With respect to linuron and bromacil, they both have toxic effects and are mobile and persistent in the environment, as discussed earlier and in the HEEPs. In addition, they are typically and frequently present in concentrations far higher in the commercial chemical product than in the wastes. Therefore, even though the volumes of wastes that may be disposed may be small, the Agency still believes that linuron and bromacil should be added to the list of commercial chemical products that are hazardous wastes when discarded.

C. Toxicants Added to Appendix VIII

This action also proposes to add linuron, bromacil, TCAB, and TCAOB to 40 CFR Part 261, Appendix VIII. As noted above, in the listing background document, and in the HEEPs, these substances have toxic, carcinogenic, or teratogenic effects on humans or other life forms (see 40 CFR 261.11(a)(3)); these considerations form the basis for adding them to Appendix VIII.[2]

D. Test Methods for Compounds Added to Appendices VII and VIII

On October 1, 1984, 49 *FR* 38786–38809, the Agency proposed test methods (both those newly designed and those previously available in SW–846—see below) for use in detecting specified substances by applicants who wish to conduct waste evaluations in support of delisting petitions and by owners or operators of hazardous waste management facilities who must conduct ground-water monitoring (see 40 CFR 264.99) or incinerator monitoring (see 40 CFR 264.341). These test methods will, upon promulgation, be included in 40 CFR Part 261, Appendix III.

The Agency has determined that Method Numbers 8080, 8250, and 8270 are suitable for testing for the presence and concentration of linuron, bromacil, TCAB, and TCAOB.[3] Preliminary literature searches (material available in the public docket—see **"ADDRESSES"** section) indicate that these compounds have been detected by gas chromatographic methods similar to those described by the above methods. Halogens (*e.g.*, bromine and chlorine) and unsaturated oxygen bonds allow the use of electron capture detection gas chromatography for the detection of these compounds, as well as mass spectrometric detection. EPA is proposing, therefore, that these existing analysis methods be used for the detection of these constituents. The Agency requests information concerning industry experience on the determination of these compounds by the referenced methods.

These methods are in "Test Methods for Evaluating Solid Waste: Physical/Chemical Methods," SW–846, 2nd ed., July 1982, as amended; available from: Superintendent of Documents, Government Printing Office, Washington, D.C. 20402, (202) 783–3238, Document number: 055–002–81001–2.

III. CERCLA Impacts

The hazardous wastes designated by today's proposed rule, if listed, become hazrdous substances under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). (See CERCLA section 101(14), 42 U.S.C. 9601(14).) A final listing of linuron and bromacil production wastes under RCRA would affect reporting requriements under CERCLA. (See CERCLA section 103, 42 U.S.C. 9603 and 50 *FR* 13456–13521, April 4, 1985.)

An RQ has been designated for one of the hazardous constituents for which the three waste streams are proposed to be listed: chlorobenzene has a final RQ of 100 pounds. Linuron (a hazardous constituent of Waste K119) and bromacil (a hazardous constituent of Wastes K120 and K121) will be added to 40 CFR 261.33(f) if this proposal is made final. Both of these compounds will have RQs of one pound, unless and until adjusted by regulation under CERCLA. The Agency is currently assessing the available data on all of the hazardous constituents and the waste streams to determine if an adjustment from the statutory one pound RQ is appropriate.

IV. State Authority

A. Applicability of Rules in Authorized States

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under Sections 3008, 7003, and 3013 of RCRA, although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA) amending RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the Federal program. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State which the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under newly enacted section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carryout those requirements and prohibitions in authorized States, including the issueance of permits, until the State is granted authorization to do

[2] Although the Agency is not including TCAB and TCAOB as constituents of concern, we believe there is sufficient toxicity data as described above and in the HEEPs to add them to Appendix VIII.

[3] Chlorobenzene already is included in 40 CFR Part 261, Appendix III; the methods to use for detecting the presence and concentration of chlorobenzene are Method Numbers 8020 and 8240.

so. While States must still adopt HSWA-related provisions as State law to retain authorization, the HSWA applies in authorized States in the interim.

B. Effect on State Authorizations

Today's announcement proposes regulations that would be effective in all States since the requirements are imposed pursuant to Section 222 of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6921(e)(2). Thus, EPA will implement the regulations in nonauthorized States, and in authorized States until they revise their programs to adopt these rules and the revision is approved by EPA.

A State may apply to receive either interim or final authorization under section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State adoption of these regulations is described in 40 CFR 271.21. See 49 *FR* 21678 (May 22, 1984).

Applying § 271.21(e)(2), States that have final authorization must revise their programs within a year of promulgation of EPA's regulations if only regulatory changes are necessary, or within two years of promulgation if statutory changes are necessary. These deadlines can be extended in exceptional cases (40 CFR 271.21(e)(3)).

States that submit official applications for final authorization less than 12 months after promulgation of EPA's regulations may be approved without including standards equivalent to those promulgated. However, once authorized, a State must revise its program to include standards substantially equivalent or equivalent to EPA's within the time period discussed above.

V. Regulatory Status of Hazardous Wastewaters

Under the existing hazardous waste regulations, tanks that are treating or storing hazardous wastewaters are exempt from the Parts 264 and 265 management standards when the treatment unit is part of a wastewater treatment facility that is subject to regulation under either section 402 or section 307(b) of the Clean Water Act. Treatment units, such as concrete basins, which may or may not be in-ground, routinely provide for certain steps in a wastewater treatment process such as equalization, neutralization, aeration (in biological treatment facilities), settling (in both biological and physical/chemical treatment facilities), flocculation, or treated wastewater storage before recycling. Where such units are constructed primarily of non-earthen materials designed to provide structural support, they are defined as tanks for purposes of the hazardous waste regulations. See 40 CFR 260.10 (definition of "tank"). In applying this definition, the Agency has provided guidance that a unit is to be evaluated as if it were free-standing and filled to its design capacity with the material it is intended to hold. If the walls or shell of the unit alone provide sufficient structural support to maintain the structural integrity of the unit under these conditions, the unit is considered to be a tank. Alternatively, if the unit is not capable of retaining its structural integrity without supporting earthen materials, it is considered to be a surface impoundment, and subject to 40 CFR Parts 264 and 265 requirements.

When wastewaters, including those covered by the listing proposed today, are stored or treated in tanks that are part of a unit subject to regulation under sections 307(b) or 402 of the Clean Water Act, they are presently exempt from the Parts 264 and 265 management standards.

VI. Regulation of Linuron and Bromacil Compounds Under FIFRA

Linuron and bromacil are used as herbicides and, therefore, are subject to regulation as pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA uses a statutory risk-benefit balancing test: products are "registered" (authorized) if they generally will not cause any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of use. Accordingly, pesticides which present more than insignificant risks can be approved if the Agency determines that the benefits of use outweigh the risks. (See FIFRA sections 3(c)(5), 3(c)(7), and 2(bb).) If the Agency ever decides that a pesticide no longer meets the standards for registration, then its registration may be cancelled.

Following completion of a Registration Standard for linuron, the Office of Pesticides and Toxic Substances (OPTS) issued a notice on September 26, 1984 (49 *FR* 37843) which informed the public that evidence of hazard from the use of linuron warranted a special review of its risks and benefits to determine whether its registration should be cancelled. The basis for this review is that linuron is oncogenic to laboratory animals and that the public may be at risk from both dietary and agricultural workplace exposure. EPA also has determined that data necessary to refine the Agency's risk assessment must be developed on an accelerated basis, and that interim precautionary labeling is required to reduce the risk during the special review process.

OPTS also published a Registration Standard for bromacil in September, 1982. Preceding issuance of this document, the Agency reviewed all available health effects data on bromacil and concluded that additional data were needed to evaluate bromacil's use as a pesticide. OPTS still is awaiting submission of additional data required of registrants, however, before reaching a final conclusion on whether any further changes in the terms and conditions of bromacil's pesticide registration are warranted.

The Agency believes that the decision to list linuron and bromacil waste streams as RCRA hazardous wastes is consistent with the treatment of these pesticides under FIFRA because the statutory standards under RCRA and FIFRA are different.

VII. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The total additional incurred annual cost for disposal of the wastes as hazardous is about $139,000, well under the $100 million constituting a major regulation. This estimate is based on EPA's determination of incremental costs to facilities associated with compliance with all relevant RCRA management standards. This cost is insignificant and results from minimal additional compliance requirements as two of these wastes already are managed in compliance with RCRA.

The addition of the new toxicants of concern to Appendix VIII also will not result in any significant increased burden in ground-water monitoring or incineration monitoring requirements since the analytical techniques currently employed to test for the presence and concentration of other Appendix VIII constituents also would detect these additional compounds.

Furthermore, the cost of adding linuron and bromacil to 40 CFR 261.33(f), the list of commercial chemical products which are hazardous wastes when discarded, also will be minimal, since commercial chemical products are rarely discarded, due to their inherent value.

In addition, we do not expect that there will be adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. This proposal is not a major regulation;

therefore, no Regulatory Impact Analysis is being conducted.

VIII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on small entities.

The hazardous wastes proposed to be listed here are not generated by small entities (as defined by the Regulatory Flexibility Act), and the Agency does not believe that small entities will dispose of them in significant quantities. Accordingly, I hereby certify that this proposed regulation would not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis. (See 5 U.S.C. 603.)

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: April 20, 1985.

Lee M. Thomas,

Administrator.

References

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USEPA. 1984b. Review of rat and mouse data from duPont Chemical Company for the carcinogenicity of linuron. Prepared by OHEA for OPTS. OHEAC–117. April 30. *CONFIDENTIAL BUSINESS INFORMATION.*

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For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In § 261.32, add the following waste streams to the subgroup 'Organic Chemicals':

§ 261.32 Hazardous wastes from specific sources.

Industry and EPA Hazardous Waste No.	Hazardous waste	Hazard code
• • • • •		
Organic Chemicals:		
K119	Wastes from the decanter in the production of linuron.	(I,C,T)
K120	Wastes from the spill control trap in the production of linuron.	(I,T)
K121	Wastewater from product filtration and water washing in the production of bromacil.	(T)
• • • • •		

§ 261.33 [Amended]

3. In § 261.33(f), add the following listings, in alphabetical order:

Hazardous Waste No.	Substance
• • • • •	
U354	Bromacil.
U354	5-Bromo-3-sec-butyl-6-methyluracil.
U355	Linuron.
U355	N'-(3,4-dichlorophenyl)-N-methoxy-N-methylurea.
• • • • •	

4. Add the following hazardous constituents in alphabetical order to Table 1 of Appendix III of Part 261:

Compound	Second edition method(s)
• • • • •	
Bromacil	8080, 8250, and 8270
Linuron	8080, 8250, and 8270
3,3',4,4'-Tetrachloroazobenzene (TCAB)	8080, 8250, and 8270
3,3',4,4'-Tetrachloroazoxybenzene (TCAOB)	8080, 8250, and 8270
• • • • •	

5. Add the following entries in numerical order to Appendix VII of Part 261:

Appendix VII—Basis for Listing Hazardous Waste

EPA hazardous waste No.	Hazardous constituents for which listed
• • • • •	
K119	Chlorobenzene, linuron.
K120	Chlorobenzene, bromacil.
K121	Bromacil.
• • • • •	

6. Add the following hazardous constituents (with CAS Numbers) in alphabetical order, to Appendix VIII of Part 261:

Appendix VIII—Hazardous Constituents

Constituent	CAS No.
• • • • •	
Bromacil (5-bromo-3-sec-butyl-6-methyluracil)	314-40-9
Linuron (N'-(3,4-dichlorophenyl-N-methoxy-N-methylurea)	330-55-2
3,3',4,4'-Tetrachloroazobenzene (bis(3,4-dichlorophenyl)diazene)	14047-09-7
3,3',4,4'-Tetrachloroazoxybenzene (bis(3,4-dichlorophenyl)diazene-1-oxide)	21232-47-3
• • • • •	

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 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
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May 20	June 4	June 19	July 5	July 19	August 19
May 21	June 5	June 20	July 5	July 22	August 19
May 22	June 6	June 21	July 8	July 22	August 20
May 23	June 7	June 24	July 8	July 22	August 21
May 24	June 10	June 24	July 8	July 23	August 22
May 28	June 12	June 27	July 12	July 29	August 26
May 29	June 13	June 28	July 15	July 29	August 27
May 30	June 14	July 1	July 15	July 29	August 28
May 31	June 17	July 1	July 15	July 30	August 29