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Federal Register

Friday
August 9, 1985

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

Selected Subjects

CONTINUED INSIDE

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

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Selected Subjects

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

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

WASHINGTON, DC

WHEN: September 6 and 27; at 9 am (identical sessions).

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Call Martin Franks, Workshop Coordinator, 202-523-5239.

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington starting in November. The January 1986 workshop will include facilities for the hearing impaired. Dates will be announced later.

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Separate Parts in This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

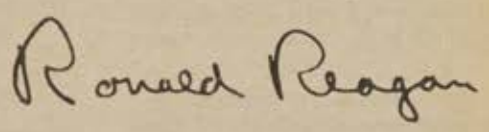
Title 3—

The President

Executive Order 12527 of August 7, 1985

Repealing Provisions Establishing an Administrative Position in the Food-for-Peace Program

By the authority vested in me as President by the Constitution and laws of the United States of America, including section 301 of title 3 of the United States Code, it is hereby ordered that Executive Order No. 11252, as amended, is further amended by repealing Sections 2 and 3, and by redesignating the current Section 4 as Section 2.



THE WHITE HOUSE,
August 7, 1985.

[FR Doc. 85-19148
Filed 8-7-85; 4:29 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

Organization, Functions, and Delegations of Authority

AGENCY: Animal and Plant Health Inspection Service.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) by consolidating the Office of Legislative and Intergovernmental Affairs, the Information Division, and the Policy Communication and Editorial Staff, into one unit entitled the Legislative and Public Affairs Staff.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Classification, Employment and Executive Resources Program, Human Resources Division, Animal and Plant Health Inspection Service, 6505 Belcrest Road, Hyattsville, MD 20782 (301–436–6466).

SUPPLEMENTARY INFORMATION: The public information function of the APHIS Information Division, which has been part of the Office of the Administrator, is being merged with the legislative and policy communications functions presently conducted under the direction of the Deputy Administrator for Management and Budget, into a newly formed unit to be known as the Legislative and Public Affairs Staff. The new staff will report directly to the Administrator. The consolidation of these three staffs into one will increase the consistency of Agency communications, and allow APHIS to provide more effective and efficient service to the public.

This rule relates to internal Agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective less than 30 days after publication in the **Federal Register.** Further, since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291. Finally, this action is not a rule as defined by Pub. Law 95–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Authority delegations (Government agencies), Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR Part 371 is amended as follows:

1. The authority citation for Part 371 continues to read as follows:

Authority: 5 U.S.C. 301.

2. Section 371.1 is amended by revising paragraph (b) to read as follows:

§ 371.1 General statement.

* * * * *

(b) *Central Office.* The central offices of APHIS are located at Washington, D.C., and Hyattsville, Maryland, and consist of the Office of the Administrator, Associate Administrator and three Deputy Administrators as follows:

Office of the Administrator

Associate Administrator
Deputy Administrator, Plant Protection and Quarantine
Deputy Administrator, Veterinary Services
Deputy Administrator for Management and Budget
Legislative and Public Affairs Staff
Regulatory Coordination Staff

* * * * *

3. Section 371.2 is amended by revising paragraphs (e)(3) and (g) to read as follows:

§ 371.2 Office of the administrator.

* * * * *

(e) *Deputy Administrator for Management and Budget.* * * *

(3) Advising and assisting the Administrator and other Agency officials on Agency legislative affairs. Providing advice and direction to legislative liaison and reporting requirements including the management, control and timely response to inquiries from members of Congress and others as referred by the White House or the Office of the Secretary. Providing advice and direction to the information and public affairs activities of the Agency.

* * * * *

(g) *Legislative and Public Affairs Staff.* The Legislative and Public Affairs Staff, under the direction and supervision of the Administrator, is responsible for:

(1) Advising and assisting the Administrator and other Agency officials on all matters relating to Agency legislative affairs.

(2) Preparing legislative proposals in connection with APHIS programs and responsibilities, based on recommendations from program officials. Assisting in the development of support material for Agency witnesses for congressional hearings. Preparing legislative reports when requested by Congress.

(3) Establishing and maintaining liaison with Members of Congress, various congressional committees and subcommittees, and their staffs on all matters pertaining to the legislative affairs of APHIS. Providing Members of Congress with periodic updates on issues upon which they have demonstrated continuing interest.

(4) Planning, administering, providing leadership, and conducting an information program to promote interest in and increase the public knowledge and acceptance of APHIS programs and activities.

(5) Cooperating with the Office of Governmental and Public Affairs information activities of the Department.

(6) Coordinating with other APHIS offices on interrelated information management and dissemination activities.

(7) Administering, in concert with other APHIS programs, international information activities of APHIS.

(8) Planning, developing, and maintaining Agencywide internal communication systems.

(9) Drafting and administering policy guidelines on press contacts, photography, audiovisual, graphic design, radio-TV, and policy/editorial/graphics clearance for popular publications. Planning, providing leadership, and conducting a policy communication program to express and interpret APHIS policies in written form to Members of Congress, State and industry leaders, officials of foreign governments, and private citizens.

(10) Preparing timely and responsive replies to written inquiries through identifying accurate sources of information, determining Agency actions necessary, tailoring responses to the interests of the recipient, ensuring that they adhere to APHIS policies and are consistent with other responses, and securing the corroboration of appropriate Agency officials. Establishing and maintaining a system for the control of written inquiries referred by the Office of the Secretary or sent directly to the Agency.

(11) Preparing position papers regarding trends and patterns in APHIS program issues that are of special interest to the Administrator and Deputy Administrators.

(12) Providing editorial assistance to other staffs in the preparation of regulations, procedural manuals, articles for publication, and standard replies to recurring questions posed by correspondence answered at the program level. Developing policies, coordinating and maintaining control on APHIS activities that fall within the scope of the Freedom of Information Act (FOIA) and Privacy Act. Making all initial determinations to deny information requested under the FOIA. Assuring that files coming within the scope of the Privacy Act are properly identified, used, and safeguarded.

4. Section 371.5 is amended by revising the introductory paragraph, and by removing paragraphs (f) and (h), to read as follows:

§ 371.5 Administrative management.

The Budget and Accounting Division, Human Resources Division, Administrative Services Division, Automated Data Systems Staff, Resource Management Systems and Evaluation Staff and the Field Servicing Office under the direction of the Deputy Administrator for Management and Budget are responsible as follows:

* * * * *

(f) [Reserved]

* * * * *

(h) [Removed]

5. Section 371.6 is amended by revising paragraphs (c) and (d) to read as follows:

§ 371.6 Delegations of authority.

* * * * *

(c) *Director, Legislative and Public Affairs Staff.* The Director of the Legislative and Public Affairs Staff is hereby delegated authority in connection with the respective functions assigned to that staff, to perform all the duties and to exercise all the functions and powers which are now or which may hereafter be vested in the Administrator (including the power of redelegation except when prohibited) except such authority as is reserved to the Administrator.

(d) *Plant Protection and Quarantine, Veterinary Services and Administrative Management.* The Directors of the National Program Planning Staffs, Professional Development Staffs, National Programs, International and Emergency Programs, Animal Health Programs, International Programs, Emergency Programs, National Brucellosis Eradication Programs, and the National Veterinary Services Laboratories are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and exercise all the functions and powers which are now, or which may hereafter be, vested in the Administrator except the authorities reserved to the Administrator and the Deputy Administrators. The Directors of Budget and Accounting, Human Resources, and Administrative Services Divisions, Automated Data Systems, Management Systems Analyses and Evaluation Staffs, and the Field Servicing Office are hereby delegated authority in connection with the respective functions herein assigned to them, to perform all the duties and to exercise all the functions which are now, or which may be, vested in the Administrator except such authority as is reserved to the Administrator and Deputy Administrators.

* * * * *

Done in Washington, D.C. on July 25, 1985.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 85-18898 Filed 8-8-85; 8:45 am]

BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

7 CFR Part 415

[Docket No. 2648S]

Forage Production Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule, Correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a final rule in the **Federal Register** on Wednesday, June 26, 1985, at 50 FR 26340, revising and reissuing the Forage Production Crop Insurance Regulations (7 CFR Part 415). In the publication the end of insurance period for California was inadvertently listed as December 1 for fall-seeded forage. This should have read December 16. This notice is published to correct that error.

ADDRESS: Written comments on this correction may be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: FR Doc. 85-15343, appearing at page 26340, is corrected by changing the date for the end of insurance period in California (appearing on page 26343 in the left column) to read as follows:

1. The authority citation for 7 CFR Part 415 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. In § 415.7(d), paragraph 7.(e) of the Federal Crop Insurance Corporation Policy is revised to read as follows:

§ 415.7 The application and policy.

* * * * *

(d) * * *

7. * * *

(e) December 16 for fall-seeded forage in California.

* * * * *

Done in Washington, D.C. on August 2, 1985.

Merritt W. Sprague,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-18896 Filed 8-8-85; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Parts 925 and 944

Grapes Grown in a Designated Area of Southeastern California, and Table Grapes Imported Into the United States; Suspension of Grade, Size, Quality, and Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule suspends grade, size, quality, and maturity requirements currently in effect for 1985 season shipments of table grapes grown in southeastern California, and for table grapes imported into the United States. Such requirements are being suspended for the period August 2 through August 15, 1985 because this season's California desert grapes shipments will be finished by August 1, and no need exists to continue regulations beyond that date.

EFFECTIVE DATE: August 2, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

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

The California Desert Grape Administrative Committee met July 26, 1985, and unanimously recommended that the grade, size, maturity, container, pack, and other requirements for 1985 season table grapes grown in southeastern California, be suspended effective August 2, 1985. The committee reports that extreme heat in the production area hastened the ripening of the grape crop at the beginning of the season and accelerated completion of this season's grape harvest. It further reports that most of the grape crop has been picked at this time, which is earlier than the normal time in mid-August. The committee also reports that it is of the opinion that regulations should not be in effect after the grape harvest is completed, and thus the California desert grape regulation should be suspended for the remainder of the season. Suspension of the domestic regulation for California desert grapes will also require the suspension of Table Grape Import Regulation 3, covering certain varieties of table grapes imported into the United States for the same time period August 2 through August 15, 1985.

The California desert grape regulation is effective under the marketing agreement and Order No. 925 (7 CFR Part 925), regulating the handling of table grapes grown in a designated area of southeastern California. This marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The table grape import regulation is effective under section 8e (7 U.S.C. 608e–1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Section 8e requires that when specified commodities, including table grapes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

As currently provided, the California and import table grape regulations will remain in effect indefinitely, being effective from May 1 through August 15 of each year, except as specified for the current season.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because (1) time is insufficient between the date when information became available upon which this rule is based and the effective date necessary to effectuate the declared purposes of the act; (2) this rule suspends regulations on the handling and importation of grapes; (3) growers and handlers are aware of this action recommended by the committee; (4) handlers and importers will require no additional time to comply with this action; and (5) no purpose would be served by delaying the effective date of this final rule. It is found that this final rule will tend to effectuate the declared policy of the act.

List of Subjects

7 CFR Part 925

Marketing agreements and orders, Grapes, California.

7 CFR Part 944

Fruits, Import regulations, Grapes.

1. The authority citation for 7 CFR Parts 925 and 944 continues to read as follows:

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

2. Sections 925.304 (50 FR 18849) and 944.503 (50 FR 18849) are amended by revising the introductory text of § 925.304, and by revising the first sentence of paragraph (a) of § 944.503 to read as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

§ 925.304 California Desert Grape Regulation 5.

During the period May 3 through August 1, 1985, and May 1 through August 15 of each year thereafter, no person shall handle any variety of grapes, except Emperor, Calmeria, Almeria, and Ribier varieties unless such grapes meet the following requirements: *Provided*, That no person shall pack any such grapes on any Saturday or Sunday, or on the Memorial Day or Independence Day holidays of each year, unless approved in accordance with paragraph (e).

* * * * *

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.503 Table Grape Import Regulation 3.

(a) Pursuant to section 8e of the Act and Part 944—Fruits; Import Regulations, during the period May 6 through August 1, 1985, and during the period May 1 through August 15 of each year thereafter, the importation into the United States of any variety of vinifera species table grapes, except Emperor, Calmeria, Almeria, and Ribier varieties, is prohibited unless such grapes meet the minimum grade and size requirements specified in § 51.884 for U.S. No. 1 Table grade, as set forth in the United States Standards for Grades of Table Grapes (European or Vinifera Type, 7 CFR 51.880 through 51.912), except that grapes of the Flame Seedless variety shall meet the minimum berry requirement of ten-sixteenths of an inch, and minimum maturity standards in accordance with applicable sampling and testing procedures specified in sections 1436.3, 1436.5, 1436.6, 1436.7, 1436.12,and 1436.17 of Article 25 of the California Administrative Code (Title 3).

* * *

* * * * *

Dated: August 2, 1985.

Thomas R. Clark,

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

[FR Doc. 85–18796 Filed 8–8–85; 8:45 am]

BILLING CODE 3410–02–M

Food Safety and Inspection Service

9 CFR Parts 309, 310 and 318

[Docket No. 84-010F]

Sulfonamide and Antibiotic Residues in Young Veal Calves

AGENCY: Food and Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat inspection regulations to decrease the likelihood that adulterated meat will enter into human food channels. With minor modifications, the final rule is the same as the interim rule, effective June 4, 1984, that FSIS published on June 7, 1984, with a request for comments. The interim rule intensified inplant testing procedures for detecting violative levels of sulfonamides and antibiotics in calves of up to 3 weeks in age or 150 pounds in weight. Under a voluntary certification program, testing was intensified less where producers of young calves certify that they have not been treated with such animal drugs or, if so, that the prescribed withdrawal period has passed.

EFFECTIVE DATE: September 9, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. W.S. Horne, Assistant Deputy Administrator, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3697.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has made a determination that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The rule benefits the industry overall and the consuming public by discouraging improper use of animal drugs and increasing protection against product adulterated with drug residues. Since implementation of the interim rule, the Agency has been monitoring the testing for sulfa and antibiotic residues in young calves. The results show that a generally decreasing percentage of calves tested contained violative residues and were condemned. The Agency will continue to gather data and to evaluate the effectiveness of this rule.

Effort on Small Entities

The Agency has determind that this final rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). The economic impact of this final rule would affect stockyards that auction young veal calves and federally inspected establishments that slaughter young veal calves. There are approximately 228 stockyards throughout the country that are affected. Although FSIS does not have sufficient data to determine which of these may be considered small entities, FSIS anticipates that the economic impact will not be significant.

Approximately 75 of the 94 federally inspected establishments slaughtering calves are considered to be small entities for purposes of this rule. They slaughter from 80 to 150 calves weekly, as compared to large establishments which normally slaughter between 500 and 2,000 weekly. The rule may provide some economic benefits to small establishments as fewer carcasses probably will be condemned because of violative residue levels.

Background

Under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary is responsible for assuring consumers that meat and meat food products distributed to them are wholesome and not adulterated. Section 1(m)(1) of the FMIA (21 U.S.C. 601(m)(1)) provides that any carcass, part thereof, meat, or meat food product is adulterated ". . . if it bears or contains any poisonous or deleterious substances which may render it injurious to health; . . .". Section 1(m)(2) of the FMIA (21 U.S.C. 601(m)(2)) provides that any carcass, part thereof, meat, or meat food product is adulterated ". . . if it bears or contains (by reason of administration of any substance to the live animal or otherwise) any added poisonous or added deleterious substance (other than one which is (i) a pesticide chemical in or on a raw agricultural commodity; (ii) a food additive; or (iii) a color additive) which may, in the judgment of the Secretary, make such article unfit for human food; . . . ". Furthermore, section 1(m)(3) of the FMIA (21 U.S.C. 601(m)(3)) states that any carcass, part thereof, meat, or meat food product is adulterated ". . . if it consists in whole or in part of any filthy, putrid, or decomposed substance or is for any reason unsound, unhealthful, unwholesome, or otherwise unfit for human food; . . .".

In order to prevent adulterated product from reaching consumers, section 3 of the FMIA (21 U.S.C. 603) directs the Secretary, through appointed inspectors, to provide (1) an examination and inspection of all cattle, sheep, swine, goats, horses, mules, and other equines before being allowed to enter an official establishment (ante-mortem inspection) and (2) a post-mortem examination and inspection of the carcasses and parts from such animals. Ante-mortem inspection is necessary to detect diseases or abnormalities or possible biological residues in the livestock prior to slaughter. Post-mortem inspection, made at the time of slaughter, reveals any diseases, biological residues, or other conditions of the head, internal organs, and other parts of the carcass of each animal which cause the meat or meat food products to be adulterated within section 1(m) of the FMIA (21 U.S.C. 601(m)). If any such conditions are found, the inspector immediately condemns all or part of the carcass to assure it does not enter into human food channels.

An integral part of the meat inspection program, which is carried out by the Department's Food Safety and Inspection Service (FSIS), is the detection and control of residues in the meat supply to assure that the incidence and levels of chemical compounds and animal drugs present are held to the absolute minimum for public safety. Farm animals may be exposed to drugs and other chemical compounds from medications, pesticides, feed equipment, or building materials. Most of the compounds are essential to today's production of livestock. However, carelessness or misuse of these compounds can result in residues of drugs and other chemical compounds remaining in the meat which can, in turn, result in condemnation of the meat upon inspection.

The tolerance, or maximum allowable level, of animal drug residues in edible products of food producing animals is established by the Food and Drug Administration (FDA) which, under section 512 of the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 360b), is responsible for approving new animal drugs and enforcing their proper use. The presence of above-tolerance residue of an approved new animal drug and the presence of residues resulting from use of an unapproved new animal drug cause the drug to be deemed unsafe

under section 512(a)(1) of the FFDCA (21 U.S.C. 360b(a)(1)). Food containing such residues is deemed adulterated under section 402(a)(2)(D) of the FFDCA (21 U.S.C. 342(a)(2)(D)).

FSIS has reviewed the available toxicology data[1] on sulfonamides and antibiotic residues in carcasses and parts of carcasses from veal calves up to 3 weeks old or up to 150 pounds. FSIS has determined that any residue of any such drug above tolerance levels approved by FDA or any residue from any such drug for which there are no tolerance levels is a poisonous or deleterious substance which may render any such carcass or part of a carcass containing the residue injurious to health. Further, in the judgment of the Administrator, such drug residues, which have not been approved as safe by FDA, in carcasses or parts of carcasses from such veal calves make the articles unfit for human food. Therefore, any carcass or part thereof from such veal calves bearing or containing such residue is adulterated under section 1(m) (1), (2), or (3) of the FMIA (21 U.S.C. 601(m) (1), (2), or (3)).

On June 7, 1984, FSIS published in the **Federal Register** (49 FR 23602) an interim rule, which was effective on June 4, 1984. The interim rule reflected FSIS's conclusion that carcasses and parts thereof from calves of up to 3 weeks in age or 150 pounds are adulterated under the FMIA if they bear or contain sulfonamide or antibiotic residues other than in accordance with FDA tolerances and that emergency rulemaking was necessary to protect the public health due to the substantial increase in violative levels of such residues. The interim rule also stated that drug residues may be present in meat and meat food products subject to the FMIA in conformity with FDA approvals, including tolerances limiting their levels.

To safeguard against a potential public health hazard, FSIS intensified its inplant testing program for detecting adulteration with sulfa and antibiotic residues. The interim rule established requirements for sampling the carcasses of calves of up to 3 weeks or 150 pounds that are suspected of bearing or containing such violative residues, utilizing the Calf Antibiotic Sulfa Test (CAST). The procedures established include a voluntary certification program with less intensified testing where a producer of young calves certifies that each calf has not been treated with any animal drug, or, if so treated, that the withdrawal period as prescribed on the FDA-approved label has passed. (Withdrawal periods allow residues of drugs used in conformity with FDA regulations to dissipate sufficiently that meat and meat food products from the carcasses of the calves are not adulterated.)

[1] A copy of these data may be obtained by contacting Dr. W.S. Horne, Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Comments on the Interim Rule

FSIS received five comments in response to the interim rule—1 from a veterinary association, 1 from a public interest organization, 1 from a government agency, 1 from a member of Congress, and 1 from an individual consumer. All commenters supported the interim rule, but three recommended minor changes. The following is a discussion of the issues raised by the commenters and FSIS's response to each:

1. *Use of the term "inspector".*

Comment: A commenter suggested that FSIS clarify the term "inspector" by specifically using either the term "inspector" or "veterinary inspector", where appropriate.

Response: In most establishments where an inspector and a veterinary inspector (veterinary medical officer) are present, the inspector performs the swab bioassay test and the veterinary inspector determines the test results and makes final disposition. Depending on the availability of the inspection personnel, the veterinary inspector may perform the inspector's duties.

Section 301.2 of the Federal meat inspection regulations defines "inspector" as "an inspector of the Program." This covers any inspector, including veterinary inspector, performing duties under the regulations. Therefore, the current regulations do not make a distinction between "inspector" and "veterinary inspector".

However, FSIS has determined that it is necessary to clarify in this final rule that only the veterinary medical officer is qualified to determine test results and to make final carcass disposition. Therefore, FSIS has amended the final rule by adding a definition for "veterinary medical officer" and by clarifying that only a veterinary medical officer is to determine test results and to make final carcass disposition.

2. *Provision on use of animal drugs.*

Comment: One commenter suggested alternative wording be used in § 318.20 to emphasize the limitations on the use of animal drugs.

Response: FSIS believes that wording in the interim rule is adequate to emphasize the limitations on the use of animal drugs.

3. *Implementation of interim rule.*

Comment: One commenter expressed opposition to implementing the interim rule prior to an opportunity for public comment.

Response: As specified in the interim rule, FSIS believed a sufficient emergency existed to warrant immediate implementation. Levels of sulfa and antibiotic residues in young calves had steadily increased offering a greater possibility of a health hazard.

4. *Economic risk in veal production.*

Comment: One commenter expressed concern that the interim rule may pose an economic burden upon veal middlemen. The commenter suggested that an escrow be established so that the jobber's purchase price on calves could be returned upon findings of above-tolerance residue levels.

Response: The normal conditions of livestock trade traditionally have placed the risk of loss on the purchaser when animals are purchased on an "as is" basis. The voluntary certification program provides the purchaser with additional options. The purchaser may choose not to buy noncertified calves, or the price he or she is willing to pay may be adjusted to reflect the risk of condemnation. By purchasing certified calves, he or she can increase the likelihood that carcasses will not be condemned for violative drug residues, as well as secure a basis for recovering his or her losses through a civil court action if the carcasses of certified calves are violative. Therefore, there does not appear to be a need for an escrow fund to reimburse veal middlemen.

Miscellaneous Amendments

In addition to the above amendments, FSIS has made the following changes in the final rule:

1. The definition of "certified calf" has been modified for clarification purposes.

2. The first sentence in § 310.21(d) has been amended to include for testing any carcass, within a certified group, found on post-mortem inspection to have lesions of disease or a sign of treatment of disease. This change is necessary to correct an oversight during preparation of the interim rule.

Final Rule

After careful consideration of the issues addressed by the interim rule and the comments received in response to its publication, the Administrator has determined that the Federal meat inspection regulations should be amended as set forth below.

List of Subjects

9 CFR Part 309

Ante-mortem inspection, Drug residues, Livestock, Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 310

Carcasses and parts, Drug residues, Meat inspection.

9 CFR Part 318

Animal drugs, Meat inspection.

The Federal meat inspection regulations are revised to read as follows:

1. The authority citation for Part 309 is revised to read as set forth below and the authority citation for Part 310 continues to read as set forth below:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 601 *et seq.*, 33 U.S.C. 1254(b).

2. The authority citation for Part 318 continues to read as follows:

Authority: 34 Stat. 1260, 81 Stat. 584, as amended (21 U.S.C. 601 *et seq.*); 72 Stat. 862, 92 Stat. 1069, as amended (7 U.S.C. 1901 *et seq.*); 76 Stat. 663 (7 U.S.C. 450 *et seq.*).

PART 309—[Amended]

3. Section 309.16 (9 CFR 309.16) is amended by revising the first sentence of paragraph (a) and by revising paragraph (d) to read as follows:

§ 309.16 Livestock suspected of having biological residues.

(a) Except as provided by paragraph (c) or (d) of this section, livestock suspected of having been treated with or exposed to any substance that may impart a biological residue which would make the edible tissues unfit for human food or otherwise adulterated shall be handled in compliance with the provisions of this paragraph. * * *

* * * * *

(d) Calves shall not be presented for ante-mortem inspection in an official establishment except under the provisions of this paragraph.

(1) *Definitions.* For purposes of this paragraph, the following definitions shall apply:

(i) *Calf.* A calf up to 3 weeks of age or up to 150 pounds.

(ii) *Certified calf.* A calf that the producer certifies as not having been treated with any animal drug or, if so, that the withdrawal period as prescribed on the FDA approved label has passed.

(iii) *Healthy calf.* A calf that an inspector determines shows no visual signs of disease or treatment of disease at ante-mortem inspection.

(iv) *Producer.* The owner of the calf at the time of its birth.

(v) *Sick calf.* A calf that an inspector on ante-mortem inspection determines has either signs of treatment or signs of disease.

(vi) *Veterinary medical officer.* An inspector of the Program that has obtained a Doctor of Veterinary Medicine degree which is recognized by the Program.

(2) *General requirements.* (i) The identity of the producer of each calf presented for ante-mortem inspection shall be made available by the official establishment to the inspection prior to the animal being presented for ante-mortem inspection.

(ii) The inspector shall segregate the calves presented for ante-mortem inspection at the establishment and identify each calf as one of the following: (a) Certified, (B) noncertified, or (C) previous residue condemnation.

(3) *Certified group.* For a calf to be considered certified, the producer must certify that the calf has not been treated with animal drugs or, if so, that the withdrawal period as prescribed on the FDA approved label has passed. Each calf must be identified individually by use of tag, auction number, or other type of secure identification. The inspector shall have segregated for veterinary medical officer examination any certified calf which he or she determines to show any sign of disease or which is not identified individually. Such animal will be tagged as "U.S. Suspect" and its carcass will be retained on post-mortem inspection and handled in accordance with §310.21(d). The inspector shall handle the remaining carcasses of healthy animals in accordance with § 310.21(d).

(4) *Noncertified group.* On ante-mortem inspection, the inspector shall have segregated for veterinary medical officer examination any calf which he or she determines to show any sign of disease. Such animal will be tagged as "U.S. Suspect" and its carcass will be retained on post-mortem inspection and handled in accordance with § 310.21(c). The inspector shall handle the remaining carcasses of healthy animals in accordance with § 310.21(c).

(5) *Calves from producers with previous residue condemnation.* On ante-mortem inspection, the inspector shall have segregated for veterinary medical officer examination any calf which he or she determines to show any sign of disease. Such animal will be tagged as "U.S. Suspect" and its carcass will be retained on post-mortem inspection and handled in accordance with § 310.21(e). The inspector shall handle the remaining carcasses of healthy animals in accordance with § 310.21(e).

(Recordkeeping requirements approved by the Office of Management and Budget, OMB #0583-0053)

PART 310—[AMENDED]

4. Part 310 is amended by revising § 310.21 (9 CFR 310.21) to read as follows:

§ 310.21 Carcasses suspected of containing sulfa and antibiotic residues; sampling frequency; disposition of affected carcasses and parts.

(a) Calf carcasses from animals suspected of containing biological residues under § 309.16(d) of this subchapter shall, on post-mortem inspection, be handled in accordance with the provisions of this section.

(b) For purposes of this section, the following definitions shall apply:

(1) *Calf.* A calf up to 3 weeks of age or up to 150 pounds.

(2) *Certified calf.* A calf that the producer certifies as not having been treated with animal drugs or, if so, that the withdrawal period as prescribed on the FDA approved label has passed.

(3) *Healthy carcass.* A carcass that an inspector determines shows no lesions of disease or signs of disease treatment at post-mortem inspection

(4) *Producer.* The owner of the calf at the time of its birth.

(5) *Sick calf carcass.* A calf carcass that an inspector on post-mortem inspection determines has either signs of disease treatment or lesions of disease or was from an animal identified as sick on ante-mortem.

(6) *Sign of treatment.* Sign of treatment of a disease is indicated by leakage around jugular veins, subcutaneous, intramuscular or intraperitoneal injection lesions, or discoloration from particles or oral treatment in any part of the digestive tract.

(7) *Veterinary medical officer.* An inspector of the Program that has obtained a Doctor of Veterinary Medicine degree which is recognized by the Program.

(c) *Noncertified group.* The inspector shall perform a swab bioassay test [1] on

[1] The procedures for performing the swab bioassay test are set forth in a self instructional guide titled "Performing the CAST." A copy of this guide may be obtained by contacting the Meat and Poultry Inspection Operations, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

all carcasses tagged as "U.S. Suspect" on ante-mortem inspection, on any carcass which he/she finds has lesions of disease or a sign of treatment of disease on post-mortem, and on a statistical sample of healthy carcasses, as outlined in the following table:

Number of healthy carcasses	Number of carcasses sampled
1-11	All
12-16	12
17-40	15
41-250	25
251 and above	30

All carcasses and parts thereof of the group shall be retained until all of the test results are complete. The veterinary medical officer shall determine the test results. If CAST on any of the carcasses is positive, all remaining carcasses in the group will be tested as well. The veterinary medical officer shall condemn any carcass and parts thereof for which there is a positive test result and release for human consumption those carcasses and parts thereof of the group for which there are negative test results. If there is a positive test result for any calf, subsequent calves from the producer of the calf will be tested in accordance with paragraph (e) of this section.

(d) *Certified group.* The inspector shall sample and perform a swab bioassay test on all carcasses of animals tagged as "U.S. Suspect" on ante-mortem inspection, on any carcass which he/she finds has lesions of disease or a sign of treatment of disease on post-mortem inspection, and up to three healthy carcasses from the certified animals. Only the carcasses and parts thereof being sampled will be retained pending the results of the test. The veterinary medical officer shall determine the test results. If the test result for a carcass is positive, the veterinary medical officer shall condemn such carcass and parts thereof, and the inspector shall statistically sample and test any remaining healthy carcasses in the group as outlined in the following table:

Number of healthy carcasses	Number of carcasses sampled
1-11	All
12-16	12
17-40	15
41-250	25
251 and above	30

The veterinary medical officer shall condemn any carcass and parts thereof for which there is a positive test result and pass for human consumption those carcasses and parts thereof for which there are negative test results. If there is a positive test result for any calf, subsequent calves from the producer of the calf will be tested in accordance with paragraph (e) of this section.

(e) *Calves from producers with a previous residue condemnation.* The inspector shall perform a swab bioassay test on all carcasses of all calves in the group. The veterinary medical officer shall determine the test results and shall condemn any carcass and parts thereof for which there is a positive test result and pass for human consumption any such carcass and parts thereof for which there is a negative test result. All subsequent calves from the same producer which has previously sold or delivered to official establishments any carcass that was condemned because of drug residues must be tested according to this paragraph until five consecutive animals test completely free of animal drug residues.

(f) If the owner or operator of an official establishment disagrees with the veterinary medical officer's disposition of carcasses and parts thereof, the owner or operator may appeal as provided in section 306.5 of this chapter.

PART 318—[AMENDED]

5. Part 318 is amended by revising § 318.20 (9 CFR 318.20) to read as follows:

§ 318.20 Use of animal drugs.

Animal drug residues are permitted in meat and meat food products if such residues are from drugs which have been approved by the Food and Drug Administration and any such drug residues are within tolerance levels approved by the Food and Drug Administration, unless otherwise determined by the Administrator and listed herein.

Done at Washington, DC, on: July 23, 1985.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 85-18980 Filed 8-8-85; 8:45 am]

BILLING CODE 3410-DM-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization, Correction

AGENCY: Farm Credit Administration.

ACTION: Final rule; correction.

SUMMARY: On May 16, 1985 (50 FR 20396), the Farm Credit Administration published a final rule which adopted new regulations and amended existing regulations concerning amendments to Federal land bank association and production credit association charters and procedures for effecting mergers or consolidations of such associations. This document corrects technical errors contained in §§ 611.1120 (50 FR 20400), 611.1122 (50 FR 20402), and 611.1125 (50 FR 20403).

FOR FURTHER INFORMATION CONTACT:
Rose M. Ferguson, Office of Examination and Supervision, (703) 883-4430.

or

Kenneth L. Peoples, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703) 883-4024

PART 611—[AMENDED]

Accordingly, the Farm Credit Administration is correcting §§ 611.1120, 611.1122, and 611.1125 as follows:

1. Paragraph (b) of § 611.1120 as published at 50 FR 20400 is corrected to read as follows:

§ 611.1120 General authority.

* * * * *

(b) The Farm Credit Administration may make changes in the charter of an association as may be requested by that association and approved by the Farm Credit Administration pursuant to § 611.1121.

* * * * *

2. Paragraphs (e)(10) and (g) of § 611.1122 as published at 50 FR 20402 are corrected to read as follows:

§ 611.1122 Requirements for mergers or consolidations.

* * * * *

(e) * * *

(10) Information of each constituent association concerning the amount of loans charged off in each of the 2 fiscal years preceding the date of the balance sheet, the current year-to-date net chargeoff amount, and the balance in the allowance for loan losses account and a statement regarding whether, in the opinion of management, the allowance for loan losses is adequate to absorb the risk currently existing in the loan portfolio. This information may be appropriately included in the footnotes to the financial statements.

* * * * *

(g) Upon approval of a proposed merger or consolidation by the stockholders of the constituent associations, a certified copy of the

stockholders' resolution shall be forwarded to the supervising bank for transmittal to the Farm Credit Administration, together with the bank's final approval of the merger or consolidation. The merger or consolidation shall be effective when thereafter finally approved and on the date as specified by the Farm Credit Administration. Notice of final approval shall be transmitted to the supervising bank and thereafter by the bank to the constituent associations.

* * * * *

3. The title of § 611.1125 as published at 50 FR 20403 is corrected to read as follows:

§ 611.1125 Association articles and bylaws.

* * * * *

Donald E. Wilkinson,

Governor.

[FR Doc. 85-18819 Filed 8-8-85; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-110-AD; Amdt. 39-5119]

Airworthiness Directives; McDonnell Douglas Model DC-10 and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires modification of the slat position indicating system on certain McDonnell Douglas Model DC-10 and KC-10A airplanes. This action is prompted by reports of rejected takeoffs due to slat disagree indications during the takeoff roll. A study conducted by the manufacturer has revealed that the position indication tolerances for the outboard slats which induce these disagree indications, are too narrow and are causing unnecessary rejected takeoffs at high speed. Widening the tolerances for the outboard slats position indication on the extend side will minimize unnecessary rejected takeoffs without compromising safety.

DATES: Effective September 16, 1985.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. E. F. Huettner, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to adopt a new airworthiness directive to require modification of the slat position indicating system on certain McDonnell Douglas Model DC-10 and KC-10A airplanes was published in the **Federal Register** on December 20, 1984 (49 FR 49480). The comment period for the proposal closed February 11, 1985.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Eight comments were received. Four commenters felt that the proposed modifications were not clearly defined. Since Douglas Service Bulletin 27-195 includes modifications which are not mandatory by this AD, such as installing a new spring and readjusting the pedestal Cam, commenters suggested that the mandatory modifications be specified in greater detail. The FAA agrees and has clarified the wording in the final rule to be more specific.

Seven commenters stated that the compliance date of January 1, 1988, is unrealistic and creates an undue burden due to a seven-month lead time on parts availability and due to the large number of airplanes that some operators must modify. Commenters proposed compliance times ranging from an additional 6 months to 37 months. Upon careful reconsideration, the FAA has determined that extending the compliance time is warranted and will not compromise safety. Accordingly, the final compliance time has been exended to May 1, 1988.

Finally, one commenter was concerned that the proposed modification would mask a deteriorating slat mechanical system or movement of the slats outside of the design specifications. The FAA has determined that the required modification increases only the disagree light sensor tolerance band in the extend direction for the outbard slat position indication system. No increase of the slat mechanical tolerances occurs. This modification will allow the outboard slats to travel only through their normal design excursions (including airloads) without generating a slat disagree indication only if slats are mechanically rigged within the maintenance manual tolerances.

It is estimated that 160 U.S. registered airplanes will be affected by this AD, that it will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor costs will be $40 per manhour. The cost of modification parts is estimated to be $482 per airplane. Based on these figures, the total cost impact of this AD on the U.S. fleet is estimated to be $153,920.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the proposed rule, with the changes previously noted.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model DC-10 and KC-10A airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89; and 49 CFR 1.47.

2. By adding the following new AD:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10 and KC-10A airplanes, certificated in any category, which are listed in McDonnell Douglas Service Bulletin 27-195, Revision 1, dated March 25, 1985.

Compliance required by May 1, 1988, unless previously accomplished. To minimize the potential operational hazard associated with unnecessary rejected takeoffs caused by slat disagree indications resulting from too narrow tolerances, accomplish the following:

A. Modify the targets and sensors of the outboard slats in accordance with Accomplishment Instructions 2A, 2B, 2D, 2H, 2I, 2J, and 2K contained in McDonnell Douglas DC-10 Service Bulletin 27-195, Revision 1, dated March 25, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective September 16, 1985.

Issued in Seattle, Washington, on August 2, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-18868 Filed 8-8-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 84-NM-93-AD; Amdt. 39-5117]

Airworthiness Directives; Boeing Model 767-200 Series Airplanes Equipped With General Electric (GE) CF6 Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document amends an existing airworthiness directive (AD) which requires periodic inspection and replacement, as necessary, of the engine fuel feed hose on certain Boeing Model 767 airplanes. This amendment provides terminating action for the AD by providing for the installation of a more durable hose.

EFFECTIVE DATE: September 16, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the FAA, Northwest Mountain Region, Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Bernie Gonzalez, Propulsion Branch, ANM-140S, Seattle Aircraft Certification Office; telephone (206) 431-2964. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 84-11-02, Amendment 39-4873 (49 FR21920; May 24, 1984), requiring periodic inspection of the Boeing P/N S332T012-3 engine fuel feed hose, was issued following discovery of leaking hoses on several Model 767 airplanes in service. The AD requires inspection and replacement, as required, in accordance with Boeing Service Bulletin 767-73-11 dated March 24, 1984, or later FAA-approved revisions. The Service Bulletin was later revised to include replacement with an approved hose, Boeing P/N S332T012-11. This hose contains a wound steel spring providing internal reinforcement. Continued inspection and replacement was initially required for this hose (P/N S332T012-11) pending additional qualification testing. Testing of the Boeing P/N S332T012-11 hose has shown that this hose can withstand the operating pressure cycles contributory to the in-service fuel leaks of the original hose, P/N S332T012-3. Incorporation of the Boeing P/N S332T012-11 hose would eliminate the need for the repetitive inspection requirements of the existing AD.

A proposal to amend Part 39 of the Federal Aviation Regulations by amending AD 84-11-02, Amendment 39-4873, to include installation of Boeing P/N S332T012-11 hose in accordance with Boeing Service Bulletin No. 767-73-11, Revision 2, dated May 25, 1984, was published in the **Federal Register** on February 14, 1985 (50 FR 6189).

The comment period closed on February 26, 1985, and interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received. The commenter agreed with the proposal.

The final rule has been changed only to add the phrase "or later FAA-approved revision," in regards to optional compliance with the Service Bulletin. This phrase provides clarification as to the intent of the rule and imposes no additional burden on any person.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the proposed amendment with only the change noted above.

It is estimated that 23 airplanes of U.S. registry will be affected by this AD. The replacement hose will be provided to operators at no additional charge by the manufacturer. Should an operator choose to install the replacement hose, it will require approximately 4 manhours to install, at an average charge of $40 per manhour. Based on these figures, the total cost impact of this AD is estimated to be $3,680.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 767 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and it has been placed in the Regulatory Docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

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

2. By amending airworthiness directive 84-11-02, Amendment 39-4873 (49 FR 2190; May 24, 1984), to add a new paragraph E., which reads as follows:

"E. Installation of fuel feed hose P/N S332T012-11 in accordance with Service Bulletin 767-73-11, Revision 2, dated May 25, 1984, or later FAA-approved revisions, terminates the repetitive inspection requirement of paragraph A., above."

This amendment becomes effective September 16, 1985.

Issued in Seattle, Washington, on August 2, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-18869 Filed 8-8-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-NM-104-AD; Amdt. 39-5118]

Airworthiness Directives; Boeing Model 767-200 Series Airplanes Equipped With General Electric (GE) CF6 Engines

AGENCY: Federal Aviation Adminstration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires periodic inspections and repair of electrical wiring and terminals which are subject to damage by engine heat and vibration. Alternatively, a modification may be accomplished which would eliminate the requirement for repetitve inspections There have been four reported cases of engine system malfunctions that were caused by wiring terminal failures. Most malfunctions associated with these failures can be detected during normal flight operations; however, certain malfunctions may not be normally detectable and can result in engine damage or lead to precautionary engine shutdowns. These failures are time-related and may occur on both engines on the same flight.

EFFECTIVE DATE: September 16, 1985.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Rees, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-2941. Mailing Address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to add an AD requiring periodic inspection and repair of selected engine wiring and terminals on certain Boeing Model 767 series airplanes was published in the **Federal Register** on December 14, 1984 (49 FR 48761). The comment period for the proposal closed on February 4, 1985.

Interested persons have been given an opportunity to participate in the making of this AD, and due consideration has been given to the two comments received, as follows:

(1) The Civil Aviation Authority (CAA) of Great Britain observed that no terminating modification for the inspections was identified in the NPRM. They requested that the FAA ensure that design changes are forthcoming which would end the need for continued inspections. They further requested that the incorporation of the design change be made mandatory, rather than allowing the unlimited inspections.

(2) The Air Transport Association of America (ATA) reported that U.S. carriers are already complying with the service bulletin inspection schedule and, therefore, suggested that issuance of the AD be delayed until terminating modification instructions are provided.

In response to both comments, the FAA has delayed issuing this rule until a terminating modification was developed. This modification is described in Boeing Service Bulletin 767-71A0019, Revision 4; it consists of installing new ground stud brackets in the engine accessory compartment, and rerouting and reterminating the existing wiring accordingly. The final rule allows either continued inspections or the accomplishment of the terminating modification, at the operator's option. The FAA considers that the repetitive inspections provide an acceptable level of safety, and that mandating the modification is unnecessary.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule with the change noted above.

It is estimated that 25 airplanes of U.S. registry will be affected by this AD, that is will take approximately 12 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $12,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 767 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircrafts.

Adoption of the Amendment

PART 39—[Amended]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 767-200 series airplanes equipped with General Electric (GE) CF6 engines, certified in any category.

Compliance is required as indicated, unless already accomplished. To minimize the potential for engine shutdown or damage due to engine systems ground wiring or terminal failure, accomplish the following within the next 30 days after the effective date of this AD or upon accumulation of 1000 flight hours on any engine, whichever is later:

A. Inspect and repair wiring and terminals as specified in Boeing Alert Service Bulletin 767-71A0019, Revision 3, dated August 23, 1984, or later FAA approved revision, and repeat thereafter at intervals not to exceed 1000 hours; or

B. Accomplish the terminating modification as specified in Boeing Alert Service Bulletin 767-71A0019, Revision 4, dated March 15, 1985, or later FAA approved revision, as terminating action for this AD.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications requried by this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective September 16, 1985.

Issued in Seattle, Washington, on August 2, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-18870 Filed 8-8-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANM-19]

Amendment of Transition Area; Cheyenne, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action amends the description of the Cheyenne, Wyoming, transition area. Recent changes in the Federal Airway system to conform with recommended International Civil Aviation Organization (ICAO) airway descriptions includes renumbering Federal Airway V4N. V4N is part of the Cheyenne transition area description, and now has been renumbered as V575. It is, therefore, necessary to make this editorial change in the description to maintain currency in the National Airspace System.

DATES: Effective date—0901 Gmt, October 4, 1985. Comments must be received on or before September 20, 1985.

ADDRESSES: Send comments on the rule to: Manager, Airspace & Procedures Branch, ANM-530, Federal Aviation Administration, Docket No. 85-ANM-19, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the Airspace & Procedures Branch, at the same address.

FOR FURTHER INFORMATION CONTACT: Ted Melland, Airspace & Procedures Specialist, ANM-533, Federal Aviation Administration, Docket No. 85-ANM-19, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2530.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves changing a portion of the transition area description, the transition area size would remain the same, and thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule the might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to make an editorial change to the Cheyenne, Wyoming, transition area. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

Federal Airway V4N, which is used in part to describe the Cheyenne, Wyoming, transition area has been renumbered as V575. The description is accordingly changed. Since this action is only editorial or corrective in nature, and imposes no additional regulatory or economic burden, notice and public procedures hereon are unnecessry and good cause exists for making this amendment effective coincident with the next charting date.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); (14 CFR 11.69)

2. By amending § 71.181 as follows:

Cheyenne, Wyoming—[Amended]

Replace "V4N" with "V575."

Issued in Seattle, Washington, on July 29, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-18867 Filed 8-8-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 50826-5126]

Addition to Commodity Control List; Underwater Photographic Cameras and Associated Equipment

AGENCY: Office of Export Administration, Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Commodity Control List (CCL) (Supplement No. 1 to § 399.1 of the Export Administration Regulations) includes those items subject to Department of Commerce export controls. This rule revises the CCL by adding a new entry, ECCN 4417B, to control underwater photographic cameras and associated equipment. The Department of Commerce has determined, with the concurrence of the Department of Defense, that this rule is necessary to protect U.S. national security interests pursuant to Section 5 of the Export Administration Act of 1979, as amended.

Since underwater cameras are produced in other countries, the Department of Commerce has initiated a foreign availability assessment to determine whether such cameras "are available without restriction from sources outside the United States in sufficient quantities and comparable in quality to those produced in the United States so as to render the controls ineffective in achieving their purposes." In addition, the United States is pursuing international negotiations for multilateral controls on such cameras.

DATES: This rule is effective August 7, 1985. Comments must be received by October 7, 1985.

ADDRESS: Written comments (six copies) should be sent to: Betty Ferrell, Exporter Assistance Division, Office of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Bruce Webb, Capital Goods and

Production Materials Division, Office of Export Administration, Telephone: (202) 377–3806.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements and Invitation To Comment

1. This rule is exempted from 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) pursuant to Section 13(a) of the Export Administration Act of 1979, as amended. This regulation also involves foreign and military affairs functions of the United States.

However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

2. This rule contains a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Applications for validated export licenses required by this rule will be made on Form ITA–622P. This Form has been approved by the Office of Management and Budget under control number 0625–0001.

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 foreign and military affairs functions 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. Therefore, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

The period for submission of comments will close October 7, 1985. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and will not consider them in the development of final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires comments in written form. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 4104, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Patricia L. Mann, International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377–3031.

List of Subjects in 15 CFR Part 399

Exports.

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

1. The authority citation for Part 399 is revised to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. app. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. In Supplement No. 1 to § 399.1 (the Commodity Control List), a new entry is added (in numerical order, disregarding the first digit) to Commodity Group 4 (Transportation Equipment), reading as follows:

4417B Underwater Photographic Cameras and Associated Equipment

Controls for ECCN 4417B

Unit: Report cameras in "number"; parts in "$ value."

Validated License Required: Country Groups QSTVWYZ.

GLV $ Value Limit: $500 for Country Groups T + V; $0 for all other destinations.

Processing Code: TE

Reason for Control: National Security

Special Licenses Available: See Part 373.

List of Underwater Photographic Cameras and Associated Equipment Controlled by ECCN 4417B

(a) Underwater photographic cameras capable of any of the following:

(i) Electronically advancing the film;

(ii) Annotating the film with data provided by a source external to the camera;

(iii) Taking more than 250 exposures without changing the film magazine; *or*

(iv) Operating at depths greater than 1000 meters;

(b) Lights and other associated equipment capable of operating at depths greater than 1000 meters;

(c) Specially designed parts for the above.

Note.—This ECCN does not control diver hand-held cameras that are not designed for operation at depths greater than 100 meters.

Dated: August 7, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85–19150 Filed 8–7–85; 4:57 pm]

BILLING CODE 3510–DT–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 84F–0054]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

Correction

In FR Doc. 85–17528 beginning on page 30148, in the issue of Wednesday, July 24, 1985, make the following corrections:

1. In the first column, in the summary, in the seventh line, "peperidyl" should read "piperidyl".

2. In the third column, in § 178.2010, in the table, in the "Limitations" column, in the sixth line, "1.1.1.2" should read "1.1, 1.2".

BILLING CODE 1505–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2610 and 2622

Payment of Premiums and Employer Liability for Single Employer Plan Terminations; Rules Pertaining to Withdrawals From and Terminations of Plans to Which More Than One Employer Contributes Other Than Multiemployer Plans

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment notifies the public of a change in the interest rate applicable to late premium payments and employer liability underpayments and overpayments beginning July 1, 1985. The interest rate, which is established by the Internal Revenue Service in accordance with the provisions of the Tax Equity and Fiscal Responsibility Act of 1982 and the Internal Revenue Code is reviewed semiannually, and the Internal Revenue Service has determined that the interest rate for the six-month period beginning July 1, 1985 should be decreased. This amendment is needed to notify pension plan administrators of the specific interest rate.

EFFECTIVE DATE: July 1, 1985.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006, 202–254–4856 (202–254–8010) for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title IV of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, 29 U.S.C. 1001 *et seq.*, (the "Act") provides for a bifurcated pension plan insurance program administered by the Pension Benefit Guaranty Corporation ("the PBGC"). The insurance program covers two types of pension plans, *i.e.*, single-employer plans and multiemployer plans, and has two basic sources from which funds are obtained to pay guaranteed benefits.

For single-employer plans, funds are are obtained from premiums paid by on-going plans and from amounts collected as employer liability from sponsors of terminating plans. Employer liability, which is imposed under section 4062 of the Act, is the amount by which the value of the terminated plan's guaranteed benefits exceeds plan assets at the date of plan termination, but not more than 30 percent of the employer's net worth. Thus, guaranteed benefits in terminating single-employer plans are paid for by premiums in the single-employer fund, if the assets of the plan plus amounts collectible as employer liability are insufficient to fund guaranteed benefits.

For multiemployer plans, funds to provide for the payment of guaranteed benefits, should a multiemployer plan terminate with assets insufficient to fund those benefits, are obtained solely from premiums paid by on-going multiemployer plans. The employer liability provisions in section 4062 do not apply to multiemployer plans.

Section 2610.3 of 29 CFR sets forth due dates for premium payments by both single-employer plans and multiemployer plans, and § 2610.7 provides for late payment interest charges. Section 2622.7 of 29 CFR sets forth the due date for payment of the employer liability imposed by section 4062 and provides for interest on underpayments and overpayments.

Under section 4007 of the Act and 29 CFR 2610.7 and 2622.7, the interest rate charged or paid by the PBGC is the rate established under section 6601(a) of the Internal Revenue Code ("Code"). Section 6601(a) provides for interest at an annual rate established under section 6621. As amended by the Tax Equity and Fiscal Responsibility Act of 1982, 96 Stat. 324, Pub. L. 97–248 ("TEFRA"), Code section 6621 provides that the interest rate is to be adjusted semiannually by October 15 and April 15 of each year and is to be based on the average prime interest rate for the six-month period ending on September 30 and March 31, respectively. An adjusted interest rate is effective January 1 or July 1 of the succeeding year, as applicable.

On April 12, 1985, in compliance with TEFRA, the Internal Revenue Service ("IRS") announced that the interest rate, which has been 13 percent since January 1, 1985, will be 11 percent beginning July 1, 1985 (IR–85–36).

Accordingly, Appendix A to 29 CFR Part 2610 and Appendix A to 29 CFR Part 2622 are being amended to set forth the decreased rate for the period beginning July 1, 1985. The 11 percent interest rate will be in effect for at least the six-month period ending December 31, 1985, and will continue in effect after that time if the IRS, in its next semiannual review, determines that no change is necessary. However, if the IRS determines, in its next review or subsequent semiannual reviews, that the interest rate should change, the Appendices will be revised accordingly.

Because this amendment simply sets forth the interest rate for the succeeding period of time, general notice of proposed rulemaking is not required. See 5 U.S.C. 553(b). Moreover, the PBGC has determined that it would be impractical and contrary to the public interest to delay the effective date of the regulation because the new interest rate is effective by law on July 1, 1985. Accordingly, the PBGC finds that good cause exists for issuing this regulation in final form without notice and opportunity for public comment and for making it effective before the 30-day period set forth in 5 U.S.C. 553.

The PBGC also has determined that this rule is not a "major rule" within the meaning of Executive Order 12291, February 17, 1981 (46 FR 13193), because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects

29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, and Small businesses.

In consideration of the foregoing, Parts 2610 and 2622 of Chapter XXVI of Title 29, Code of Federal Regulations, are hereby amended as follows:

PART 2610—[AMENDED]

1. The authority citation for Part 2610 continues to read as follows:

Authority: Secs. 4002(b)(3), 4006, and 4007, Pub. L. 93–406, 88 Stat. 829, 1004, 1010, and 1013, as amended by secs. 403(1), 105, 402(a)(3), and 403(b), Pub. L. 96–364, 94 Stat. 1208, 1302, 1264, 1298, and 1300 (29 U.S.C. 1302(b)(3), 1306, and 1307).

2. Appendix A to Part 2610 is amended by adding the following entries to read as follows:

Appendix A—Late Payment Interest Rates

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

From	Through	Interest rate (percent)
* * * * *		
Jan. 1, 1985	June 30, 1985	13
July 1, 1985		11

PART 2622—[AMENDED]

3. The Authority citation for Part 2622 continues to read as follows:

Authority: Secs. 4002(b)(3), 4062, 4063, 4064, 4067, and 4068, Pub. L. 93–406, 88 Stat. 829, 1004, 1029, 1030, 1031, and 1032, as amended by secs. 403(l), 403(g), 403(h), and 403(i), Pub. L. 96–364, 94 Stat. 1208, 1302, and 1301 (29 U.S.C. 1302(b)(3), 1362, 1363, 1364, 1367, and 1368).

4. Appendix A to Part 2622 is amended by adding the following entries to read as follows:

Appendix A—Late Payment and Overpayment Interest Rates

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

From	Through	Interest rate (percent)
* * * * *		
Jan. 1, 1985	June 30, 1985	13
July 1, 1985		11

Issued in Washington, D.C., this 5th day of August 1985.

David M. Walker,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 85–18975 Filed 8–8–85; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF EDUCATION

34 CFR Part 304

Removal of Architectural Barriers to the Handicapped

Correction

In FR Doc. 85–16979 beginning on page 29328 in the issue of Thursday, July 18, 1985, make the following corrections:

1. On page 29328, in the first column, in the **ACTION** line, "Final rule" should read "Final regulations".

2. On page 29329, in the second column, in the heading of Subpart E, "ESA" should read "SEA", and in the paragraph itself, in the third line, "LEAS" should read "LEAs".

3. On page 29332, in the third column the text of Subpart G was repeated; remove the repeated material.

4. On page 29333, in the second column, in the seventh complete paragraph, in the second line, "euipment" should read "equipment ".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL–2876–2]

California State Implementation Plan Revision for the Monterey Bay Unified Air Pollution Control District

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In today's notice EPA takes final action to approve a permit fee rule for the Monterey Bay Unified Air Pollution Control District (APCD) and to incorporate it into the California State Implementation Plan. EPA reviewed this rule with respect to the Clean Air Act and determined that it should be approved.

EFFECTIVE DATE: This action will become effective on September 9, 1985.

ADDRESSES: A copy of the revision is available for public inspection during normal business hours at the EPA Region 9 office and at the following locations:

California Air Resources Board, SIP Section, 1131 "S" Street, Sacramento, CA 95812

Monterey Bay Unified, Air Pollution Control District, 1164 Monroe Street, Suite 10, Salinas, CA 93906

EPA Library, Public Information Reference Unit, Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460

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

FOR FURTHER INFORMATION CONTACT: James C. Breitlow, Chief, State Implementation Plan Section, A–2–3, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 (415) 974–7641 FTS: 454–7641

SUPPLEMENTARY INFORMATION:

Background

On February 3, 1983, the California Air Resources Board (ARB) submitted to EPA a State Implementation Plan (SIP) revision concerning the Monterey Bay Unified APCD. The revision included Rule 300, "Permit Fees," and Rule 301, "Permit Fee Schedules." EPA evaluated these two permit fee rules for conformance with section 110 of the Clean Air Act and determined that they should be approved. This was done in a direct final rulemaking which was published on November 18, 1983 [48 FR 52450]. However, because EPA received a request for an opportunity to comment, the direct final approval was withdrawn [49 FR 13145] and a **Federal Register** notice proposing approval was published on April 3, 1984 [49 FR 13174.]

The April 3, 1984 proposal notice provided a 30 day comment period. During the comment period EPA received a letter from the law offices of Pillsbury, Madison & Sutro which, on behalf of Lone Star Industries, objected to EPA's approval of Rule 300 "Permit Fees." However, on November 15, 1984 Rule 300 was officially withdrawn as a SIP revision by the Air Resources Board.

Final Action

The revision to Rule 301 is administrative and does not significantly impact current emission control requirements. EPA is approving Rule 301, "Permit Fee Schedules," because the rule is consistent with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51.

Regulatory Process

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 challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

Dated: July 29, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

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

Subpart F—California

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.220 is amended by revising (c)(127)(v) (B) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(127) * * *
(v) * * *

(B) Amended Rule 301, submitted on February 3, 1983.

* * * * *

[FR Doc. 85–18597 Filed 8–8–85; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 52

[A-5-FRL-2876-7]

Approval and Promulgation of Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: The USEPA announces approval of several revisions to the Wisconsin State Implementation Plan (SIP) for Volatile Organic Compounds (VOC). The revisions pertains to Chapter 154 of the Wisconsin Administrative Code (WAC), specifically Section NR 154.01, Definitions, and NR 154.13, Control of Organic Compound Emissions, and are meant to clarify the Reasonably Available Control Technology (RACT) rules for VOC. USEPA's action is based upon a SIP revision request that was submitted by the State of Wisconsin, and on a subsequent revision to that request made by the State in response to the original notice of proposed rulemaking (49 FR 24543; June 14, 1984). A notice reproposing approval of these revisions appeared in the January 3, 1985, **Federal Register** (50 FR 285).

EFFECTIVE DATE: This final rulemaking becomes effective on September 9, 1985.

ADDRESSES: Copies of this revision to the Wisconsin SIP are available for inspection 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 inspection 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, Region V, Air and Radiation Branch, 230 South Dearborn Street, Chicago, Illinois 60604

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

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707

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

SUPPLEMENTARY INFORMATION: In today's action, USEPA is approving the VOC SIP revisions that were enacted in Wisconsin by means of Natural Resources Board Order Number A–36–82, and that became effective on August 1, 1983. These revisions are meant to clarify the VOC RACT rules, and to allow the WDNR to extend the RACT compliance date for certain can coating operations.

Proposed Revisions to NR 154.01

The definition for "beaded can", identified at NR 154.01 (28m) of the WAC, has been deleted. USEPA approves the deletion because Wisconsin has stated that the definition was submitted erroneously to USEPA. USEPA also approves the addition of a definition for "energy intensive control device." This definition is identified at NR 154.01 (68m) of the WAC, and means an air pollution control device which consumes energy at a rate in excess of that required to heat the exhaust gas from 70°F to 800°F, taking into account energy recovered in the form of heat or organic compounds. This definition was added to the WAC in order to satisfy a condition that was set by USEPA, and committed to by the State of Wisconsin, on March 25, 1982, in order to correct a deficiency in NR 154.13(13)(d).

Proposed Revisions to NR 154.13

In the original notice of proposed rulemaking (49 FR 24543; June 14, 1984), and the subsequent reproposal (50 FR 285; January 3, 1985), USEPA proposed to approve three revisions to WAC Section NR 154.13, Control of Organic Compound Emissions. They pertain to subsections NR 154.13(4)(b)3, NR 154.13(4)(c)3, and NR 154.13(13)(b)1.c.

The revision to NR 154.13(4)(b)3 clarified the WDNR's intent with regards to capture systems. The revision provides that, in evaluating the efficiency of a fume capture system to determine whether it is adequate to meet VOC emission limits, one must employ the equations identified at NR 154.13(13)(b)1.c. which ensure equivalency with other types of control methods on a solids applied basis. (See May 5, 1980, memorandum from Richard G. Rhoads, Director, Control Programs Development Division, to Chief, Air Programs Branch, Regions I—X, Procedure to Calculate Equivalency with the CTG Recommendations for Surface Coating.) The revision to the WAC provides for obtaining equivalent VOC reductions (to that required by using RACT coating limits) when add-on control is used.

The equations identified at NR 154.13(13)(b)1.c. are located in the section on internal offsets. USEPA approves the revision to NR 154.13(4)(b)3. with the understanding that the section merely incorporates the equations by reference without incorporating any other parts of the section on internal offsets. In other words, a source that seeks to determine the capture efficiency on its controls may not take advantage of any benefits of internal offsets unless it complies with all applicable parts of NR 154.13(4)(b).

Therefore, in calculating the applicable capture efficiency, a source that is not applying for an internal offset may only include in the calculation those coatings used on the line to be controlled. If one pollution control device is to control more than one line, then the efficiency of the capture system on each line must be great enough to insure that the emission rate on each line is no greater than it would be if compliance coatings were used on each line. Also, weighted averages may not be used in calculating the applicable capture efficiency for a source not applying for an internal offset.

The revision to NR 154.13(4)(c)3 extends the final compliance date for certain can coating operations to the end of 1985. The following interim limits are in effect from December 31, 1982, to December 31, 1985, for the operations listed below.

Source	Interim limit
(1) Sheet basecoat (exterior and interior and overvarnish operations).	4.0 lbs/gallon
(2) End sealing compound operations	4.3 lbs/gallon

This compliance date extension is consistent with USEPA policy as expressed in "Approval of Revised Compliance Schedule for Control of Volatile Organic Compounds from Certain Can Coating Operations" (47 FR 10293; March 10, 1982). This notice restates USEPA's policy to approve

extensions of VOC SIP compliance schedules when they will facilitate the expeditious conversion to low-solvent technology. USEPA approves the compliance date extension, as contained in Section NR 154.13(4)(c)3 of the WAC.

USEPA also approves the revision to NR 154.13(13)(b)1.c. It streamlines the equation that determines the theoretical volume fraction of solids that can be present in the coating (D_s), or ink, in order to meet the allowable emission rate for each coating or printing line. The new equation contains no substantive change, and has been revised to read:

$$D_i 2 \ldots n = 1 - \frac{(A_i.2 \ldots n)}{(P_i.2 \ldots n)}$$

$A_i.2 \ldots n$ means the allowable emission rate for each coating or printing line in kilograms per liter (pounds per gallon) of coating or ink, excluding water, delivered to the applicator. $P_i.2 \ldots n$ means the density of the solvent, in kilograms per liter (pounds per gallon), used in the coating, or ink, delivered to the applicator. $A_i.2 \ldots n$ and $P_i.2 \ldots n$ are calculated on a daily weighted average basis. NR 154.13(13)(b) addresses internal offsets which must be submitted to USEPA as SIP revisions before they become effective as required by NR 154.02(3).

Conclusion

USEPA has reviewed the revisions to Sections NR 154.01 and NR 154.13 of the WAC, as discussed in detail in the June 14, 1984 (49 FR 24543), and the January 3, 1985 (50 FR 285), notices of proposed rulemaking. The complete text of these revisions can be found in the WAC. During the 30-day public comment period, USEPA received no comments. Therefore, USEPA finally approves the revisions to NR 154.10 and NR 154.13 of the WAC.

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 60 days from today. 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

Air pollution control, Incorporation by reference, Ozone, Hydrocarbons, Intergovernmental relations.

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

Dated: July 29, 1985.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart YY—Wisconsin

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

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2570 is amended by adding paragraph (c)(40) as follows:

§ 52.2570 Identification of Plan.

* * * * *

(c) * * *

(40) On November 17, 1983, Wisconsin submitted revisions to Sections NR 154.01, Definitions, and NR 154.13, Control of Organic Compound Emissions, of the Wisconsin Administrative Code. These revisions clarify the volatile organic compound RACT rules and establish an extended RACT compliance date for certain can coating operations. On July 11, 1984, Wisconsin submitted additional information revising the original submittal.

(i) Incorporation by reference

(A) Board Order A–36–82, incorporating revisions to NR 154.01 and NR 154.13 of the Wisconsin Administrative Code, became effective in the State of Wisconsin on August 1, 1983.

* * * * *

[FR Doc. 85–18595 Filed 8–8–85; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 60

[A–4–FRL–2878–2]

Standards of Performance for New Stationary Sources; Delegation of Additional Standards to Kentucky

AGENCY: Environmental Protection Agency.

ACTION: Delegation of authority.

SUMMARY: On May 1, 1984, the Kentucky Natural Resources and Environmental Protection Cabinet requested that EPA delegate to the State the authority to implement and enforce EPA's new source performance standards (NSPS) for additional categories of air pollution sources (listed below under "Supplementary Information"). Since EPA's review of pertinent Kentucky laws, rules, and regulations showed them to be adequate to implement and enforce these Federal standards, the Agency has delegated authority for them to Kentucky. Affected sources are now under the jurisdiction of the State rather than EPA.

EFFECTIVE DATE: June 19, 1985.

ADDRESSES: Copies of the State's request and EPA's letter of delegation are available for public inspection at EPA's Region IV office, 345 Courtland Street, NE., Atlanta, Georgia 30365. All reports required pursuant to the newly delegated standards (listed below) should be submitted to the Kentucky Division of Air Pollution Control, Ft. Boone Plaza, 18 Reilly Road, Frankfort, Kentucky 40601, rather than to EPA Region IV.

FOR FURTHER INFORMATION CONTACT: Melvin Russell of the EPA Region IV Air Management Branch at the above address, telephone 404/881–2864 (FTS 257–2864).

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with sections 101, 110, and 111 of the Clean Air Act, authorizes EPA to delegate authority to implement and enforce the Standards of Performance for New Stationary Sources (NSPS)—Section 111, to any state which has adequate implementation and enforcement procedures.

On April 12, 1977, EPA delegated to Kentucky authority to implement and enforce NSPS in existence at that time. As additional categories have been promulgated, the State has requested authority for them; EPA has responded by making supplemental delegations of authority for NSPS on December 5, 1980, March 26, 1981, January 1, 1982, July 6, 1982 and April 17, 1985. On May 1, 1984 the Kentucky Natural Resources and Environmental Protection Cabinet requested a delegation of authority for the following NSPS as promulgated in 40 CFR Part 60.

40 CFR Part 60 Subpart	Source Category
Ka	Storage Vessels for Petroleum Liquids Constructed after May 18, 1978
KK	Lead-Acid Battery Manufacturing Plants
NN	Phosphate Rock Plants
UU	Asphalt Processing and Asphalt Roofing Manufacture

After a thorough review of the request, the Regional Administration determined that such delegation was

appropriate with the conditions set forth in the original delegation letter of April 12, 1977, and granted the State's request in a letter dated June 19, 1985. Kentucky sources subject to the NSPS listed above are now under the jurisdiction of the State of Kentucky.

(Secs. 101, 110, 111, and 301 of the Clean Air Act (42 U.S.C. 7401, 7410, 7411, 7601)).

Dated: July 26, 1985.

John A. Little,

Acting Regional Administrator.

[FR Doc. 85-18882 Filed 8-8-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[A-5-FRL-2877-9]

Delayed Compliance Order for Atec Industries, Inc., Canfield, OH

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the USEPA hereby issues a delayed Compliance Order (DCO) to Atec Industries, Inc. The DCO requires the company to bring volatile organic compound (VOC) emissions from its surface coating line into compliance with Ohio Administrative Code Rule 3745-21-09(U), part of the federally approved Ohio State Implementation Plan (SIP).

EFFECTIVE DATE: This Final Rulemaking becomes effective on August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Joseph Dimatteo, U.S. Environmental Protection Agency, Air Compliance Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-1621.

SUPPLEMENTARY INFORMATION: On April 11, 1985, the Regional Administrator of USEPA's Region V Office published in the **Federal Register** (50 FR 14259) a notice proposing to issue a DCO to Atec Industries, Canfield, Ohio. The notice asked for public comments by May 13, 1985.

No public comments were received in response to the notice. Therefore, effective this date, an Order is issued to Atec Industries by the Administrator of the USEPA, pursuant to the authority of section 113(d) of the Clean Air Act. The Order places Atec Industries on a schedule to bring its surface coating line into compliance with Ohio Rule 3745-21-09(U), part of the federally approved SIP, as expeditiously as possible. If the conditions of the Order are met, it will permit the company to delay compliance with the SIP regulation until December 31, 1985. Citizen suits under section 304 of the Act are precluded until that date.

Under section 307(b) 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 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 65

Intergovernmental relations, Air pollution control.

This notice is issued under authority of section 113 of the Clean Air Act, as amended (42 U.S.C. 7413 and 7601).

Dated: July 29, 1985.

Lee M. Thomas,

Administrator.

PART 65—DELAYED COMPLIANCE ORDERS

In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 65 continues to read as follows:

Authority: 42 U.S.C. 7413 and 7601.

2. By adding an entry to the table in § 65.400 to read as follows:

§ 65.400 Federal Delayed Compliance Orders issued under section 113(d)(1), (3), (4) and (5) of the Act.

* * * * *

Source	Location	Order No.	SIP regulation (s) involved	Date of Federal Register proposal	Final compliance date
Atec Industries	Canfield, OH	To be assigned	Rule 3745-21-09 (U)	8/9/85	12/31/85

[FR Doc. 85-18881 Filed 8-8-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[A-1-FRL-2876-6]

Designation of Areas for Air Quality Planning Purposes; Maine; Lincoln Attainment Status Designation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a request by the State of Maine to redesignate the Town of Lincoln, Maine from primary and secondary nonattainment of the National Ambient Air Quality Standards (NAAQS) for total suspended particulated (TSP) to secondary nonattainment only. This action acknowledges an improvement in air quality in the Town of Lincoln due to an implemented control strategy at the Lincoln Pulp and Paper Company, Inc. Under section 107 of the Clean Air Act, the designation of attainment status may be changed where warranted by the available data.

EFFECTIVE DATE: This action will be effective October 8, 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 2312, 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 2312, JFK Federal Bldg., Boston, MA 02203; and the Maine Department of Environmental Protection, Ray Building, Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Susan Kulstad, (617) 223-4865, FTS: 223-4865.

SUPPLEMENTARY INFORMATION: On March 5, 1985, the Commissoner of the Maine Department of Environmental Protection submitted a request to redesignate the Town of Lincoln. The redesignation formally acknowledges the attainment of the primary NAAQS for TSP in Lincoln.

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). The redesignation was challenged in the U.S. Court of Appeals for the First Circuit by the Lincoln Pulp and Paper Company, Inc. (the Company) and the Town of Lincoln. That challenge

has been temporarily stayed pending rulemaking action to resolve the issues.

On May 1, 1985, EPA published approval of a plan for the attainment of the primary TSP sandards (50 FR 18483) that required controls on point and fugitive sources of particulate emissions at the Company. These controls were implemented by September 1983, and have resulted in a 284 ton per year reduction in point source emissions and further, unquantified reductions in fugitive emissions.

Redesignation

Upon a state's request for redesignation of an area, EPA reviews all available information relative to the attainment status of the area. This includes the most recent eight consecutive quarters of quality assured, representative ambient air quality data, and evidence of an implemented control strategy that EPA has fully approved.

The State's request addresses all of the EPA requirements:

(A) Ambient air quality data from the three TSP monitoring sites in Lincoln show no violations of the primary standards over the most recent eight quarters (January, 1983 through December, 1984). Monitoring was conducted on a daily basis over this period.

(B) The control strategy for the area, which EPA approved on May 1, 1985, was required under the terms of an air emission license issued by the Maine Department of Environmental Protection on March 9, 1983. The controls were implemented on significant point and fugitive emission sources at the Company between March and September 1983. The State's submission contains a memorandum documenting that the Company is complying with the control strategy.

(C) Modeling that was conducted for the attainment plan with the ISC downwash and Valley models predicts no violations of the primary TSP standards at representative operating loads which yield highest impacts. The modeling corroborates that the improved air quality in the area resulted from the licensed control strategy.

Although the Company has combined gas flows through a common stack, this action is consistent with the recently revised stack height regulations concerning "dispersion techniques," 40 CFR 51.1(hh), promulgated by EPA on July 8, 1985 (50 FR 27892). EPA evaluated the merged gas streams as dissociated flows and demonstrated that the primary standard for TSP would still not be violated.

EPA has reviewed the Maine DEP's request with its supporting data and has determined that the redesignation should be approved. For more details on EPA's review, see the technical support document available at the locations listed in the ADDRESSES section of this notice.

Final Action: EPA is approving this redesignation, submitted on March 5, 1985, to nonattainment of the secondary NAAQS for TSP in the Town of Lincoln, Maine.

Since EPA views this redesignation as noncontroversial, we are taking this action without prior proposal. This action will be effective October 8, 1985. However, if EPA is notified within 30 days that adverse or critical comments will be submitted, we will withdraw this action and publish a new rulemaking proposing the action and establishing a comment period.

Under 5 U.S.C. section 605(b), I certify that this redesignation 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 60 days from today. This action may not be challenged late in proceedings of enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 29, 1985.

Lee M. Thomas,

Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

§ 81.320 [Amended]

2. In § 81.320 Maine, in the attainment status designation table for Total Suspended Particulates (TSP), in the entry for "Lincoln", the designation under "Does not meet primary standards" is removed.

[FR Doc. 85–18596 Filed 8–8–85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 761

[OPTS 62035D; TSH FRL 2835–6]

Polychlorinated Biphenyls in Electrical Transformers

Correction

In FR Doc. 85–16851, beginning on page 29170 in the issue of Wednesday, July 17, 1985, make the following corrections:

1. On page 29179, third column, fourth line, "fault-failure," should read, "fault-related failure".

2. On the same page and in the same column, thirty-third line, "other" should read "others".

3. On page 29199, second column, in § 761.3, the second defined term reading "Industrial buildings" should read "Industrial building".

4. On page 29201, third column, in § 761.40(j) third line, "others" should read "other".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6671]

Flood Insurance; Suspension of Community Eligibility; Connecticut et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the Federal Register.

EFFECTIVE DATES: The third date ("Susp.") listed in the 4th column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, 500 C Street, Southwest, FEMA—Room 416, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program

(NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the 4th column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register**.

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the 5th column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule is and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subject in 44 CFR Part 64.

Flood insurance, Floodplains.

The authority citation for Part 64 continues to read as follows:

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

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of Eligible Communities.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Region I					
Connecticut: New London	New London, city of	090100C	Mar. 24, 1972, Emerg.; May 2, 1977, Reg.; Aug. 19, 1985, Susp.	June 28, 1974, May 2, 1977 and Oct. 1, 1983.	Aug. 19, 1985.
Massachusetts:					
Barnstable	Barnstable, town of	250001C	Oct. 27, 1972, Emerg.; April 3, 1978, Reg.; Aug. 19, 1985, Susp.	Feb. 2, 1975, Apr. 3, 1978 and Oct. 1, 1983.	Do.
Norfolk	Norfolk, town of	255217C	July 10, 1985, Emerg.; Aug. 20, 1971, Reg.; Aug. 19, 1985, Susp.	Aug. 7, 1970, July 1, 1974 and Oct. 29, 1976.	Do.
Region II					
New York: Ulster	Saugerties, town of	360863B	Jan. 16, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	May 31, 1974, and May 21, 1976.	Do.
Region IV					
Georgia: Glynn	Brunswick, city of	130093B	Mar. 8, 1974, Emerg.; Aug. 19, 1985, Reg.; Aug. 17, 1985, Susp.	May 24, 1974, Jan. 9, 1976 and June 19, 1983.	Aug. 17, 1985.
North Carolina:					
Carteret	Unincorporated areas	370043C	Nov. 19, 1971, Emerg.; May 15, 1980, Reg.; Aug. 19, 1985, Susp.	Feb. 14, 1975, May 15, 1980 and Oct. 1, 1983.	Aug. 19, 1985.
Washington	Plymouth, town of	260177B	Apr. 11, 1974, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	May 20, 1977	Do.
Tyrrell	Unincorporated areas	370232B	May 8, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Jan. 10, 1975, and July 22, 1977.	Do.
Washington	do.	370247B	Jan. 24, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	June 9, 1978	Do.
Bertie	Windsor, town of	370019C	Mar. 14, 1974, Emerg.; July 18, 1977, Reg.; Aug. 19, 1985, Susp.	Sept. 20, 1974, Aug. 20, 1976 and July 18, 1977.	Do.
Region V					
Illinois: LaSalle	Peru, city of	170406	Mar. 21, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Apr. 5, 1974, Oct. 31, 1975 and Nov. 9, 1979.	Do.
Ohio:					
Medina	Briarwood Beach, village of	390379B	Apr. 18, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Mar. 15, 1974 and Apr. 23, 1976.	Do.
Do	Gloria Glens Park, village of	390381B	Aug. 12, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Mar. 15, 1974 and Apr. 23, 1976.	Do.

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Jackson	Unincorporated areas	390290B	Mar. 19, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Jan. 10, 1975 and Dec. 30, 1977.	Do.
Region VII					
Iowa: Johnson	do	190882B	Aug. 1, 1979, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 29, 1977	Do.
Kansas: Butler	El Dorado, city of	200039C	Apr. 21, 1972, Emerg.; Aug. 26, 1976, Reg.; Aug. 19, 1985, Susp.	Apr. 21, 1972 and Apr. 30, 1976.	Do.
Region IX					
California: San Diego	Poway, city of	060702B	Apr. 8, 1981, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 30, 1982	Do.
Region X					
Idaho: Boundary	Bonners Ferry, city of	160031C	Aug. 13, 1974, Emerg.; Apr. 22, 1977, Reg.; Aug. 19, 1985, Susp.	June 28, 1974 and Apr. 22, 1977.	Do.
Washington:					
Snohomish	Darrington, town of	530233A	Sept. 1, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	do	Aug. 19, 1986.
Grays Harbor	Elma, city of	530060B	July 29, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	do	Do.
Region I: Minimal Conversions					
Maine:					
Somerset	Detroit, town of	230357A	Mar. 15, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Feb. 21, 1975	Do.
Kennebec	Mt. Vernon, town of	230241A	Feb. 9, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Apr. 18, 1975	Do.
Somerset	New Portland, town of	230365B	Dec. 26, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 27, 1974 and Dec. 10, 1976.	Do.
Aroostook	Orient, town of	230029B	May 6, 1977, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Sept. 7, 1979	Do.
Somerset	Palmyra, town of	230366B	Jan. 19, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 29, 1974 and Jan. 14, 1977.	Do.
Washington	Vanceboro, town of	230325A	July 15, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Feb. 21, 1975	Do.
Kennebec	Vienna, town of	230349B	May 3, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Feb. 28, 1975 and Jan. 7, 1977	Do.
Franklin	Weld, town of	230353A	July 30, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Feb. 14, 1975	Do.
Region II: Minimal Conversions					
New York: Fulton	Northampton, town of	361400B	Aug.10, 1984, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Jan. 31, 1975 and Aug. 6, 1976	Do.
Region III					
Pennsylvania:					
Wayne	Buckingham, township of	422159A	May 12, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 15, 1974	Do.
Berks	District, township of	421378A	Nov. 21, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 15, 1974	Do.
Somerset	Jefferson, township of	422050A	Mar. 26, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 13, 1974	Do.
Dauphin	Rush, township of	421597A	Mar. 9, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Jan. 31, 1975	Do.
Wayne	South Canaan, township of	422174A	July 29, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 20, 1974	Do.
Somerset	Stonycreek, township of	422524B	Apr. 21, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Jan. 3, 1975 and Dec. 24, 1976	Do.
Chester	Upper Uwchlan, township of	421491B	Mar. 10, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 20, 1974 and Sept. 24, 1976.	Do.
Region IV					
Alabama:					
Bibb	Centreville, city of	010369A	May 28, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Oct. 15, 1976	Do.
Greene	Eutaw, city of	010093A	July 23, 1974, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 6, 1974	Do.
Hale	Greensboro, city of	010336A	Mar. 19, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 10, 1976	Do.
Region V					
Illinois:					
Jefferson	Bonnie, village of	170306B	Sept. 10, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Feb. 15, 1974 and May 21, 1976.	Do.
Franklin	Buckner, village of	170783B	May 21, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Mar. 22, 1974 and July 2, 1976	Do.
Clinton	Keyesport, village of	170560B	July 19, 1978, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Mar. 21, 1975 and Jan 7, 1977	Do.
Montgomery	Litchfield, city of	170514B	June 4, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	May 17, 1974 and July 18, 1975	Do.
McHenry	McCullom Lake, village of	170829A	Mar. 3, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Mar. 28, 1975	Do.
Putnam	McNabb, village of	170573	July 13, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Sept. 13, 1974, May 28, 1976, Oct. 15, 1976 and Apr. 3, 1984.	Do.
Mercer	Seaton, village of	170881A	Aug. 13, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Mar. 21, 1975	Do.
Effingham	Teutopolis, village of	170231B	Sept. 5, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Feb. 22, 1974 and June 4, 1976	Do.
Vermilion	Westville, village of	170671B	Aug. 7, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	June 28, 1974 and Mar. 19, 1976.	Do.
Indiana:					

State and County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Dekalb	Altona, town of	180045B	Sept. 10, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Sept. 20, 1974 and Apr. 2, 1976	Do.
St. Joseph	North Liberty, town of	180228B	Feb. 24, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 30, 1973 and Mar. 26, 1976	Do.
Wabash	North Manchester, city of	180269B	Mar. 24, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 21, 1973 and Sept. 19, 1975	Do.
Scott	Scottsburg, city of	180234B	Apr. 7, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 23, 1973 and Mar. 5, 1976	Do.
Whitley	South Whitley, town of	180301B	Oct. 2, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19,1985, Susp.	Dec. 21, 1973 and Oct. 31, 1975	Do.
Minnesota:					
Lyon	Lynd, city of	270584A	Nov. 8, 1974, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Feb. 14, 1975	Do.
Waseca	Unincorporated areas	270647B	May 31, 1974, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	June 17, 1977	Do.
Wisconsin:					
Shawano	Birnamwood, village of	550413B	May 2, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	May 31, 1974 and May 14, 1976	Do.
Dodge	Reeseville, village of	550105B	June 26, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Nov. 15, 1974 and Aug. 29, 1975	Do.
Region VI					
Oklahoma: Caddo	Gracemont, town of	400023A	Nov. 24, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 6, 1974	Do. *
Region VII					
Iowa:					
Audubon	Brayton, city of	190920A	June 9, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Oct. 29, 1976	Do.
Harrison	Little Sioux, town of	190145A	Sept. 25, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Oct. 25, 1974	Do.
Cedar	Lowden, city of	190054B	Oct. 1, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	June 28, 1974 and Feb. 27, 1976	Do.
Jones	Oxford Junction, city of	190177B	June 23, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	June 21, 1974 and Jan. 16, 1976	Do.
Fremont	Thurman, city of	190394A	Sept. 27, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Apr. 16, 1976	Do.
Missouri:					
Stoddard	Bell City, city of	290421B	Dec. 15, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Oct. 18, 1974 and Nov. 21, 1975	Do.
St. Francois	Bonn Terre, city of	290321B	June 20, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	May 31, 1974 and Nov. 7, 1975	Do.
Gentry	Darlington, village of	290146A	Dec. 23, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 13, 1974	Do.
Saline	Malta Bend, city of	290402B	July 23, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Oct. 18, 1974 and Nov. 7, 1975	Do.
DeKalb	Stewartsville, city of	290117A	Mar. 1, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Dec. 20, 1974	Do.
Region VIII					
South Dakota: Miner	Howard, city of	460183	June 1, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	July 11, 1975	Do.
Region X					
Idaho: Franklin	Unincorporated areas	160060A	Mar. 26, 1984, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.		Aug. 19, 1986
Washington: Snohomish	Mountlake Terrace, city of	530170	Mar. 18, 1975, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	Sep. 26, 1975	Aug. 19, 1985
Idaho: Franklin	Weston, city of	160156A	Aug. 10, 1976, Emerg.; Aug. 19, 1985, Reg.; Aug. 19, 1985, Susp.	July 18, 1975	Do.

[1] Certain Federal assistance no longer available in special flood hazard areas.

Code for reading 5th column: Emerg.—Emergency; Reg.—Regular; Susp—Suspension.

Jeffery S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-18872 Filed 8-8-85; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 5

[CGD 82-002]

Actions Against Seamen's Licenses, Certificates or Documents

AGENCY: U.S. Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will revise the regulations pertaining to suspension and revocation proceedings against a seaman's license, certificate, and/or document. This action will bring the existing regulations up to date with statutory and case law changes which have occurred since the last revision and will provide for a better understanding of the procedures on the part of the affected public.

EFFECTIVE DATE: September 9, 1985.

FOR FURTHER INFORMATION CONTACT: CDR Donald D. Stansell (Project Manager) Office of Merchant Marine Safety, (202) 426-1455, between the hours of 7:00 a.m. and 3:30 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION:

Background of the Final Rule

Part 5 of Title 46 Code of Federal Regulations, addresses administrative actions that may be taken against a seaman's license, certificate or document. The last comprehensive revision to this Part was completed in 1962. Revision of the existing regulations is necessary to incorporate new policies, correct inaccuracies, and to incorporate changes resulting from legislative actions. For example, Pub. L. 97-35 repealed a merchant seaman's eligibility for free U.S. Public Health Service care. To the extent that the present regulations refer to this service, they need to be corrected. Because numerous changes were necessary the Coast Guard has rewritten Part 5 making

changes in four broad areas: (1) Policy and procedure; (2) statutory changes; (3) removal of unnecessary or redundant material; (4) reorganization of the material to reflect a better flow of information. Additionally, the numbering system has been changed to meet the requirements of the **Federal Register**. The section numbers from the proposed rule appear in parenthesis following the final section numbers in the public comment section.

Discussion of Policy and Procedure

Subpart H provides new rules for the admissibility of evidence. The rule requires that the Federal Rules of Evidence are to be used as a general guide in administrative hearings conducted under Part 5. The Federal Rules of Evidence provide for liberal admission of evidence. It is noted, however, that the Federal Rules of Evidence are not binding and that provisions have been included for the exclusion of certain specific sections of the Federal Rules of Evidence where they are not applicable to administrative hearings. The use of the Federal Rules of Evidence as general guidelines will promote uniformity in the introduction of evidence and decisions on all questions of admissibility.

Section 5.545 (5.20–107) revises the admissibility of evidence regarding log books. In general this includes, but is not limited to, the official log book, other engineering logs, and deck logs.

Section 5.553 (5.20–140) provides for the use of video tape depositions. This revision recognizes the trend in both civil and criminal law practice to utilize video tapes to record depositions. Such techniques will allow the Administrative Law Judge to observe the demeanor of a witness who would otherwise be unavailable. After the video tape is played at the hearing, a transcript of the tape becomes available to assist preparation and review of any appeal which might arise. This section is further revised to permit the use of the telephone to take depositions. This change will allow the opportunity to adjust questioning in light of answers given by a deponent, while still realizing a savings in travel expenses and time which would otherwise be required.

Section 5.501 (5.20–1) is revised to allow the Administrative Law Judge to conduct a prehearing conference. Such conference is not mandatory but is available to the respondent and to the investigating officer in order to simplify the issues involved, make stipulations as to facts of the case, and make necessary amendments to the charges.

Section 5.527 (5.20–65) is revised. This revision allows the respondent to "admit" rather than answer "guilty"; "deny" rather than answer "not guilty"; or enter an answer of "no contest." Availability of the answer of "no contest" will reduce substantially the length of those hearings in which there are no contested facts or legal issues but in which the respondent does not want to enter an admission. Savings will result for both the Coast Guard and the individual. A "no contest" answer will be treated by the Administrative Law Judge as an admission.

Section 5.565 (5.20–147) is revised. Except as provided in Section 5.549, the prior record of the respondent will be disclosed to the Administrative Law Judge after the conclusions have been made as to each charge and specification, but only if at least one charge has been found proved. The prior record will now include the respondent's entire record, including any final agency action resulting in civil penalties or warnings under 33 CFR 1.07.

Section 5.535 (5.20–80) is revised. This will allow the testimony of the witness during the proceeding to be given by a telephone conference call. The witness will be sworn by the Administrative Law Judge and a complete record made by the recorder. The Administrative Law Judge is charged with insuring that all parties, including the witness, are adequately identified. This provision recognizes the considerable savings in both time and money that will result by not having to summon witnesses from great distances for relatively short periods of actual participation in the proceedings, and will still insure a respondent his right to cross examination. In those cases where such a procedure appears insufficient to the Administrative Law Judge, the Administrative Law Judge may deny the motion requesting the testimony by telephone.

The table found at 5.569 (5.20–153) has been changed and now contains a suggested range of appropriate orders. The present scale of average orders was reviewed and found to be deficient, since the facts in each case are unique. The age, experience, and maturity of the respondent, along with evidence of provocation, mitigation and aggravation all play a part in the determination of a fair and just order. In addition, the reasonably foreseeable impact of the incident on maritime safety is dependent upon the circumstances present in each instance. The degree of diligence expected of the respondent is, in part, related to the hazards present or the risk associated with the operation at hand. Finally, if the table is broad enough to encompass all possible acts or offenses and establishes specific determinations, it could limit the flexibility and discretion of the Administrative Law Judge. Apart from the table, there is adequate notice in Part 5 regarding an expected order. Those offenses which are considered sufficiently serious to either mandate or urge revocation are listed.

The present regulation allows an individual whose document or license has been revoked to apply for a new document or license after three years. The time when this three year period commence is not defined. Section 5.901 specifies that this three year period commences after compliance with the order or voluntary surrender of the document or license.

The Department of Transportation established an experimental voluntary Marine Safety Reporting Program effective 1 June 1985. The Coast Guard published an addition to Part 5 of Title 46 Code of Federal Regulations to implement the program on 5 June 1985 in Volume 50 FR page 23693. Since this rulemaking will replace all of Part 5, the recent change had to be added to this final rule. It appears as Section 5.64. This is a temporary program and will terminate no later than 1 June 1986.

General Comments

Numerous general comments were made on the changes brought about by the recent codification and enactment into positive law of Subtitle II of Title 46, United States Code. The changes to authority citations and references have been made to conform to the recodified Title.

Public Comments

Fourteen submittals were received on this proposal. All were generally in favor of the rule change, but each made comments on specific sections of the proposed rule.

Section 5.15 (5.02–10)

One comment concerning § 5.15 (5.02–10) recommended deleting the word "official" in the definition of an investigating officer and adding "officer or enlisted member or civilian employee" to better clarify the term. The Coast Guard disagrees and feels the term official is sufficient to qualify the designation.

Two comments concerning § 5.15 (5.02–10) objected to the use of investigating officers other than commissioned officers because these proceedings are of critical importance to the livelihood of merchant seamen and deserve individuals of rank and authority fully qualified to meet the demands of this responsibility. The

Coast Guard is fully aware of its responsibility to merchant seamen. However, limiting this designation to commissioned officers would unduly limit the Coast Guard in its administration of these regulations.

Section 5.23 (5.02-25)

One comment on this section suggests that the existing regulation, § 5.05-17, which states that a charge does not constitute evidence of guilt, be retained in the new regulations. The Coast Guard agrees and this regulation will reflect that the mere charging of an individual does not constitute evidence and further, that no inference may be drawn from the fact the individual has been subject to a charge.

Section 5.31 (5.02.45)

One comment concerning § 5.31 (5.02.45) objects to the inclusion of "physical disability" in the definition and does not believe the statute intended revocation or suspension if a seaman became disabled while in the service of a vessel and unable to perform required duties. The Coast Guard does not agree with this comment. It is the intent of the statute which provides the bases for suspension and revocation (46 U.S.C. 7703) that the Coast Guard have the ability to suspend or revoke the license, certificate or merchant mariner's document of anyone who performs an act of incompetence while serving under it. Those unable to perform required duties should not continue to be able to represent themselves as authorized to serve under that license, certificate or document.

Section 5.33 (5.02-50)

One comment suggested revising this section to limit a charge of violation of law or regulation under 46 U.S.C. 7703 to a violation of law or regulation intended to promote marine safety or protect the navigable waters. The Coast Guard agrees and this language has been incorporated in the final rule.

Section 5.57 (5.03.05)

One comment expressed concern that the Coast Guard, in its proposed regulations, interprets the phrase "under the authority of a license, document, or certificate" to include activities dealing with official matters such as applying for renewal or taking an examination. The comment stated that the intent was clear in 46 U.S.C. 7701 that the purpose of suspension and revocation proceedings was to promote safety of life and property at sea. The Coast Guard recognizes this. However, actions governing the renewal or issuing of licenses or documents all deal with the ability of the Coast Guard to determine an individual's qualifications to hold a license, document, or certificate and as such bear directly on the promotion of safety of life and property at sea and protection of the navigable waters. The Coast Guard position is that since the possession of a license, document or certificate is necessary to conduct such official matters, a person is considered to be acting under the authority of that license, document or certificate when engaged in those matters.

Section 5.61 (5.03-10)

One comment concerning § 5.61 (5.03-10) objects to the use of the phrase "but are not limited to" in the listing of offenses as an unjustifiable extension of Coast Guard authority and suggests that any offense which may cost a merchant seaman his document be listed explicitly in the Code of Federal Regulations. The Coast Guard disagrees. Commission of any of the acts specified in 46 U.S.C. 7703 is a basis for revocation of a person's license, document or certificate, at the discretion of the Administrative Law Judge. This section does not limit that discretion but merely expresses Coast Guard policy that the investigating officer will seek an order of revocation if certain acts or offenses have been found proved. However, the section has been rewritten and a paragraph added to make it clear that an investigating officer is not limited to seeking revocation only for those offenses listed in this section.

Section 5.63 (5.03-15)

Two comments were received which disagreed with the proposed standard of proof and suggested a standard of "beyond all reasonable doubt." The Coast Guard disagrees. Suspension and revocation proceedings are initiated against the license or document and not against the individual. They are remedial in nature. The standard of "beyond all reasonable doubt" is a criminal standard and is not appropriate for administrative proceedings. In accordance with the provisions of the Administrative Procedure Act the rule will reflect that, in proceedings under these regulations, all findings must be supported by and in accordance with the reliable, probative, and substantial evidence.

Section 5.67 (5.03-30)

Two comments were received concerning § 5.67 (5.03-30) objecting to the elimination of physician patient privilege as an infringement upon seamen's rights. The Coast Guard is not eliminating the privilege. A physician-patient privilege does not exist unless created by statute and since there is no Federal statute on the matter, the privilege does not exist under Federal law and is inapplicable to proceedings brought under 46 U.S.C. 7701-7705.

Section 5.71 (5.03-20)

One comment suggested adding the traditional statement of Coast Guard neutrality as in the existing § 5.03-20 Maritime labor disputes. The Coast Guard agrees and the final rule reflects this statement.

Section 5.107 (5.05-15)

Two comment were received concerning § 5.107 (5.05-15) suggesting a provision be added requiring the investigating officer to advise the respondent of his or her right to remain silent and futher advising that anything stated by the respondent could be used against him or her for purposes of impeachment at any hearing. The Coast Guard disagrees. These proceedings are not criminal in nature. Therefore, advising the respondent of the right to remain silent is unnecessary. The Coast Guard feels there is sufficient protection in §§ 5.519 and 5.551 and does not feel it is necessary to again advise the respondent that his testimony is subject to impeachment. The nature of these proceedings is remedial. They are directed only toward the license, certificate or document.

Section 5.201 (5.10-1)

One comment concerning 5.201 (5.10-1) suggested the procedures for the return of a license, document or certificate are too broad and the Coast Guard should state the the license, document or certificate will be returned to the seaman when he obtains and presents a certificate showing he is considered fit for sea duty by a physician. This section is intentionally broad so that the agreement can be tailored to each individual case. The Coast Guard specifies in voluntary deposit agreements the conditions upon which the license, document or certificate will be returned. If the conditions for return are not acceptable to the person involved, such person need not agree to the voluntary deposit.

Section 5.203 (5.10-5)

One comment concerning § 5.203 (5.10-5) suggests retaining the existing regulation which states that a voluntary surrender should not be accepted by the investigating officer unless he is convinced that the seaman fully realizes the effect of such surrender. The Coast Guard agrees and the new regulations contain this provision.

Section 5.309 (5.15–5)

One comment concerning § 5.309 (5.15–5) recommends retaining provision for the proof of service as per existing regulation 5.15–20. The Coast Guard agrees and this rule has retained that provision.

Section 5.501 (5.20–1)

One comment concerning §5.501(c) (5.20–1) suggests prehearing conferences be mandatory rather than discretionary so that the issues can be narrowed and the element of suprise eliminated. The Coast Guard disagrees. This rule provides for a prehearing conference only in those cases where there is an agreement between the Administrative Law Judge, the Coast Guard and the respondent. The Coast Guard does not feel that it is appropriate to restrict the discretion of the Administrative Law Judge who, under the Administrative Procedure Act, is required to remain independent of the agency. This is procedural in nature and is more appropriately within the province of the Administrative Law Judge.

Section 5.509 (5.20–15)

One comment concerning § 5.509 (5.20–15) suggests that language be added stating that such change be consistent with the rights of the respondent to a fair, impartial and timely hearing and the availability of witnesses. The Coast Guard agrees and has added the language suggested.

Section 5.511 (5.20–20)

One comment concerning § 5.511 (5.20–20) suggested requiring the Administrative Law Judge, when determining whether to grant a continuance, to give careful consideration to the future availability of witnesses and to the prompt dispatch of a vessel or vessels on which the respondent and/or witnesses may be employed. The Coast Guard agrees and has added this language and the additional consideration of the nature and gravity of the offense.

Section 5.515 (5.20–30)

Two comments concerning § 5.515(a) (5.20–30) opposed the provision allowing a hearing *in absentia* if the seaman fails to appear for the hearing through not fault of his own or due to circumstances beyond his control, and further recommends the investigating officer should be required to submit proof of service of the notice of hearing indicating the date, time and place of the hearing. The Coast Guard agrees with the substance of these comments and has modified § 5.601 concerning *in absentia* proceedings; the proof of service requirement is sufficiently addressed in § 5.515(b).

Section 5.517 (5.20–35)

One comment concerning § 5.517 (5.20–35) suggests adding "or admonish them to not discuss the case among themselves or with any other person with the exception of the investigating officer or respondent or his counsel." The Coast Guard agrees and the final rule reflects this language.

Section 5.519 (5.20–40)

One comment concerning § 5.519 (5.20–40) suggests the Coast Guard has an obligation to advise the seaman of the right to counsel at both the investigation and hearing stages, and should incorporate into this section the language necessary to convey this information. The Coast Guard disagrees. In proceedings under Part 5 of this title, the right to counsel applies only at the hearing stage. This section requires the Administrative Law Judge to inform the respondent of the right to counsel. Section 5.107 requires that at the time charges are served upon the respondent he or she will be advised of the right to counsel at the hearing.

Section 5.535 (5.20–80)

Two comments concerning § 5.535(f) (5.20–80) objected to the use of telephone conference calls in general because of the inadequacies of cross-examination, but suggest that under certain circumstances they may be acceptable provided it is clearly stipulated that the respondent's attorney has the right to cross-examine the witness during a telephone conference call. The Coast Guard disagrees with this comment. The Administrative Law Judge is required to insure that all participants in the telephone conference call are properly identified so that proper records may be made by the reporter, and that telephone conference calls are governed by the procedural rules. Under the Administrative Procedure Act, the Administrative Law Judge must insure that the respondent has a full and fair hearing. This includes an adequate opportunity to cross-examine the witnesses.

Section 5.537 (5.20–85)

One comment concerning § 50537 (5.20–85) opposes the deletion of existing regulation § 5.20–95(c) granting the respondent who does not have professional counsel to represent him reasonable latitude in conforming to the rule of evidence. The Coast Guard agrees and this has been added to the final rule.

Three comments on § 5.537 (5.20–85) expressed concern that the language of the proposed regulation suggests strict adherence to the Federal Rules of Evidence which will adversely affect the Coast Guard's ability to bring all relevant evidence before the Administrative Law Judge. It is not the intent of the Coast Guard that this rule be a substantial change to the existing regulations. It is noted that the Federal Rules of Evidence are to be used as a guide where applicable and are not binding upon the Administrative Law Judge. There are specific rules of evidence which are excluded because they are not applicable to Coast Guard administrative hearings.

Section 5.545 (5.20–105)

Two comments concerning § 5.545 (b) and (c) object to these paragraphs because logbooks would be admissible without affording the respondent the right of cross-examination and because logbook entries are made by officers whose interest is usually adverse to that of the offending seaman. The Coast Guard disagrees. Paragraph 5.545(b) is merely a restatement of the exception to the hearsay rule which is found in the Federal Rules of Evidence. This admits no evidence that was not previously allowed. Paragraph 5.545(c), simply states that any entry in a logbook that is made under the procedural requirements of 46 U.S.C. 11502 may be given added weight by the Administrative Law Judge because under those requirements, the seaman must be given the opportunity to comment upon the entry made in that logbook.

Section 5.553 (5.20–130)

Two comments concerning § 5.553(f) object to this section on the grounds that it deprives the respondent's attorney of the opportunity for full and complete cross-examination. The Coast Guard disagrees. The depositions authorized by § 5.553(f) may only be taken upon motion or upon order of the Administrative Law Judge. The Administrative Law Judge is charged, under the Administrative Procedure Act, to insure that all rights and procedural due process are afforded the respondent. The Administrative Law Judge is under no obligation to admit depositions, and may, at his or her election, strike any portion of a sworn deposition objected to. This section has been further revised to give wider latitude to the Administrative Law Judge is preparing a written order.

Section 5.557 (5.20–135)

Two comments expressed concern with § 5.557, which allows an Administrative Law Judge to designate a physician to examine a respondent whose physical or mental condition is in controversy. They suggested that such designation be from a list of physicians established by the Coast Guard after consultation with the labor organizations representing seaman. The Coast Guard disagrees with the necessity of including this recommendation in regulation and believes that this matter is best left to the discretion of the Administrative Law Judge. Additional comments on this section suggest that § 5.557(c), the regulation governing a refusal to submit to an examination as constituting grounds for revocation, be replaced by existing § 5.20–27(b). The Coast Guard agrees and has replaced this section.

Section 5.565 (5.20–147)

One comment concerning § 5.565(a)(5) objects to including civil penalty enforcement action under 33 CFR Subpart 1.07 unless the proceedings are adjudicated before an Administrative Law Judge. Additional comments on this section oppose it in its present form and suggest that "civil penalty or warnings or any other similar agency action by the Coast Guard be included only if they pertain to actions while acting under the authority of a federal license, document or certificate." The Coast Guard position is that upon proving at least one charge under the procedural safeguards of the Administrative Procedure Act, the entire Merchant Mariner's record should be given to the Administrative Law Judge to determine an appropriate order, regardless of the fact that any final civil penalty action did not pertain to actions while acting under the authority of a federal license, document or certificate. The assessment of civil penalties under the current Coast Guard civil penalty procedures, provide sufficient procedural safeguards.

Two comments recommend a 10 year limitation for Coast Guard records to be disclosed to an Administrative Law Judge and further suggested that any previous hearing which has been appealed should not be disclosed while the appeal is pending. The Coast Guard agrees and has added language to reflect these changes. One comment suggests that the regulations do not define the impact on the seaman of making a no-contest answer. The Coast Guard disagrees and, as stated in the regulation, an answer of no-contest is sufficient for the Administrative Law Judge to find the case proved.

Section 5.569 (5.20–153)

Three comments concerning Table 5.569 recommend eliminating the table because it serves no useful purpose. Additional comments on Table 5.569 recommended retaining it so that the respondent could refer to the table and have some idea of the possible sentence. The commentors suggested a change to the table to reflect an order other than revocation where incompetence is temporary or correctable. The Coast Guard has retained the table because some guidance is necessary to reflect a general range of orders which would be considered appropriate. This range of orders is not binding on the Administrative Law Judge in cases where, in his or her opinion, another order would be more appropriate.

Section 5.571 (5.20–160)

One comment concerning § 5.71 recommends adding the following language: "If it is not possible for the Administrative Law Judge to deliver a complete written decision at the final session of the hearing, an oral decision shall be rendered on the record, with an order prepared in writing and delivered to the respondent or the respondent's authorized representative. The decision, including the order, is effective upon delivery of the written order." The Coast Guard agrees and has added the recommended language.

Section 7.707 (5.30–15)

Two comments concerning § 5.707(c) recommend that the second and third sentences be stricken because of the extremely restrictive language. The commentors argue that the net effect of this section unfairly precludes a seaman from obtaining temporary documents and thus prevents him from earning a living at sea during an appeal procedure, and that this is a heavy penalty to pay in light of the fact that these hearings are characterized by the Coast Guard as not penal in nature. The Coast Guard disagrees that this section unfairly precludes a seaman from obtaining temporary documents. The burden is on the respondent to demonstrate to the Administrative Law Judge that he should be allowed to possess a license, document or certificate during the appeal process.

Section 5.713 (5.30–30)

One comment concerning § 5.713(a) opposes the deletion of the advice concerning the time limit (10 days) for filing an appeal with the National Transportation Safety Board from a decision of the Commandant. The Coast Guard agrees and has retained this advice.

Section 5.715 (5.30–35)

One comment concerning § 5.715 (a), recommended that sentences 2, 3, and 4 be deleted due to the extremely restrictive language and heavy penalties in light of the fact that these hearings are not penal in nature. The Coast Guard disagrees because there are certain offenses that are so serious as to be incompatible with safety at sea. However, as stated in the rule this presumption is rebuttable by the respondent at the administrative hearing.

Section 5.901 (5.40–1)

Two comments concerning § 5.901 oppose departure from current time limitations on the revocation period and suggest retaining the one year revocation period for specifically listed offenses. The Coast Guard agrees with this comment and this rule will retain the current time limitations.

Evaluation and Initial Regulatory Flexibility Analysis

These regulations have been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations," dated 22 May 1980, and Executive Order 12291, and have been determined to be neither significant nor major. These regulations have been evaluated under the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1168) and are certified to have no significant economic impact on a substantial number of small entities. Compared to the total number of individuals holding Coast Guard licenses, certificates or documents, the number of individuals who face proceedings under these regulations each year is insignificant. Further, the rule provides those individuals who face such proceedings with the option of an additional answer, more uniform evidentiary rules, and easier regulations to read and understand that the existing regulations. It is noted that there is no longer free Public Health Service care provided to American merchant seamen. Since the legislative action, Pub. L. 97–35, repealed the eligibility for free Public Health care, this proposal, which simply reflects the legislative mandate, will not add any cost.

Environmental Impact Statement

This regulatory action does not significantly impact the environment. Therefore, an environmental impact statement is not required.

List of Subjects in 46 CFR Part 5

Administrative practices and procedures, Investigations, Administrative law judge, Investigating officer, Seaman, License, Certificate, Document, Administrative hearings, Suspension, Revocation.

In consideration of the foregoing, Part 5 of Title 46, Code of Federal Regulations, is revised to read as follows:

PART 5—MARINE INVESTIGATION REGULATIONS—PERSONNEL ACTION

Subpart A—Authority and Purpose

Sec.

Subpart B—Definitions

Subpart C—Statement of Policy and Interpretation

Subpart D—Investigations

Subpart E—Deposit or Surrender of License, Certificate or Document

Subpart F—Subpenas

Subpart G—Witness Fees

Subpart H—Hearings

Subpart I—Reopening of Hearings

Subpart J—Appeals

Subpart K—Review of Administrative Law Judge's Decisions in Cases Where Charges Have Been Found Proved

Subpart L—Issuance of New Licenses, Certificates or Documents After Revocation or Surrender

Authority: 46 U.S.C. 7101, 7301, 7701; 50 U.S.C. 198; 49 CFR 1.46(b).

Subpart A—Authority and Purpose

§ 5.1 Authority for regulations.

(a) The basic authority governing administrative actions against a person's license, certificate or document is set forth in Title 46 U.S. Code Chapter 77. The Administrative Procedure Act, Title 5 U.S. Code section 551, et seq., requires hearings held in conjunction with these administrative actions to be presided over by an Administrative Law Judge.

(b) Title 46, U.S. Code, section 7704 requires revocation of a license, certificate or document of any person who has been shown at a hearing to be a user of or addicted to the use of a dangerous drug or to have been convicted of violating a dangerous drug law of the United States, District of Columbia, or any state or territory of the United States.

§ 5.3 Purpose of regulations.

The regulations in this part establish policies and procedures for administrative actions against mariners' licenses, certificates or documents issued by the Coast Guard.

§ 5.5 Purpose of administrative actions.

The administrative actions against a license, certification or document are remedial and not penal in nature. These actions are intended to help maintain standards for competence and conduct essential to the promotion of safety at sea.

Subpart B—Definitions

§ 5.11 Commandant.

For the purpose of this part, "Commandant" means the Commandant of the Coast Guard. In Subparts I, J, and K of this part, the term Commandant includes the Vice Commandant of the Coast Guard acting on behalf of the Commandant in any proceeding involving final agency action on a petition to reopen a hearing or an appeal from a decision of an Administrative Law Judge not involving an order of revocation.

§ 5.13 Coast Guard District.

A "Coast Guard District" is a geographical area as described in 33 CFR Part 3 which is under the command of a Coast Guard officer designated by the Commandant as the Coast Guard District Commander.

§ 5.15 Investigating Officer.

An "investigating officer" is a Coast Guard official designated by the Commandant, District Commander, or the Officer In Charge, Marine Inspection, for the purpose of conducting investigations of marine casualties or matters pertaining to the conduct of persons issued a license, certificate or document by the Coast Guard. An Officer in Charge, Marine Inspection is an investigating officer without further designation.

§ 5.19 Administrative Law Judge.

(a) An Administrative Law Judge shall mean any person designated by the Commandant pursuant to the Administrative Procedure Act (5 U.S.C. 556(b) for the purpose of conducting hearings arising under 46 U.S.C. 7703 or 7704.

(b) The Commandant has delegated to Administrative Law Judges the authority to admonish, suspend with or without probation or revoke a license, certificate or document issued to a person by the Coast Guard under any navigation or shipping law.

§ 5.23 Charge.

(a) A "charge" is the designation in general terms of an act or offense within the purview of 46 U.S.C. 7703 or 7704. A charge must be supported by one or more "specifications." Under no circumstances does a "charge" constitute evidence nor may any inference be drawn from the fact that the holder of a license, certificate or document has been the subject of a "charge."

(b) A charge must be stated as one of the following:

(1) Misconduct;

(2) Negligence;

(3) Incompetence;

(4) Violation of law or regulation;

(5) Conviction for a dangerous drug law violation, use of a dangerous drug, or addiction to the use of dangerous drugs.

§ 5.25 Specification.

A "specification" sets forth the facts which form the basis of a "charge" and enables the respondent to identify the act or offense so that a defense can be prepared. Each specification shall state:

(a) Basis for jurisdiction;

(b) Date and place of act, or offense; and

(c) The facts constituting the alleged act or offense.

§ 5.27 Misconduct.

"Misconduct" is human behavior which violates some formal, duly established rule. Such rules are found in, among other places, statutes, regulations, the common law, the general maritime law, a ship's regulation or order, or shipping articles and similar sources. It is an act which is forbidden or a failure to do that which is required.

§ 5.29 Negligence.

"Negligence" is the commission of an act which a reasonable and prudent person of the same station, under the same circumstances, would not commit, or the failure to perform an act which a reasonable and prudent person of the same station, under the same circumstances, would not fail to perform.

§ 5.31 Incompetence.

"Incompetence" is the inability on the part of a person to perform required duties, whether due to professional deficiencies, physical disability, mental incapacity, or any combination thereof.

§ 5.33 Violation of law or regulation.

Where the proceeding is based exclusively on that part of Title 46 U.S. Code section 7703, which provides as a basis for suspension or revocation a violation or failure to comply with 46 U.S. Code Subtitle II, a regulation prescribed under that subtitle, or any other law or regulation intended to promote marine safety or protect navigable waters, the "charge" shall be "violation of law" or "violation of regulation." The "specification" shall state the specific statute or regulation by title and section number, and the particular manner in which it was allegedly violated.

§ 5.35 Conviction for a dangerous drug law violation, use of, or addiction to the use of dangerous drugs.

Where the proceeding is based exclusively on the provisions of Title 46, U.S. Code, section 7704, the "charge" will be "conviction for a dangerous drug law violation" or "use of dangerous drugs" or "addiction to the use of dangerous drugs," depending upon the circumstances. The "specification" will allege jurisdiction by stating the elements as required by Title 46, U.S. Code, section 7704, and the approximate time and place of the offense.

Subpart C—Statement of Policy and Interpretation

§ 5.51 Construction of regulations.

The regulations in this part shall be construed so as to obtain a just, speedy, and economical determination of the issues presented.

§ 5.53 Initiating suspension and revocation proceedings.

Suspension and revocation proceedings are initiated upon service of charges preferred by an investigating officer.

§ 5.55 Time limitations for service of charges and specifications.

(a) The time limitations for service of various charges and specifications upon the holder of a license, certificate or document are as follows:

(1) When based exclusively on 46 U.S.C. 7704, service shall be within 10 years after the date of conviction, or at anytime if the person charged is a user of or addicted to the use of a dangerous drug.

(2) For one of the misconduct offenses specified in § 5.59(a) or § 5.61(a), service shall be within five years after commission of the offense alleged therein.

(3) For an act or offense not otherwise provided for, the service shall be within three years after the commission of the act or offense alleged therein.

(b) When computing the period of time specified in paragraphs (a) (2) and (3) of this section there shall be excluded any period or periods of time when the respondent could not attend a hearing or be served charges by reason of being outside of the United States or by reason of being in prison or hospitalized.

§ 5.57 Acting under authority of license, certificate or document.

(a) A person employed in the service of a vessel is considered to be acting under the authority of a license, certificate or document when the

holding of such license, certificate or document is:

(1) Required by law or regulation; or

(2) Required by an employer as a condition for employment.

(b) A person is considered to be acting under the authority of the license, certificate or document while engaged in official matters regarding the license, certificate or document. This includes, but is not limited to, such acts as applying for renewal of a license, taking examinations for upgrading or endorsements, requesting duplicate or replacement licenses, certificates or documents, or when appearing at a hearing under this part.

(c) A person does not cease to act under the authority of a license, certificate or document while on authorized or unauthorized shore leave from the vessel.

§ 5.59 Offenses for which revocation of licenses, certificates or documents is mandatory.

An Administrative Law Judge enters an order revoking a respondent's license, certificate or document when—

(a) A charge of misconduct for wrongful possession, use, sale, or association with dangerous drugs is found proved. In those cases involving marijuana, the Administrative Law Judge may enter an order less than revocation when satisfied that the use, possession or association, was the result of experimentation by the respondent and that the respondent has submitted satisfactory evidence that he or she is cured of such use and that the possession or association will not recur.

(b) The respondent has been a user of, or addicted to the use of, a dangerous drug, or has been convicted for a violation of the dangerous drug laws, whether or not further court action is pending, and such charge is found proved. A conviction becomes final when no issue of law or fact determinative of the respondent's guilt remains to be decided.

§ 5.61 Acts or offenses for which revocation of licenses, certificates, or documents is sought.

(a) An investigating officer seeks revocation of a respondent's license, certificate or document when one of the following acts or offenses is found proved:

(1) Assault with a dangerous weapon.

(2) Misconduct resulting in loss of life or serious injury.

(3) Rape or sexual molestation.

(4) Murder or attempted murder.

(5) Mutiny.

(6) Perversion.

(7) Sabotage.

(8) Smuggling of aliens.

(9) Incompetence.

(10) Interference with master, ship's officers, or government officials in performance of official duties.

(11) Wrongful destriction of ship's property.

(b) An investigating officer may seek revocation of a respondent's license, certificate or document when the circumstances of an act or offense found proved or consideration of the respondent's prior record indicates that permitting such person to serve under the license, certificate or document would be clearly a threat to the safety of life or property, or detrimental to good discipline.

§ 5.63 Standard of proof.

In proceedings conducted pursuant to this part, findings must be supported by and in accordance with the reliable, probative, and substantial evidence. By this is meant evidence of such probative value as a reasonable, prudent and responsible person is accustomed to rely upon when making decisions in important matters. This includes "admitted" or "no contest" answers.

§ 5.64 Participation in the voluntary Marine Safety Reporting Program.

(a) To encourage participation in the Department of Transportation's Marine Safety Reporting Program (MSRP), the Coast Guard will not seek the imposition of an order under this Part which adversely affects a mariner's license, certificate or document if the individual can show that he/she made a report to MSRP within 15 days from the date of the incident or prior to being informed either in writing or verbally that the Coast Guard was initiating an enforcement action, whichever comes first, and if:

(1) The incident fell within the scope of MSRP in that it involved the navigation and control of a commercial vessel;

(2) The violation/offense was found to be inadvertent and not deliberate;

(3) The violation/offense did not involve a criminal activity;

(4) The violation/offense did not involve an incident which is required to be reported by statute or regulations, e.g., marine casualties, oil/hazardous materials pollution incidents, collisions with aids to navigation, certain navigational system failures, etc;

(5) The violation/offense was not one where statutes require a mandatory penalty or sanction;

(6) The incident was not one which disclosed a lack of qualification or competency on the part of a licensed/documented individual; and

(7) The individual has not used this provision on a prior occasion.

(b) An individual who desires to use the MSRP report to avoid an enforcement action under this part must present the receipt slip to:

(1) The investigating officer during the investigation and,

(2) The administrative law judge during a hearing conducted pursuant to this part.

(c) The individual may request that the investigation officer accept the receipt slip in lieu of preferring charges or giving a warning, or he/she may request a hearing on the merits of the alleged offense.

(d) When the administrative law judge determines that the incident has been reported to MSRP and the conditions of paragraph (a) of this section exist, the administrative law judge shall render an order stating that the case is dismissed by reason of the individual's participation in MSRP.

(e) Use of the MSRP receipt slip will become a part of the person's record only for the purpose of documenting the one-time opportunity to use MSRP to avoid an action under this part.

Note: The Marine Safety Reporting Program (MSRP) is a temporary experimental program that will be terminated no later than 1 June 1986.

§ 5.65 Commandant's decisions in appeal or review cases.

The decisions of the Commandant in cases of appeal or review of decisions of Administrative Law Judges are officially noticed and the principles and policies enunciated therein are binding upon all Administrative Law Judges, unless they are modified or rejected by competent authority.

§ 5.67 Physician-patient privilege.

For the purpose of these proceedings, the physician-patient privilege does not eixst between a physician and a respondent.

§ 5.69 Evidence of criminal liability.

Evidence of criminal liability discovered during an investigation or hearing conducted pursuant to this part will be referred to the Attorney General's local representative or other appropriate law enforcement authority having jurisdiction over the matter.

§ 5.71 Maritime labor disputes.

Under no circumstances will the Coast Guard exercise its authority for the purpose of favoring any party to a martime labor controversy. However, if the situation affecting the safety of the vessel or persons on board is presented, the matter shall be thoroughly

investigated and when a violation of existing statutes or regulations is indicated, appropriate action will be taken.

Subpart D—Investigations

§ 5.101 Conduct of investigations.

(a) Investigations may be initiated in any case in which it appears that there are reasonable grounds to believe that the holder of a license, certificate or document issued by the Coast Guard may have:

(1) Committed an act of incompetency, misconduct, or negligence while acting under the authority of a license, certificate or document;

(2) Violated or failed to comply with Subtitle II of Title 46, United States Code, a regulation prescribed under this subtitle, or any other law or regulations intended to promote marine safety or to protect the navigable waters, while acting under the authority of a license, certificate or document;

(3) Been convicted of a dangerous drug law violation, or has been a user of, or addicted to the use of, a dangerous drug, so as to be subject to the provisions of 46 U.S.C. 7704.

(b) In order to promote full disclosure and facilitate determinations as to the cause of marine casualties, no admission made by a person during an investigation under this part or Part 4 of this title may be used against that person in a proceeding under this part, except for impeachment.

§ 5.103 Powers of investigating officer.

During an investigation, the investigating officer may administer oaths, issue subpenas in accordance with Subpart F of this title, and require persons having knowledge of the subject matter of the investigation to answer questions.

§ 5.105 Course of action available.

During an investigation, the investigating officer may take appropriate action as follows:

(a) Perfer charges.

(b) Accept voluntary surrender of a license, certificate or document.

(c) Accept voluntary deposit of a license, certificate or document.

(d) Refer the case to others for further action. The investigating officer may refer the case to the Commandant or to an Officer in Charge, Marine Inspection, at any port for completion of administrative action if an adequate basis for action is found and the person under investigation and/or witnesses are not locally available.

(e) Give a written warning. The investigating officer may give a warning to any person holding a license, certificate or document. Refusal to accept the written warning will normally result in a withdrawal of the warning and the perferral of charges. An unrejected warning will become a part of the person's record.

(f) Close the case.

§ 5.107 Preparation and service of charges and specifications.

(a) When preferring charges, the investigating officer prepares charges and specifications, together with a notice of the time, date and place of the hearing.

(b) The original of the charges and specifications and the notice of the time, date and place of hearing are served upon the respondent, either by personal service or certified mail, return receipt requested; restricted delivery (receipt to be signed by the addressee only).

(c) Service will be made sufficiently in advance of the time set for the hearing so as to give the respondent a reasonable opportunity to prepare a defense.

(d) At the time of service, whether personal or by certified mail, the respondent will also be advised with respect to:

(1) The nature of suspension and revocation proceedings and the possible results thereof;

(2) The right to have representation by counsel at the hearing, and that counsel may be, but need not be, a lawyer;

(3) The right to have witnesses, records or other evidence subpenaed and that

(4) Failure to appear at the time, date and place specified may result in the hearing being in his absence.

(e) If the alleged act involves mental incompetence, it is recommended to the respondent, at the time of service of charges, that he procure counsel.

(f) If the alleged act involves mental or physical incompetence, the respondent is advised that evidence of medical examination may be submitted.

Subpart E—Deposit or Surrender of License, Certificate or Document

§ 5.201 Voluntary deposits in event of mental or physical incompetence.

(a) A voluntary deposit is accepted on the basis of a written agreement, the original of which will be given to the holder making the deposit. This written agreement specifies the conditions accompanying the deposit including the conditions upon which the Coast Guard will return the license, certificate or document to the holder.

(b) A holder may deposit a license, certificate or document with the Coast Guard in any case where there is evidence of mental or physical incompetence when caused by any reason other than by the use of, or addiction to, dangerous drugs.

(c) Where the mental or physical incompetence of a holder of a license, certificate or document is caused by use of, or addiction to, dangerous drugs, such person may only surrender such license, certificate or document in accordance with § 5.203.

§ 5.203 Voluntary surrender to avoid hearing.

(a) Any holder may surrender a license, certificate or document to the Coast Guard in preference to appearing at a hearing.

(b) A holder voluntarily surrendering a license, certificate or document shall sign a written statement containing the stipulations that:

(1) The surrender is made voluntarily in preference to appearing at a hearing;

(2) All rights to the license, certificate or document surrendered are permanently relinquished; and,

(3) Any rights with respect to a hearing are waived.

(c) A voluntary surrender of a license, certificate or document to an investigating officer in preference to appearing at a hearing is not to be accepted by an investigating officer unless the investigating officer is convinced that the holder fully realizes the effect of such surrender.

Subpart F—Subpenas

§ 5.301 Issuance of subpenas.

(a) Every subpena shall command the person to whom it is directed to appear at a specified time and place to give testimony or to produce books, papers, documents, or any other evidence, which shall be described with such particularity as necessary to identify what is desired.

(b) The investigating officer may issue subpenas for the attendance of witnesses or for the production of books, papers, documents, or any other relevant evidence needed by the investigating officer or by the respondent.

(c) After charges have been served upon the respondent the Administrative Law Judge may, either on the Administrative Law Judge's own motion or the motion of the investigating officer or respondent, issue subpenas for the attendance and the giving of testimony by witnesses or for the production of books, papers, documents, or any other relevant evidence.

§ 5.303 Service of subpenas on behalf of the respondent.

Service of subpenas issued on behalf of the respondent is the responsibility of the respondent. However, if the Administrative Law Judge finds that the respondent or respondent's counsel is physically unable to effect the service, despite diligent and bona fide attempts to do so, and if the Administrative Law Judge further finds that the existing impediment to the service of the subpena is peculiarly within the authority of the Coast Guard to overcome, the Administrative Law Judge will have the subpena delivered to an investigating officer participating in the case for the purpose of effecting service.

§ 5.305 Quashing a subpena.

(a) Persons subpenaed to appear in person or produce evidence at a hearing may, prior to or during the hearing, apply in writing to the Administrative Law Judge conducting the hearing requesting that the subpena be quashed or modified.

(b) Upon receipt of any application requesting quashing or modification of a subpena the Administrative Law Judge notifies the party for whom the subpena was issued. The Administrative Law Judge may quash or modify the subpena if it is unreasonable or requires evidence not relevant to any matter in issue, or may deny the request.

§ 5.307 Enforcement.

Upon application and for good cause shown, or upon its own initiative, the Coast Guard will seek judicial enforcement of subpenas issued by investigating officers or Administrative Law Judges. This is done by making application to the United States District Court, through the office of the appropriate U.S. Attorney, to issue an order compelling the attendance of, and/or giving of testimony by, witnesses, or for the production of books, papers, documents, or any other relevant evidence.

§ 5.309 Proof of service.

(a) The person serving a subpena shall make a written statement setting forth the date, time and manner of service and shall return such report with or on a copy of the subpena to the investigating officer or Administrative Law Judge who issued it. In case of failure to make service of a subpena, the person assigned to serve such subpena shall make a written statement setting forth the reasons the subpena was not served. The statement should be placed on the subpena or attached to it and returned to the investigating office or Administrative Law Judge who issued the subpena.

(b) When service of a subpena is made by certified mail with return receipt to be signed by the addressee only, the person mailing the subpena shall make a written statement on a copy of the subpena or attached to it, setting forth the date, time and location of the post office where mailed, the post office number assigned thereto. If delivered, the receipt requested shall be returned, by the person receiving the receipt, to the investigating officer or Administrative Law Judge who issued the subpena. In case the subpena is not delivered, any information reported by the post office regarding non-delivery shall be given to the investigating officer of Administrative Law Judge who issued the subpena.

Subpart G—Witness Fees

§ 5.401 Payment of witness fees and allowances.

(a) Duly subpenaed witnesses, other then Federal government employees, may apply for payment for their attendance as witnesses at an investigation or hearing conducted pursuant to this part by submitting a request for payment (Standard Form 1157) accompanied by any necessary receipts.

(b) Fees and allowances will be paid as provided by 28 U.S.C. 1821, except that a person called to testify as an expert witness may be paid a higher fee to be fixed by the District Commander.

Subpart H—Hearings

§ 5.501 General.

(a) A hearing in a suspension and revocation proceeding conducted under 46 U.S.C. Chapter 77, is the adjudication of the case. It is presided over and is conducted under the exclusive control of an Administrative Law Judge in accordance with applicable requirements in 5 U.S.C. 551, et seq. (Administrative Procedure Act), and the regulations in this part. The Administrative Law Judge shall regulate and conduct the hearing in such a manner so as to bring out all the relevant and material facts, and to insure a fair and impartial hearing.

(b) The Administrative Law Judge shall be governed by 5 U.S.C. 557(d)(1) of the Administrative Procedure Act regarding ex parte communications relative to these proceedings.

(c) With the consent of the investigating officer and respondent, the Administrative Law Judge may hold a prehearing conference for the settlement or simplification of the issues involved in the case. A prehearing conference may be requested by the investigating officer, respondent, or the Administrative Law Judge and is subject to the following provisions:

(1) The Administrative Law Judge sets the time and place for the conference, or conference telephone call. The conference shall not be convened unless both the investigating officer and the respondent or their authorized representative are present.

(2) Admissions or statements made at a conference are not admissible in evidence at a hearing for any reason.

(3) The Administrative Law Judge, in his opening statement at the hearing, shall enter into the hearing record the time, date, place, and persons present at any prehearing conference held.

(4) If the investigating officer and the respondent agree at the prehearing conference to stipulate to facts or amend the charge sheet, either may introduce the stipulation at the hearing which, upon the consent of the other, will become a part of the hearing record.

(d) The procedures below are usually followed:

(1) Administrative Law Judge's opening statement.

(2) Appearances of persons at the hearing.

(3) Verification of currently valid license, certificate and/or document held by respondent.

(4) The Administrative Law Judge advises the respondent of his or her rights.

(5) Exclusion of witnesses from the hearing room.

(6) Preliminary motions, objections and/or corrections to the charges and specifications.

(7) A reading of the charges with respondent's answer.

(8) Opening statement of investigating officer.

(9) Opening statement by or on behalf of the respondent or statements in mitigation if the respondent has admitted to the charge and specification or has answered "no contest."

(10) Submission of evidence.

(11) Argument by the investigating officer and argument by or on behalf of the respondent.

(12) The investigating officer and respondent are given the opportunity to submit proposed findings and conclusions.

(13) The Administrative Law Judge renders findings and conclusions.

(14) Submission of prior record of the respondent and evidence in aggravation or mitigation.

(15) The Administrative Law Judge renders an order.

(16) The Administrative Law Judge serves complete written decision.

(17) The Administrative Law Judge advises the respondent of the right to appeal.

(18) The Administrative Law Judge declares that the hearing is closed.

§ 5.503 Record of the hearing.

(a) The Administrative Law Judge designates an official reporter for the hearing. The reporter shall prepare the record of the hearing, including the transcript if so directed by the Administrative Law Judge.

(b) The testimony and exhibits presented, together with all papers, requests, and rulings filed in the proceedings constitute the record of the hearing.

§ 5.505 Public access to hearings.

All hearings conducted pursuant to this part are open to the public, including representatives of the press, except when the Administrative Law Judge finds that the subject matter to be, or being, brought out in the evidence concerns classified material relating to national security, or when other circumstances exist which have been held to warrant a limitation or exception to the right of a public hearing in a United States District Court.

§ 5.507 Disqualification of Administrative Law Judge.

(a) In any suspension and revocation proceeding conducted under this part, the Administrative Law Judge may withdraw voluntarily from a particular case for reasons of a possbile conflict of interest. In such event the Administrative Law Judge shall immediately notify the Commandant of the desire to withdraw and the reasons therefor.

(b) In any case the investigating officer or the respondent may, in good faith, request the Administrative Law Judge to withdraw on the grounds of personal bias or other disqualification. The party seeking the Administrative Law Judge's disqualification shall file with the Administrative Law Judge a timely affidavit or statement sworn to before a Coast Guard officer of other official authorized to administer oaths, setting forth in detail the facts alleged to constitute the grounds for disqualification. The investigating officer or the respondent may present testimony of witnesses or, at minimum, an offer of proof to support these grounds. The Administrative Law Judge rules whether or not disqualification is warranted.

(c) If the person seeking disqualification takes exception to the Administrative Law Judge's ruling, that person may appeal such ruling to the Commandant. When such appeal is made, the Administrative Law Judge immediately forwards the affidavit or sworn statement with the decision thereon to the Commandant. The Administrative Law Judge may proceed with the hearing unless it can be shown that a delay in the hearing pending a determination of the appeal will not be detrimental to the matters being adjudicated. The Administrative Law Judge ensures that all matters relating to such claims of disqualification appear affirmatively in the record.

§ 5.509 Opening the hearing.

The Administrative Law Judge opens the hearing at the time and place specified in the notice, administers all necessary oaths, and causes a complete record of the proceedings to be kept. The time and place of opening the hearing may be changed by the Administrative Law Judge by written notice served on the investigating officer and the respondent, either on the Administrative Law Judge's own motion or upon application of the investigating officer or respondent. Such change must be consistent with the rights of the respondent to a fair, impartial and timely hearing and the availability of witnesses.

§ 5.511 Continuance of a hearing.

The Administrative Law Judge may, either on the Administrative Law Judge's own motion or the motion of the investigating officer or respondent, continue the hearing from day to day or adjourn such hearing to a later date or to a different place by announcement at the hearing or by other appropriate notice. When determining whether to grant a continuance, the Administrative Law Judge gives careful consideration to the future availability of witnesses, the schedule of the vessel or vessels on which the respondent and/or witnesses may be employed, and to the nature of the charge and gravity of the offense.

§ 5.513 Appearances.

The appearances of the investigating officer and respondent and their representatives are entered in the record.

§ 5.515 Failure of respondent to appear at hearing.

(a) In any case in which the respondent, after being duly served with the original of the notice of the time and place of the hearing and the charges and specifications, fails to appear at the time and place specified for the hearing, the hearing may be conducted "in absentia."

(b) The Administrative Law Judge ensures that the record contains the facts concerning the service of the charges, specifications and notice of hearing.

§ 5.517 Witnesses excluded from hearing room.

After appearances are entered and prior to proceeding with the hearing, all witnesses are excluded from the hearing room. The Administrative Law Judge may order witnesses to be separated from each other while waiting to testify or admonish them to not discuss the case among themselves or with any other person, with the exception of the investigating officer, the respondent or the respondent's counsel.

§ 5.519 Rights of respondent.

(a) The Administrative Law Judge advises the respondent, on the record, of the right to:

(1) Be represented by professional counsel, or any other person desired;

(2) Have witnesses and relevant evidence subpenaed;

(3) Examine witnesses, cross-examine witnesses, and introduce relevant evidence into the record; and

(4) Testify or remain silent.

§ 5.521 Verification of license, certificate or document.

(a) The Administrative Law Judge shall require the respondent to produce and present at the opening of the hearing, and on each day the hearing is in session thereafter, all valid licenses, certificates, and/or documents issued by the Coast Guard to the respondent. In the event that the respondent alleges that such license, certificate or document has been lost, misplaced, stolen, destroyed, or is otherwise beyond his ability to produce, the respondent shall execute a lost document affidavit (Form CG–4363). The Adminstrative Law Judge shall warn the respondent that a willful misstatement of any material item in such affidavit is punishable as a violation of a federal criminal statute. (See 18 U.S.C. 1001).

(b) When a hearing is continued or delayed, the Administrative Law Judge returns the license, certificate, or document to the respondent: unless a prima facie case has been established that the respondent committed an act or offense which shows that the respondent's service on a vessel would constitute a definite danger to public health, interest or safety at sea.

§ 5.523 Motions or objections.

Any motion or objection shall be heard and disposed of, on the record, by the Administrative Law Judge.

§ 5.525 Correction or amendment of charges and/or specifications.

(a) The Administrative Law Judge examines the charges and specifications to determine their correctness as to form and legal sufficiency.

(b) The Administrative Law Judge may, either on the Administrative Law Judge's own motion or motion by either the investigating officer or respondent, amend the charges and specifications to correct harmless errors by deletion or substitution of words or figures as long as a legal charge and specification remains.

(c) When errors of substance are found in charges and specifications, the Administrative Law Judge shall allow that the defective charge or specification be withdrawn without prejudice to the service of a new charge and specification in the matter. The investigating officer may then prepare and serve a new charge and specification.

§ 5.527 Answer.

(a) The Administrative Law Judge reads each charge and specification to the respondent and obtains a specific answer to each charge and specification. If the respondent fails to answer a charge or specification, the Administrative Law Judge enters a denial and proceeds with the hearing.

(b) A specific answer shall be one of the following:

(1) Deny;

(2) No contest; or

(3) Admit.

(c) For purposes of proceedings under this part, an admission or "no contest" answer is sufficient to support a finding of "proved" by the Adminstrative Law Judge.

(d) When the hearing is conducted "in absentia," the Administrative Law Judge enters a denial to all charges and specifications.

§ 5.529 Opening statement of investigating officer.

(a) If a denial is entered, the investigating officer makes a brief statement outlining the matters expected to be proved.

(b) If the respondent admits the truth of the charges and specifications or answers "no contest," the opening statement of the investigating officer shall contain a summary of the evidence upon which the charges and specifications are based.

§ 5.531 Opening statement by or on behalf of the respondent.

The respondent or the respondent's counsel is afforded an opportunity to state what is intended to be established. This may be waived or deferred at the option of the respondent.

§ 5.533 Presentation of case where there is an admission or no contest answer.

(a) If the respondent admits to any charge and specification or answers "no contest," evidence in mitigation may be presented, and the investigating officer may present a prima facie case and evidence in aggravation even in those cases where revocation is mandatory.

(b) Should the respondent's presentation be inconsistent with an admission or answer of "no contest," the Administrative Law Judge will reject the answer, enter a denial and continue with the hearing.

§ 5.535 Witnesses.

(a) All witnesses are sworn, duly examined, and may be cross examined. A witness on the stand may be questioned at any time by the Administrative Law Judge.

(b) The person who calls a witness shall begin direct examination by identifying the witness.

(c) Witnesses may be called to establish matters of aggravation or matters of mitigation.

(d) Any witness may have the benefit and advice of personal counsel, but such counsel shall not otherwise participate in the hearing.

(e) Any attempt to coerce or induce a witness to testify falsely is an offense under federal law which may be punishable by fine or imprisonment or both. (See 18 U.S.C. 1505.)

(f) Upon motion by the investigating officer or respondent, the Administrative Law Judge may order that testimony of a witness be taken by telephone conference call, when testimony would otherwise be taken by deposition. The telephone conference will be arranged so that all participants can listen to and speak to each other in the hearing of the Administrative Law Judge. The Administrative Law Judge insures that all participants in the telephone conference are properly identified to allow a proper record to be made by the reporter. Participants shall speak clearly and avoid extraneous conversation. Telephone conferences are governed by the procedural rules and decorum observed during in-peron proceedings.

(g) A witness may be subpenaed to testify by telephone conference. The subpena in such instances is issued under the procedures in Subpart F.

§ 5.537 Evidence.

(a) In these proceedings, strict adherence to the rules of evidence is not required. However, the Federal Rules of Evidence, as amended, shall be the primary guide for evidentiary matters, where applicable.

(b) Rules 410, 606, 706, and 1101 of the Federal Rules of Evidence shall not be applicable to these proceedings.

(c) In conducting a hearing the Administrative Law Judge will extend reasonable latitude to the respondent who does not have professional counsel to represent him. Investigating officers and counsel should be required to conform to the the rules of evidence to a greater degree than respondents without counsel.

§ 5.539 Burden of proof.

The investigating officer has the burden of proof.

§ 5.541 Official notice by Commandant and Administrative Law Judge.

(a) In addition to other rules providing for judicial notice, the Commandant and the Administrative Law Judges will consider the following without requiring the investigating officer or the respondent to submit them in evidence:

(1) *Federal Law.* The Constitution; Congressional Acts, Resolutions, Records, Journals and Committee Reports; Decisions of Federal Courts; Executive Orders and Proclamations; and rules, regulations, orders and notices published in the **Federal Register.**

(2) *State law.* The Constitution and public laws of each State.

(3) *Governmental organizations.* The organization, territorial limitations, officers, departments, and general administration of the Government of the United States, its States, territories, possessions and the Commonwealth of Puerto Rico.

(4) *Commandant's decisions.* The Commandant's decisions in all appeal and review cases under this part. (See § 5.65.)

(b) Matters officially noticed by the Commandant or the Administrative Law Judge are specified on the record. The investigating officer and the respondent shall be afforded an opportunity, on the record, to rebut such matters.

§ 5.543 Certification of extracts from shipping articles, logbooks, etc.

(a) In addition to other rules providing for authentication and certification, extracts from records in the custody of the Coast Guard, shipping articles, and logbooks, may be identified and authenticated by certification of an investigating officer or custodian of such records, or by any commissioned officer of the Coast Guard.

(b) Certification must include a statement that the certifying individual

has seen the original and compared the copy with it and found it to be a true copy. The individual so certifying shall sign name, rank or title, and duty station.

§ 5.545 Weight of entries from logbooks.

(a) An entry in an official logbook of a vessel concerning an offense enumerated in 46 U.S.C. 11501, made in substantial compliance with the procedural requirements of 46 U.S.C. 11502, is admissible in evidence and constitutes prima facie evidence of the facts recited.

(b) An entry in any logbook kept on a vessel may be admitted into evidence as an exception to the hearsay rule, under the Federal Rules of Evidence, as a record of a regularly conducted activity.

(c) An entry in any logbook made in compliance with the procedural requirements of 46 U.S.C. 11502 may be given added weight by the Administrative Law Judge.

§ 5.547 Use of judgment of conviction.

(a) A judgment of conviction by a Federal court is conclusive in proceedings under this part concerning incidents described in 46 U.S.C. 7703, where acts or offenses forming the basis of the charges in the Federal court are the same.

(b) Where the acts involved in a judgment of conviction of a State court are the same as those involved in proceedings under this part concerning incidents described in 46 U.S.C. 7703, the judgment of conviction is not conclusive of the issues decided. However, such judgment of conviction is admissible in evidence and constitutes substantial evidence adverse to the respondent.

(c) The judgment of conviction for a dangerous drug law violation by a Federal or State court is conclusive in proceedings under this part. If as part of a state expungement scheme the respondent pleads guilty or no contest or is required by the court to attend classes, make contributions of time or money, receive treatment or submit to any mannor of probation or supervision or forego appeal of the trial court finding, the respondent will be considered, for the purposes of 46 U.S.C. 7704, to have received a final conviction. A later expungement of the record will not be considered unless it is proved that the expungement is based on a showing that the court's earlier "conviction" was in error.

(d) The respondent may not challenge the jurisdiction of a Federal or State court in proceedings under 46 U.S.C. 7703 and 7704.

§ 5.549 Admissibility of respondent's Coast Guard records prior to entry of findings and conclusions.

(a) The prior disciplinary record of the respondent is admissible when offered by the respondent.

(b) In addition to the use of a judgment of conviction as provided in § 5.547, the prior record of the respondent, as defined in § 5.565, is admissible when offered by the investigating officer for the limited purposes of impeaching the credibility of evidence offered by the respondent regarding a disciplinary record.

§ 5.551 Admissions by respondent.

No person shall be permitted to testify with respect to admissions made by the respondent during or in the course of an investigation under this part or Part 4 of this title except for the purpose of impeachment.

§ 5.553 Testimony by deposition.

(a) Testimony may be taken by deposition upon application of either party or upon the initiative of the Administrative Law Judge. The application of a party must be in writing and must contain the reasons for the deposition, the name and whereabouts of the witness and an approximate date, time and place for the deposition hearing. The applicant may request that it be by oral examination, or upon written interrogatories, or a combination thereof. The deposition may be taken before any person authorized to administer oaths.

(b) Upon good cause appearing therefor, the Administrative Law Judge enters and serves upon the parties an order designating the person before whom the deposition is to be taken, together with such other information, directions and orders as will enable the person so designated to obtain the testimony of the deponent. The Administrative Law Judge issues a subpena in accordance with Subpart F of this part which, along with his order and a list of interrogatories and cross-interrogatories, if any, is forwarded to the person designated to take the deposition. This person shall have the subpena served upon the witness.

(c) The investigating officer and respondent and/or their representatives may attend the taking of a deposition.

(d) After the deposition has been taken and transcribed it is presented to the witness for examination, correction and signature unless such a procedure is waived by the deponent, on the record. The person taking the deposition shall certify to the signature of the witness. If, for any reason, the deposition or interrogatory is not signed by the witness, the person taking the deposition shall recite (under oath) thereon the reason it is not signed.

(e) A deposition upon oral examination may be taken by telephone conference upon such terms, conditions, and arrangements as are prescribed in the order of the Administrative Law Judge.

(f) The testimony at a deposition hearing may be recorded on videotape, upon such terms, conditions, and arrangements as are prescribed in the order of the Administrative Law Judge, at the expense of the party requesting the recording. The video recording may be in conjunction with an oral examination by telephone conference held pursuant to paragraph (e) of this section. After the deposition has been taken, the person taking the deposition shall immediately seal the videotape in an envelope, attaching thereto a statement identifying the proceeding and the deponent and certifying as to the authenticity of the deposition, and return the videotape by accountable means to the Administrative Law Judge. Such deposition becomes a part of the record of proceedings in the same manner as a transcribed deposition. The videotape, if admitted in evidence, will be played during the hearing and transcribed into the record by the reporter.

(g) The Administrative Law Judge rules on the admissibility of the deposition or any part thereof and on any objections.

§ 5.555 Treatises.

(a) Treatises, periodicals, or pamphlets relating to nautical practices are admissible in evidence without the use of expert witnesses.

(b) The Administrative Law Judge evaluates such materials based on the facts and circumstances of the case. The materials may not be considered conclusive of an issue.

§ 5.557 Medical Examination of respondent.

(a) In a hearing in which the physical or mental condition of the respondent is in controversy, the Administrative Law Judge may order the respondent to submit to a medical examination.

(b) An examination ordered by an Administrative Law Judge will be conducted at government expense by a physician designated by the Administrative Law Judge.

(c) If the respondent fails, or refuses, to submit to an ordered examination such failure is accorded due weight in determining the facts alleged in the specifications.

§ 5.559 Argument.

After all the evidence has been presented, the investigating officer and the respondent may present oral or written argument.

§ 5.561 Submission of proposed findings and conclusions.

The Administrative Law Judge affords the investigating officer and the respondent reasonable opportunity to submit proposed findings and conclusions with supporting reasons. If either desires to submit such matter, the Administrative Law Judge fixes the time within which it shall be filed. Failure to comply within the time fixed by the Administrative Law Judge shall be regarded as a waiver of the right.

§ 5.563 Administrative Law Judge's findings and conclusions.

(a) The Administrative Law Judge renders ultimate findings and conclusions.

(b) A separate conclusion is made by the Administrative Law Judge on each charge and specification. A specification may be found "not proved," "proved in part," or "proved." A charge may be found "not proved" or "proved."

(c) The testimony and exhibits presented, together with all papers, requests, and rulings filed in the proceedings are the exclusive basis for the issuance of the Administrative Law Judge's findings and conclusions.

§ 5.565 Submission of prior record and evidence in aggravation or mitigation.

(a) Except as provided in § 5.547 and § 5.549, the prior record of the respondent may not be disclosed to the Administrative Law Judge until after conclusions have been made as to each charge and specification, and then only if at least one charge has been found proved. The prior record must include only information concerning the respondent and is limited to the following items less than 10 years old:

(1) Written warnings issued by Coast Guard investigating officers and accepted by the respondent;

(2) Final agency action on Coast Guard suspension and revocation hearings wherein one or more charges was found proved;

(3) Voluntary surrender agreements entered into by the respondent;

(4) Any final judgments of conviction in State or Federal courts;

(5) Final agency action resulting in civil penalties or warnings being imposed against the respondent in proceedings administered by the Coast Guard under 33 CFR 1.07; and,

(6) Any official commendatory information concerning the respondent of which the investigating officer is aware.

(b) The investigating officer may offer evidence and argument in aggravation of the charge or charges found proved.

(c) The respondent is allowed to comment on or offer evidence regarding prior maritime service including the prior record introduced by the investigating officer and any commendatory information.

(d) The respondent may offer evidence and argument in mitigation of the charge or charges found proved.

(e) The investigating officer may offer evidence and argument in rebuttal of the evidence and argument introduced by the respondent in mitigation.

§ 5.567 Order.

(a) The Administrative Law Judge enters an order which recites the disposition of the case. When a charge has been found "not proved," the order will state the charge is "dismissed" with or without prejudice. When a charge is found "proved," the Administrative Law Judge may order an "admonition," "suspension" with or without probation, or "revocation."

(b) The order is directed against all licenses, certificates or documents, except that in cases of negligence or professional incompetence, the order is made applicable to specific licenses, certificates or documents. If the Administrative Law Judge determines that the respondent is professionally incompetent in the grade of the license, certificate or document held, but is considered competent in a lower grade, the license, certificate or document may be revoked and the issuance of one of a lower grade ordered.

(c) An order must specify whether the license, certificate or document affected is:

(1) Revoked;

(2) Suspended outright for a specified period after surrender;

(3) Suspended for a specified period, but placed on probation for a specific period; or

(4) Suspended outright for a specified period, followed by a specified period of suspension on probation.

(d) The order will normally state, "that the license, certificate or document is to be surrendered to the Coast Guard immediately," if the order is one of revocation or includes a period of outright suspension. In cases involving special circumstances, the order may provide for surrender on a certain date.

(e) The time of any period of outright suspension ordered does not commence until the license, certificate or document is surrendered to the Coast Guard. The time of any period of suspension on probation begins at the end of any period of outright suspension or the effective date of the order if there is no outright suspension.

§ 5.569 Selection of an appropriate order.

(a) This section addresses orders in a general manner. The selection of an appropriate order is the responsibility of the Administrative Law Judge, subject to appeal and review. The investigating officer and the respondent may suggest an order and present argument in support of this suggestion during the presentation of aggravating or mitigating evidence.

(b) Except for acts or offenses for which revocation is mandatory, factors which may affect the order include:

(1) Remedial actions which have been undertaken independently by the respondent;

(2) Prior record of the respondent, considering the period of time between prior acts and the act or offense for which presently charged is relevant; and

(3) Evidence of mitigation or aggravation.

(c) After an order of revocation is entered, the respondent will be given an opportunity to present relevant material on the record for subsequent consideration by the special board convened in the event an application is filed in accordance with Subpart L of this part.

(d) Table 5.569 is for the information and guidance of Administrative Law Judges and is intended to promote uniformity in orders rendered. This table should not affect the fair and impartial adjudication of each case on its individual facts and merits. The orders are expressed by a range, in months of outright suspension, considered appropriate for the particular act or offense prior to considering matters in mitigation or aggravation. For instance, without considering other factors, a period of two to four months outright suspension is considered appropriate for "Failure to Obey a master's written instructions." An order within the range would not be considered excessive. Mitigating or aggravating factors may make an order greater or less than the given range appropriate. Orders for repeat offenders will ordinarily be greater than those specified.

TABLE 5.569.—SUGGESTED RANGE OF AN APPROPRIATE ORDER

Type of offense	Range of order (in months)
Misconduct:	
Failure to obey master's/ship officer's order.	1-3.
Failure to comply with U.S. law or regulations.	1-3.

TABLE 5.569.—SUGGESTED RANGE OF AN APPROPRIATE ORDER—Continued

Type of offense	Range of order (in months)
Possession of intoxicating liquor.	1-4.
Failure to obey master's written instruction.	2-4.
Improper performance of duties related to vessel safety.	2-5.
Failure to join vessel (required crew member).	2-6.
Violent acts against other persons (without injury).	2-6.
Failure to perform duties related to vessel safety.	3-6.
Theft	3-6.
Violent acts against other persons (injury).	4-Revocation.
Use, possession, or sale of dangerous drugs.	Revocation (Note: see § 5.59).
Negligence:	
Negligently performing duties related to vessel navigation.	2-6.
Negligently performing non-navigational duties related to vessel safety.	1-3.
Neglect of vessel navigation duties.	3-6.
Neglect of non-navigational safety related duties.	2-4.
Incompetence	The only proper order for a charge of incompetence found proved is revocation.
Dangerous drugs (46 U.S.C. 7704).	The only proper order for a charge under 46 U.S.C. 7704 found proved is revocation.

§ 5.571 Delivery of decision.

(a) Whenever possible, the Administrative Law Judge's decision is delivered in writing to the respondent or to the respondent's authorized representative at the final hearing session. If it is not possible for the Administrative Law Judge to deliver a complete written decision at the final session of the hearing, an oral decision is rendered on the record, with a written order prepared and served on the respondent or the respondent's authorized representative. The decision, including the order, is effective upon service of the written order.

(b) If a complete written decision is not delivered at the final hearing session, the Administrative Law Judge prepares and has served on the respondent or the respondent's authorized representative a complete written decision within 30 days, when possible, after completion of the hearing. This delivery may be by personal service or certified mail, return receipt requested. The signed acknowledgment of person service or the return receipt becomes a part of the hearing record.

(c) As used in this section, the phrase, "authorized representative" means any person who has been authorized by the respondent, as shown by the hearing record, to receive service and take an appeal on behalf of the respondent.

§ 5.573 Notification of right to appeal.

The respondent is advised by the Administrative Law Judge of the right to appeal in accordance with Subpart J of this part.

§ 5.577 Modification of Administrative Law Judge's decision and order.

(a) After an Administrative Law Judge renders the decision and order, it may be modified or changed pursuant to procedures set forth in paragraph (b) of this section, in Subpart I of this part for reopening of hearings; in Subpart J of this part for appeals; or in Subpart K of this part for review of Administrative Law Judge's decision by the Commandant. In the absence of any such actions, the decision of the Administrative Law Judge is final.

(b) When the proceeding is based on a conviction for a dangerous drug law violation, recision of the order affecting the license, certificate or document will not be granted, unless the applicant submits a specific court order to the effect that the conviction has been unconditionally set aside for all purposes. An order of revocation will not be rescinded as the result of any law which provides for a subsequent conditional setting aside, modification or expungement of the court conviction in the nature of granting of clemency or other relief after the conviction has become final, without regard to whether punishment was imposed.

Subpart I—Reopening of Hearings

§ 5.601 Petition to reopen hearing.

(a) A respondent may petition to reopen the hearing on the basis of newly discovered evidence or on the basis of being unable to present evidence due to the respondent's inability to appear at the hearing through no fault of the respondent and due to circumstances beyond the respondent's control.

(b) The filing of a petition does not stay in existing order of the Administrative Law Judge. However, if filed within 30 days after the effective date of the Administrative Law Judge's decision, it will toll or defer the running of the 30-day statutory period of appeal as provided in Subpart J of this part until the Administrative Law Judge has acted on the petition.

§ 5.603 Procedures for submitting petition.

(a) The procedures for submitting a petition based on newly discovered evidence are as follows:

(1) A petition to reopen the hearing may be submitted at any time prior to a final decision on appeal or within one year of the effective date of the Administrative Law Judge's decision.

(2) If an appeal to the Commandant from the Administrative Law Judge's decision has not been filed, the petition must be addressed to the Administrative Law Judge. If an appeal to the Commandant has been filed, the petition must be submitted to the Commandant.

(3) The petition must be in letter form, typewritten or written legibly, and shall contain:

(i) The name of the petitioner, the number and description of the license, certificate and/or document involved, nature of the charge, the decision rendered including the order, and the name of the Administrative Law Judge who heard the case;

(ii) A statement setting forth a description of the newly discovered evidence; and

(iii) A statement as to whether or not this additional evidence was known to the petitioner at the time of the hearing, and reasons why the petitioner, with due diligence, could not have discovered such new evidence prior to the completion of the hearing.

(b) The procedures for submitting a petition on the basis of inability to appear at the hearing are as follows:

(1) A petition to reopen the hearing may be submitted within 30 days of the effective date of the Administrative Law Judge's decision.

(2) If an appeal to the Commandant from the Administrative Law Judge's decision has not been filed, the petition must be addressed to the Administrative Law Judge. If an appeal to the Commandant has been filed, the petition must be submitted to the Commandant.

(3) The petition must be in letter form, typewritten or written legibly, and shall contain:

(i) The name of the petitioner, the number and description of the license, certificate and/or document involved, nature of the charge, the decision rendered including the order, and the name of the Administrative Law Judge who heard the case;

(ii) A statement setting forth a description of the evidence the petitioner would have offered at the hearing; and

(iii) A statement as to why the petitioner was unable to appear at the hearing including why the petitioner did not seek a change in the time or place for opening of the hearing.

§ 5.605 Action on petition.

(a) The Administrative Law Judge, or Commandant, as appropriate, forwards a copy of the petition to the investigating officer. The investigating

officer is afforded a reasonable time within which to submit written comments as to the merits of the petition.

(b) The Administrative Law Judge, or the Commandant, renders a decision either granting or denying the petition. The decision on the petition will be based on a consideration of the petition, the record of the hearing, and the investigating officer's comments, if any.

(c) If the Administrative Law Judge grants the petition, the hearing is reopened to allow the offer of the new evidence described in the petition.

(d) If the Commandant grants the petition, the case is remanded to the Administrative Law Judge with directions to reopen the hearing.

(e) When the petition is granted, the Administrative Law Judge withdraws the original decision and renders a new one based on the record of the original hearing and the new evidence received.

(f) The petition, the investigating officer's comments, the Administrative Law Judge's or Commandant's decision on the petition, and the additional evidence will be appended to the original hearing record.

§ 5.607 Appeal from action on petition.

(a) If the petition to reopen the hearing is denied by the Administrative Law Judge, the respondent may appeal to the Commandant within 30 days from the date of service of the denial of the petition. The review by the Commandant on this appeal will be limited to the issues raised by the petition. Other grounds on appeal must be in accordance with Subpart J of this part.

(b) If the petition to reopen the hearing is granted and a previous finding of "proved" is affirmed by the Administrative Law Judge, the respondent may appeal the decision as provided for in Subpart J of this part.

Subpart J—Appeals

5.701 Appeals in general.

(a) A respondent against whom a finding of "proved" has been rendered may appeal such decision to the Commandant.

(b) The hearing transcript, together with all papers and exhibits filed, shall constitute the record for decision on appeal. The only matters which will be considered by the Commandant on the appeal are:

(1) Rulings on motions or objections which were not waived during the proceedings;

(2) Clear errors on the record;

(3) Jurisdictional questions.

(c) In the preparation of an appeal, the investigating officer's and the Administrative Law Judge's assistance to the appellant will extend only to the point of providing information as to the applicable regulations.

(d) If the respondent requests a copy of the transcript in the notice of appeal and the hearing was recorded or transcribed at government expense, the transcript will be provided upon payment of the fees prescribed in 49 CFR 7.95. If the services of a government contractor were utilized, the transcript must be obtained under the provisions of 49 CFR 7.99.

§ 5.703 Procedures for appeal.

(a) An appeal may be taken only by filing a written notice of appeal within 30 days after service of the complete written decision. This notice of appeal must be filed with the Administrative Law Judge who heard the case or with any Officer in Charge, Marine Inspection for forwarding to the Administrative Law Judge.

(b) The notice of appeal must:

(1) Be typewritten or written legibly;

(2) Be addressed to the Commandant; and

(3) Set forth the name of the appellant, the number and description of the license, certificate and/or document involved, and the name of the Administrative Law Judge who heard the case.

(c) The completed appeal must be submitted to the Commandant, U.S. Coast Guard (G–MMI), 2100 2nd St. SW., Washington, D.C., 20593 within sixty days after service of the complete written decision, or if a transcript was requested, within 60 days after receipt of the transcript. After this time has elapsed, anything received will not be considered as a part of the appeal record unless an extension of time has been granted in writing by the Commandant and the extended time limit has been met.

(d) The appeal must contain a brief or memorandum setting forth legal and other authorities relied upon. All grounds for appeal or exceptions to the Administrative Law Judge's decision must be described with particularity.

(e) No appeal will be accepted in the case of a revocation or outright suspension if the respondent has not complied with the order of the Administrative Law Judge to deposit the license or document with the Coast Guard.

§ 5.705 Action on appeal.

(a) The Commandant may affirm, reverse, alter, or modify the decision of the Administrative Law Judge, or may remand the case for further proceedings. The Decision of the Commandant on Appeal is the final agency action in the absence of a remand.

(b) Failure to file a brief containing grounds and justification for relief sought on appeal of the Administrative Law Judge's decision will result in either:

(1) Termination of the case by written notice to the appellant or appellant's counsel that the decision of the Administrative Law Judge constitutes the final agency action on the merits of the case; or

(2) Consideration of the appeal on the merits of the case and publication of the Commandant's decision without prior notice to the appellant or appellant's counsel. This will only be done when some clear error appears in the record or when the case presents some novel policy consideration.

§ 5.707 Stay of effect of decision and order of Administrative Law Judge on appeal to the Commandant; temporary licence, certificate, or document.

(a) A person who has appealed from a decision suspending outright or revoking a license, certificate or document, except for revocation resulting from an offense enumerated in § 5.59, may file a written request for a temporary license, certificate or document. This request must be submitted to the Administrative Law Judge who presided over the case, or to any Officer in Charge, Marine Inspection for forwarding to the Administrative Law Judge.

(b) Action on the request is taken by the Administrative Law Judge unless the hearing transcript has been forwarded to the Commandant, in which case, the request is forwarded to the Commandant for final action.

(c) A determination as to the request will take into consideration whether the service of the individual is compatible with the requirements for safety at sea and consistent with applicable laws. If one of the offenses enumerated in § 5.61(a) has been found proved, the continued service of the appellant will be presumed not compatible with safety at sea, subject to rebuttal by the appellant. A temporary document or license may be denied for that reason alone.

(d) All temporary documents will provide that they expire not more than six months after issuance or upon service of the Commandant's decision on appeal, whichever occurs first. If a temporary document expires before the Commandant's decision is rendered, it may be renewed, if authorized by the Commandant.

(e) If the request for a temporary document is denied by the Administrative Law Judge, the individual may appeal the denial, in writing, to the Commandant within 30 days after notification of such denial. Any decision by the Commandant to deny is the final agency action.

(f) Copies of the temporary documents issued become a part of the record on appeal.

§ 5.709 Appeal cases remanded for further proceedings.

(a) When the Commandant renders a decision remanding a case for further proceedings, the remand is directed to the Administrative Law Judge. If a reopening of the former hearing or a new hearing is necessary, the Administrative Law Judge notifies the investigating officer and the respondent and sets a date for the hearing.

(b) If the hearing is reopened, the evidence in the prior hearing shall be evaluated together with the new evidence submitted.

(c) In a new hearing, the evidence in the prior hearing may be used for purposes of impeachment. Evidence in the prior hearing may be stipulated as a part of the record of the new hearing.

(d) The Administrative Law Judge renders either an entirely new decision or a decision incorporating by reference the original decision, as appropriate.

§ 5.711 Commandant's Decisions on Appeal.

(a) The Commandant's Decisions on Appeal are the final agency action taken in appeals under the suspension and revocation proceedings provided by this part. These Decisions are issued seriatum and are public records.

(b) The Commandant's Decisions on Appeal are available for reading purposes at Coast Guard Headquarters, Offices of District Commanders, and at Marine Safety Offices and Marine Inspection Offices. (See 33 CFR Subpart 1.10.)

§ 5.713 Appeals to the National Transportation Safety Board.

(a) The rules of procedure for appeals to the National Transportation Safety Board from decisions of the Commandant, U.S. Coast Guard, affirming orders of suspension or revocation of licenses, certificates, or documents are in 49 CFR Part 825. These rules give the party adversely affected by the Commandant's decision 10 days after service upon him or his attorney of the Commandant's decision to file a notice of appeal with the Board.

(b) In all cases under this part which are appealed to the National Transportation Safety Board under 49 CFR Part 825, the Chief Counsel of the Coast Guard is designated as the representative of the Commandant for service of notices and appearances. Communications should be addressed to Commandant (G-L), U.S. Coast Guard, 2100 2nd St. SW, Washington, D.C. 20593.

(c) In cases before the National Transportation Safety Board the Chief Conusel of the Coast Guard may be represented by others designated "of counsel."

§ 5.715 Stay of effect of Decision of the Commandant on Appeal: Temporary document and/or license pending appeal to National Transportation Safety Board.

(a) A Decision of the Commandant on Appeal affirming an order of revocation, except a revocation resulting from an offense enumerated under § 5.59 or suspension that is not placed entirely on probation, which is appealed to the National Transportation Safety Board, may be stayed if, in the Commandant's opinion, the service of the appellant on board a vessel at that time or for the indefinite future would be compatible with the requirements of safety at sea and consistent with applicable laws. If one of the offenses enumerated in § 5.61(a) has been found proved, the continued service of the appellant will be presumed not compatible with safety at sea, subject to rebuttal by the appellant; in cases of offenses under § 5.61(a), a temporary document or license may be denied for that reason alone.

(b) A stay of the effect of the Decision of the Commandant on Appeal may be granted by the Commandant upon application by the respondent filed with the notice served on the Commandant under 49 CFR 825.5(b).

(c) An Officer in Charge, Marine Inspection, on presentation of an original stay order, issues a temporary document and/or license as specified in the stay order. This document is effective for not more than six months, renewable until such time as the National Transportation Safety Board has completed its review.

Subpart K—Review of Administrative Law Judge's Decisions in Cases Where Charges Have Been Found Proved

§ 5.801 Commandant's review.

Any decision of an Administrative Law Judge, in which there has been a finding of "proved," may be called up for review by the Commandant without procedural formality.

§ 5.803 Record for decision on review.

The transcript of hearing, together with all papers and exhibits filed, shall constitute the record for consideration and review.

§ 5.805 Action on review.

(a) The Commandant may adopt in whole or in part the findings, conclusions, and basis therefor stated by the Administrative Law Judge, may make entirely new findings on the record, or may remand the case to the Administrative Law Judge for further proceedings.

(b) In no case will the review by the Commandant be followed by any order increasing the severity of the Administrative Law Judge's original order.

(c) The Decision of the Commandant on Review, shall be the final agency action in the absence of a remand.

§ 5.807 Commandant's Decision on Review.

The Commandant's Decisions on Review are available for reading purposes at Coast Guard Headquarters, at Offices of District Commanders, Marine Safety Offices and Marine Inspection Offices. (See 33 CFR Subpart 1.10.)

Subpart L—Issuance of New Licenses, Certificates or Documents After Revocation or Surrender

§ 5.901 Time limitations.

(a) Any person whose license, certificate or document has been revoked or surrendered for one or more of the offenses described in § 5.59 and § 5.61(a) may, three years after compliance with the Administrative Law Judge's decision and order or the date of voluntary surrender, apply for the issuance of a new license, certificate or document.

(b) The three year time period may be waived by the Commandant upon a showing by the individual that, since the occurrence upon which the revocation or surrender was based, the individual has demonstrated his good character in the community for a period exceeding three years.

(c) Any person whose license, certificate or document has been revoked or surrendered for one or more offenses which are not specifically described in §5.59 or § 5.61(a) may, after one year, apply for the issuance of a new license, certificate or document.

§ 5.903 Application procedures.

(a) An application form for a new license, certificate or document may be

obtained from any Officer in Charge, Marine Inspection.

(b) The completed application and letter must be addressed to the Commandant, U.S. Coast Guard, 2100 2nd St. SW., Washington, D.C. 20593, and must be delivered in person to the nearest Officer in Charge, Marine Inspection.

(c) The letter is an informal request for the issuance of a new license, certificate or document and should include the following:

(1) A letter from each employer during the last three years attesting to the individual's work record;

(2) Information supportive of rehabilitation or cure when the license, certificate or document was revoked because of incompetency or association with dangerous drugs; and

(3) Any other information which may be helpful in arriving at a determination in the matter.

(d) The Officer in Charge, Marine Inspection, forwards the letter and application, together with an evaluation and recommendation, to the Commandant.

§ 5.905 Commandant's decision on application.

(a) The applicant's letter and application form, as well as the evaluation and recommendation, are referred to a special board appointed by the Commandant. The board examines all the material submitted with the application and such other information as may, in the judgment of the board, be considered appropriate. The board shall submit its findings and recommendation to the Commandant.

(b) The Commandant shall determine whether or not a new license, certificate or document will be issued. The applicant will be notified by letter of such determination.

J.S. Gracey,

Admiral, U.S. Coast Guard Commandant.

July 31, 1985.

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 80-57; FCC 85-367]

Revision of Part 22 of the Commission's Public Mobile Radio Service Rules

AGENCY: Federal Communications Commission.

ACTION: Final rules.

SUMMARY: Rules are adopted that further refine recent revisions to the Public Mobile Service Rules 47 CFR Part 22. The Commission considered petitions for reconsideration filed against the Report and Order revising Part 22 and, as a result, modified, elminated and updated various rules. The rules reduce burdens for applicants and expedite the administrative processes related to the Public Mobile Service.

EFFECTIVE DATE: September 9, 1985.

FOR FURTHER INFORMATION CONTACT: Carmen A. C. Borkowski, (202) 632-6450.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 22

Mobile radio service.

In the matter of revision and update of Part 22 of the Public Mobile Radio Service Rules.

Order on reconsideration

Adopted: July 11, 1985.
Released: July 31, 1985.

By the Commission: Commissioner Rivera not participating.

Background

1. On December 19, 1983, the Commission released a *Report and Order* revising the Public Mobile Radio Service Rules, Part 22, 95 FCC 2d 769 (1983). This order resolves Petitions for Reconsideration and other pleadings seeking clarification of the *Report and Order*.

2. The Commission released a Notice of Proposed Rulemaking proposing to revise Part 22 of the rules on September 8, 1982, 47 FR 43842 (October 4, 1982). Comments had previously been requested in a Notice of Inquiry, 45 FR 14074 (March 4, 1980). Rule revisions were adopted in a subsequent *Report and Order, supra,* rewriting the rules in plain language, bringing their text up to date with existing technology, and adding or revising definitions to explain more fully the meaning of certain rules. In addition, revisions were made to eliminate or reduce government regulation where possible, in favor of self-regulation and a competitive marketplace. In keeping with these objectives we also eliminated many of the forms applicants are required to file, and simplied the ones retained. After carefully reviewing the petitions for reconsideration and other pleadings filed in this proceeding and based upon our own experience, we have determined that some areas require further clarification. In keeping with the format used in the previous order we will address each rule commented upon in a numerical sequence.

Discussion

3. *Definitions, § 22.2.* We modified, updated and deleted definitions which were obsolete or ambiguous. The only party commenting on this rule section, Jubon Engineering Inc. (Jubon) recommends that the definition of "central office" be changed to conform to present day use of the term which denotes a location with a much broader spectrum of circuit terminations than just landline. This phrase is in fact utilized in services other than in the Public Mobile Services and is not necessary in Part 22 at all. Accordingly, we will eliminate the term "central office" from Section 22.2.[1] In addition, we have revised the definition for Cellular Geographic Service Area (CGSA) editorially to render it consistent with Section 22.903(a).

4. *Notification of Status of Facilities (FCC Form 489), § 22.9(b).* This rule provides that upon completing construction the licensee shall notify the Commission using FCC Form 489. This new form was adopted in light of our elimination of the two-step application process, that had required both a construction permit and license to cover. *See* 95 FCC 2d at 773-774. After numerous inquiries from the public we are persuaded that this rule needs further clarification. The rule does not state clearly the time when applicants have to file the Form 489. We are amending this rule to prescribe time limits. Form 489 must be filed no later than the date on which the licensee commences service to the public. It may be filed earlier than that date as long as it specifies the date of commencement of commercial service. We emphasize that, with the exception of wireline cellular licensees, licensees may provide service to the public after completing construction, without a separate service test phase. *See NPRM,* 47 FR 43842 at 43870, 95 FCC 2d at 774 and case cited therein. *See also Miami CGSA, Inc.,* Mimeo 4507, released May 31, 1984, at paras. 18-21. We are also clarifying § 22.212 to eliminate the reference to service tests because a separate service test section is no longer necessary.

5. Fisher, Wayland, Cooper and Leader (Fisher) state that the new procedures will deprive licensees from having licenses with up-to-date information about their facilities. Instead, licensees would have to store copies of filed Forms 489's to possess accurate information. They argue that the Commission should at least provide

[1] The term "central office station" has relevance to licensing in the Rural Radio Service and will be retained in the definitions section.

ready access to its data base, with certified printouts of licensing information, so licensees could obtain documentary evidence of the current status of their licenses in order to correct errors on a timely basis if any occur. Wilkie, Farr and Gallagher agree that the Commission should provide licensees with a ready means of access to current license information as reflected in the Commission's data base.

6. We believe our new application procedures are more efficient than the ones we had in the past. By eliminating the two-step application process we have simplified the licensing procedures and assured that applicants will be able to go on the air expeditiously.[3] If we were to issue modified authorizations each time a Form 489 were filed, the delays and complications that this simplified process was intended to eliminate would be reintroduced. Accordingly, we will not issue a new authorization upon receiving a Form 489.[3] The engineering data from these notifications will be entered into our data base, however, and when a new authorization is issued for an affected station for other reasons (such as renewal, the addition of frequencies, or other major changes) the revised information will be reflected in the authorization.[4]

7. *Permissive Changes or Minor Modifications of Authorization, § 22.9(d).* In response to the comments we are clarifying § 22.9(d) adding other categories of minor modifications or permissive changes (those not requiring prior authorization) which were inadvertently omitted from the rule: Addition of transmitters pursuant to § 22.117(b); the filing of Form 489 to return the license to its original specifications when a partial assignment is not completed; requests for extensions of time to complete construction; and reinstatements of authorizations submitted within 30 days after the expiration of the authorization. Reinstatements are requested when the licensee fails to request an extension of time to complete construction and the license expires or licensee fails to timely file a renewal application.[5] We are also amending § 22.9 to modify a section that has created the potential for interference for instance, making engineering studies more difficult. Section 22.9(d)(5) permitted licensees to perform engineering changes by notification that would either decrease their service contours or increase them by no more than one mile. The increase of a licensee's service contours by even one mile, however, can affect the engineering of other co-channel licensees and applicants. We conclude that, while minor, any small increase in service contours of a station in the Public Land Mobile Service should be the subject of an application rather than a notification; the grant of such an application will be placed on public notice to inform others of the engineering change.[6] *See* § 22.23(c)(2). Licensees are required to notify us of any minor modifications or permissive changes on a Form 489 no later than the date they start providing service on the modified facilities.

8. We take this opportunity to clarify permissive changes for the Cellular Radio Service. In the cellular service the protected service area is the Cellular Geographic Service Area or CGSA.[7] *See Cellular Communications Systems,* 86 FCC 2d 469 (1981), *modified,* 89 FCC 2d 58 (1982), *further modified,* 90 FCC 2d 571 (1982), *appeal dismissed sub nom.* U.S. v. FCC, No. 82–1526 (D.C. Cir. March 3, 1983); *recon. denied,* 56 RR 2d 1583, FCC 84–416, CC Docket No. 70–318 released October 19, 1984 (*Memorandum Opinion and Order*). Facility changes or engineering modifications which do not increase the CGSA are considered permissive, and therefore require only notification, as long as the resultant 39 dBu contours of each cell remain within the authorized CGSA. For example, adding transmitter locations under § 22.117(b) does not require prior authorization. In addition, a change in or an addition of a radio frequency to a cellular system is a permissive change. *See generally* Public Notice, Major, Minor, and Permissive Changes to Authorized Cellular Radio Systems, Report No. CL–175, released November 23, 1984.

9. *Interference studies, § 22.15(b).* We revised this rule, adding language requiring that the co-channel interference studies be concluded within 60 days prior to the filing of the application. We also corrected the minimum mileage separation standard which requires an interference study for paging stations. Finally, we did not require that the supporting data and calculations be furnished with the application but rather be made available upon request.

10. Jubon filed a petition for reconsideration of this rule section. Jubon suggests that a list of all co-channel stations within 125 miles be prepared and in addition that those beyond the scope of §§ 22.502 and 22.503 be studied to determine whether they operate under a waiver of the height and power limits set in § 22.505.[8] Our experience indicates that, if the proposed station is not accompanied by a request for a height-power waiver, the probability of harmful co-channel interference at distances greater than the range in §§ 22.502 and 22.503 is extremely rare. Furthermore, the area required to be studied, and therefore, the burden on applicants in compiling such a list, would be more than doubled. We think, on balance, these more exhaustive engineering studies are not justified.

11. With respect to proposed stations which request a height-power waiver only along one or more specific radials (but not in general), Jubon suggests that the potentially interfered-with co-channel station(s) be studied to a distance of 125 miles on a continuous arc lying 45° to either side of the affected radials. Section 22.15(b)(1)(ii) provides that only those directions in which the proposed station exceeds the

[1] We have amended § 22.27 creating an exception to the public notice requirements for requests for developmental authorizations (subpart F of Part 22), when no waiver of § 22.404(d) is requested (no service to the public is proposed). This is a rule of practice and procedure and is therefore exempt from the notice requirements pursuant to section 553(b) of the Administrative Procedure Act, 5 U.S.C. 553(b). Moreover, a request for authority for purely technical testing purposes not entailing the provision of any communications service to the public is not subject to the public notice provision of 47 U.S.C. 309(b), because it does not involve an application for an instrument of authorization for common carrier service. *See* MCI Cellular Telephone Company, FCC 84–53, released February 24, 1984, where we stated our intention to amend this rule.

[3] Licensees should retain copies of the Form 489 notifications as evidence of authorization, until a revised authorization is issued when subsequent major applications are granted, as described below.

[4] We note that the Commission has adopted a *Report and Order* that will allow the public access to its data base through a contractor to be supervised by the National Technical Information Services. *See* Allowing the Public Direct Remote Access to Commission Computer Data Bases, Gen. Docket No. 83–483, FCC 84–387, released August 23, 1984.

[5] Previously we listed changes in emissions as minor modifications. We have further refined our rules on emissions and find the minor modification classification is no longer needed. *See* discussion of § 22.104(a), *infra.*

[6] Goetz E. Mendelson seeks clarification of the phrase "within a year of the license grant" in § 22.13(f)(1). License grant means the grant date specified on the authorization issued to applicants, which includes a one year construction period within which the licensee must procure state certification. The one year limit of course does not apply to cellular licensees since they have three years to construct.

[7] Changes which result in an increase in the CGSA or the extension of any 39 dBu contour outside the presently authorized CGSA, are major modifications pursuant to § 22.23(c)(3). These changes have to be filed on FCC Form 401 and require prior authorization. See § 22.903(d).

[8] Section 22.505 provides limitations on the combination of effective radiated power and antenna height above average terrain.

height-power limits need be studied to that distance.[9] Indeed, these directions might include a 45° arc. Jubon has not persuaded us, however, that the probability of interference is sufficiently high to warrant the routine imposition of this additional burden on applicants.

12. The supplement to §§ 22.502 and 22.503 suggested by Jubon, prescribing indicated engineering action on stations operating under a waiver of the height-power limits set in § 22.505, does remove an ambiguity in these sections. We are incorporating it into the rules. Therefore any station with an antenna height more than 500 feet above average terrain, but with an effective radiated power within the limits prescribed in § 22.505 shall be considered a Class A station. Section 22.502(b). Any other station is considered to constitute a special case requiring an interference study toward any co-channel facility within 125 miles. We also welcome Jubon's suggestion that § 22.905 (cellular) comport with § 22.505 (non-cellular) in representing height-power station limits in a tabular rather than analog format. We have amended this rule accordingly.

13. *Topographic Maps, § 22.15(j)(8).* We eliminated the requirement that applicants submit topographic maps as part of the application, requiring instead that they be retained as part of the business records to be made available to the staff upon request.[10] We conformed this section to § 22.115(c)(2) allowing the use of computerized terrain data for the computation of average terrain elevations.

14. Hatfield & Dawson (Hatfield) and Maxcell Telecom Plus, Inc. (Maxcell) seek reconsideration of that part of the order specifying the computerized data to be used for the computation of average terrain elevations. Specifically, they disagree with the rules in various services (i.e., private and common carrier land mobile systems) that require use of different specific sources of digitized data [11] and request that the Commission adopt a uniform standard.

15. In a separate proceeding, the Commission has now established uniform procedures for using digitized terrain data when determining antenna's height above average terrain. *See Standardized Use of Digitized Terrain Data for HAAT Calculations*, General Docket No. 84-705, FCC 84-594, released December 10, 1984. Since the concerns raised by Hatfield and Maxcell have now been fully addressed by the Commission, their petitions in this respect are now moot.

16. *Need showing for fill-in transmitters, § 22.16.* In response to questions from the public, we have added § 22.16(e) to make clear that no need study is required for fill-in transmitters for existing stations, where the coverage of the fill-in transmitters is at least 50 percent covered by existing transmitters. *See* Public Notice #002411, July 27, 1981.

17. *Major Amendments, § 22.23(c).* We revised this rule which lists the categories of major amendments by eliminating various categories listed in the old rules. Kadison, Pfaelzer, Woodard, Quinn & Rossi (Kadison) in a petition for partial reconsideration request that language eliminated from § 22.23(c)(4) be reinserted. This subsection classified as a major amendment a substantial change in beneficial ownership or control. Kadison asserts the language in the new rule is ambiguous and the phrase "such that a change would require in the case of an authorized station the filing of a prior assignment or transfer of control application" should be added. In the alternative, Kadison argues, it should be made clear that the change was a mere simplification not intended to change the meaning of the rule. Wilkie, Farr & Gallagher support Kadison, asserting that the criteria of section 310(d) of the Communications Act still apply to this rule.

18. Kadison has not demonstrated that the rule is ambiguous or that it is necessary to add the suggested language. We emphasize, however, that section 310(d) of the Communications Act governs changes in ownership or control and that we did not intend to change the meaning of the old rule but merely to simplify it.

19. *Informal Objections, § 22.30 (b) and (c).* We eliminated the rule allowing informal objections to applications to be filed. Kadison objects to not allowing informal objections to be filed against applications, stating that the 30 day deadline for formal petitions is unduly burdensome. Furthermore, according to Kadison, this is contrary to section 309(d)(i) of the Communications Act and contrary to the public interest.

20. We rejected similar contentions filed by Kadison in the *Report and Order* revising Part 22. *See* 95 FCC 2d at 796. We have not been persuaded now that our original decision was incorrect and we will deny Kadison's request. As we stated before, in the past the rule permitting informal objections has caused delays in the processing of applications. The staff spends approximately the same amount of time resolving informal objections as they spend on formal objections. The consideration given to these objections is often not materially different from the consideration given to formal objections. We continue to believe that it is not unreasonable nor unduly burdensome to require that objections be presented consistent with the requirements of Part 1 of the rules. Moreover, we disagree with Kadison that our action violates section 309(d)(1) of the Act. This section provides that the Commission may prescribe a time limit for filing petitions to deny any application, ". . . no less than thirty days following the issuance of public notice by the Commission of the acceptance for filing of such applications . . . ." 47 U.S.C. 309(d)(1). By limiting filings to petitions to deny we are in fact complying with the provisions of the Act.[12]

12. *Additional Frequencies, § 22.31(e).* We added a new section which provides that when an applicant requests a frequency which is mutually exclusive with another application, it cannot in the same application request additional frequencies which are not mutually exclusive with the first application. The additional frequencies must be applied for in a separate application.

22. Kadison alleges that this rule may create unnecessary problems. Applications could be dismissed for failure to comply with the rule because a public notice announcing a mutually exclusive application may be released between the time when a frequency search is completed and when the application is actually filed. It would make more sense, according to Kadison, to require a frequency search study to be made with data that is current within 60 days prior to the application being filed. If mutual exclusivity arises after the date of the *study* an applicant could amend, without penalty, to sever its frequency requests. Telocator Network of America (Telocator) agrees with Kadison and adds that § 22.15 should be

[9] We are amending § 22.15(b)(1)(ii) to make clear our intent that the combination of effective radiated power and antenna height above average terrain of the proposed station is the factor triggering the need for a 125-mile search.

[10] We are making an editorial change to § 22.15(j)(8)(iv) to correct a typographical mistake.

[11] Section 22.115(c) permits use of elevation data supplied by the National Geophysical Data Center (NGDC), while § 90.309(a)(4) allows use of digital terrain data tapes provided by the National Cartographic Information Center (NCIC), U.S. Geological Survey.

[12] We recognize that the Commission may, under the public interest standard, consider any other materials properly before it in acting on applications. Objections not in the form of a petition to deny, however, do not give rise to the right to a "concise statement of reasons" guaranteed to a petitioner. *See* 47 U.S.C. 309(d)(2). An interested person submitting information in a manner not consistent with the Rules, therefore, foregoes the right to a statement of reasons for any action taken.

amended to permit acceptance of applications if the engineering certification predates public notice of the acceptance of an earlier application for a mutually exclusive frequency. Fisher states the Commission's goals could be achieved by requiring applicants to divide their station requests by amendment when notified to do so by the Commission. According to Fisher, this would ease administrative burdens without subjecting applicants to the extreme jeopardy of dismissal created by the new rules.

23. We do not agree with the commenters. We believe our standard is less burdensome for applicants as well as more administratively efficient. The comments in this proceeding convinced us that some standard was necessary, since the rule as proposed did not contain one. We therefore added an objective test: If the first application has been placed on public notice, the second applicant is charged with constructive knowledge and must request additional frequencies in separate applications. Any nonconforming application will be dismissed in its entirety. If, however, the first application has not appeared on Public Notice at the time the second application is filed, we will assume that the second application was filed without notice of the mutually exclusive application. In such cases (expected to be few), we will permit the second applicant to sever its mutually exclusive portion *nunc pro tunc*. *See* 95 FCC 2d at 798. We have not been persuaded by the comments that the rule need be changed or that the tests proposed by the commenters are better than the one already adopted.

24. *Period of Construction, § 22.43.* We revised this rule and established 12 months as the period for construction in services other than the cellular radio service. We stated that we would rely on the grant date printed on the authorization for consistency and uniformity in determining the period of construction and other time limits. Generally, the applicant receives the authorization before the action is placed on public notice. We also stated that occasional administrative problems could delay issuance of the authorization beyond the public notice date. We also adopted rules concerning extensions of time to complete construction.

25. Kadison objects to using the date printed on the authorization as the date of license grant. Station authorizations, according to Kadison, are generally received subsequent to the release of the public notice announcing the grant and the date of the authorization generally antedates the public notice by several weeks. Kadison asserts that companies make business decisions based on deadlines, yet under the procedures in the new rules the construction deadline is usually not known for some time after the construction period has begun. Kadison argues that the date the grant is placed on public notice should be the date from which the one year construction period as well as the 90 day period in § 22.43(b) (regarding a demonstration of due diligence) are calculated.

26. We believe that as a general matter it is less burdensome for both the public and the staff to use the date printed on the license as opposed to the alternatives recommended by Kadison. The licensee, upon receiving an authorization, is on clear notice of the grant date and construction deadline. Administratively, to establish the public notice date as the grant date could result in a substantial delay in the issuance of authorizations.[13] We disagree with Kadison that this is unfair from a business perspective. The licensee is free to act in reliance on the announcement of a grant in a public notice. In view of the above, we deny reconsideration of this rule.[14]

27. *License Period, § 22.45.* We amended the rules to provide a ten year license period and establish some new renewal dates. Kadison offers an alternative to the processing problem which now occurs since so many renewal applications are due to be filed at the same time. It suggests that a filing period between 30 to 60 or up to 120 days prior to expiration should be established to relieve burdens on applicants and the Commission.

28. We do not think it necessary to establish this filing window. In the past we have handled renewals without major administrative burdens. Moreover, renewals occur only every 10 years. We believe that requiring all renewals for a particular service at the same time is more efficient and less burdensome. We are however, amending this rule to clarify that the renewals in the same service will in fact all occur at the same time.

29. *Emission types, § 22.104.* We amended this rule to permit routine approval of digital emissions. Recently this rule was amended to incorporate new emission designators to implement the Final Acts of the 1979 World Administrative Radio Conference, Geneva, Amendment of Part 2 to Implement 1979 WARC, General Docket No. 80-739, FCC 84-510, released November 27, 1984. We are further clarifying this rule to state that all emissions listed in this section will be automatically included in radio station authorizations, provided the applicant is employing type accepted equipment. However, requests for emissions other than the ones listed in this section will require prior authorization and shall be filed on FCC Form 401.[15] We also made minor editorial changes to subsection (a)(3)(i), previously (a)(2)(i).[16]

30. *Transmitter Power, § 22.107.* We deleted portions of this rule which had become obsolete through developments in technology. Also, we eliminated references to maximum power output authorized for transmitters, requesting instead rated power output as a means of computing effective radiated power (ERP).

31. Jubon suggests the rule be modified because there appears to be no basis for the rule as it applies to standby base stations. Furthermore, the rule should be changed to conform it with § 22.117(b) (additional transmitters), according to Jubon.

32. We agree with Jubon that the rule needs to be modified, but not precisely as requested by Jubon. We are changing the title of this section to "Standby Facilities". We are providing that standby facilities will be authorized when the resultant reliable service area and interference contour do not exceed those of the facilities which are being replaced.

33. *Transmitters, § 22.117.* We made various changes to this rule; in subsection (a) we kept language concerning location of transmitters and eliminated the language concerning engineering considerations to be used in selecting transmitter sites. Also, in subsection (b) we provided that additional transmitter locations may be constructed without prior authorization, as long as the Commission is notified (FCC Form 489), and the authorized service area is not increased in any direction.

34. We do believe that this rule needs clarification *vis a vis* cellular service as a result of questions from members of the public and our own experience

[13] The additional delay would be caused by the need to update the licensing data base after the public notice has been issued.

[14] We have effected minor changes to §§ 22.43 and 22.44 to clarify when extensions of time to complete construction and reinstatement applications may be filed.

[15] As a result of the changes we have made here we eliminated § 22.9(d)(1) which provided that changes in or additional authorized emission were minor modifications to be filed on an FCC Form 489.

[16] Because certain sub-sections of § 22.103 (standards governing use of 72-76 MHz band) were consolidated into 22.501(f), we believe this rule is no longer necessary and has been deleted.

applying the rule. As we stated in the discussion of § 22.9(d) and in response to repeated questioning from members of the public as to the rules applicability, we repeat, this section applies to the cellular service as long as the 39 dBu contours of each cell remain within the CGSA. *See* 22.9(d). This section allows construction and operation of additional transmitter locations merely by notifying the Commission. We emphasize however, that if the notification given by the licensee is not sufficient, or if the licensee's proposal is not in fact encompassed or allowed by this rule, the licensee must cease operation of the transmitter immediately upon the discovery of noncompliance or notification by the Commission.[17]

35. In addition, our experience with the rule has demonstrated the need for the licensees to certify that the reliable service area contour and predicted interference contour of the proposed station are totally encompassed within the reliable service area contour and predicted interference contour of the existing station. In the case of cellular service, the licensee certifies that the 39 dBu contours of each cell remain within the CGSA. In addition, this certification must include the following information: Licensees must provide a complete location description including geographic coordinates of the proposed facilities, submit a table of engineering specifications showing effective radiated power (ERP), radiation center height above average terrain for the eight radials, and an antenna sketch. This is necessary in order to provide appropriate protection to the new location in the future.[18]

36. Rule § 22.117(b)(3) states that FAA approval must have been obtained and clearance granted before filing Form 489. If FAA clearance has not been granted a Form 401 must be filed for prior approval before construction and operation. Section 22.117(b) will always be applicable to antenna structures not exceeding 20 feet in height, or antennas mounted on existing structures, if the height of the overall structure is not increased (these do not require FAA clearance). If the application involves an existing tower the licensee must also submit marking and lighting specifications from Forms 715 and/or 715a in order that future authorizations will reflect this accurately. In addition, § 22.117(b) applies only to stations on the United Sates side of line A and C as defined in § 1.955; otherwise prior Commission approval is required and the licensee must file a Form 401. Licensees must always comply with the requirements of Part 17.[19]

37. *Incidental Communications Services, § 22.308.* We adopted a rule stating the general conditions under which incidental communication services may be provided. AMCOM, Inc. filed a petition for reconsideration [20] alleging it will be adversely affected by this rule which allows Public Land Mobile licensees to provide service to vessels and eliminates the restriction (§ 22.509(b), (c)) which precluded these licensees from rendering service to stations on board vessels in areas served by VHF public coast stations, such as those operated by AMCOM. AMCOM alleges the Commission should give reciprocal authority to maritime carriers to serve vehicular traffic. The Commission's actions, according to AMCOM , will drain its customer base while not permitting it to replenish its subscriber base by offering service to non-maritime parties. AMCOM states that the issue of expanded Pubic Land Mobile Service was directly raised in the General Docket No. 81-656 proceeding, *Redefinition of Classes of Coast Stations*, FCC 83-5, released January 19, 1983, and deferred to this Part 22 rewrite proceeding and that by failing to mention the comments filed in the General Docket 81-656 proceeding in the Rewrite of Part 22 proceeding, the Commission violated the Administrative Procedure Act § 553(c). Moreover, according to AMCOM the Commission also erred in its findings that any amendments to the rules concerning public coast stations were beyond the scope of the proceeding. According to AMCOM, this was part of the proceeding by virtue of the Order in the Docket 81-656 proceeding and the Commission was bound to consider the counterproposal for public coast stations.

38. Marine Telephone Co., Inc. (MTC) supports AMCOM's petition and urges the Commission to either reinstate § 22.509(b) or respond to AMCOM's petition for reconsideration by adopting rules that allow maritime carriers to compete in the land mobile market through the adoption of corresponding amendments to Parts 81 and 83 of the rules. It was improper for the Commission to expand service opportunities of land mobile carriers without removing restrictions on service by maritime carriers, according to MTC.

39. We will not reconsider our decision to permit Public Land Mobile licensees to provide service to vessels. Provision of such service was traditional before the adoption of § 22.509 (b) and (c), which were adopted to foster the development of the VHF maritime public coast station industry. We will further consider whether public coast station licensees should be permitted to offer subsidiary service to land vehicles but do not feel that the record to date either in this proceeding or in General Docket No. 81-656 *supra* adequately addresses all aspects of our concerns with respect to this issue. Accordingly, we will initiate a new proceeding to consider the proposals of AMCOM.

40. *Forms.* As part of the Part 22 Rewrite we eliminated old forms and adopted new ones. Various additional comments were filed with the petitions for reconsideration concerning the forms which have been considered and some implemented. For instance, minor typographical errors or corrections have been noted. Other more substantive comments have been submitted.[21] No new evidence has been presented to persuade us to depart from our original conclusions. Accordingly, we will not revise our forms any further.

41. *Waiver of Frequency Allocation, § 22.501(n).* Various parties filed partial petitions for reconsideration of the interim policies adopted for filing of applications during the pendency of the rulemaking on elimination of the separate frequency allocation. We considered and denied these petitions in the rulemaking dealing with elimination of the separate frequency allocation. *See*

[17] The additional transmitters are considered "satellites" of the main station. If there are any changes to the main station which would change the status of the "satellite" (for instance, deletion of the main station or change in technical parameters), such changes require prior approval (filing of FCC Form 401).

[18] This rule does not apply to stations using 43 MHz band frequencies. They need developmental grants for additional transmitters.

[19] If a licensee needs a waiver of a Commission rule for construction and operation of the additional transmitter, this will require prior Commission approval before construction and operation. A licensee may not presume the grant of a waiver and go into operation upon notification.

[20] AMCOM also filed a request for stay of the effectiveness of § 22.308 alleging the Commission's action will cause it irreparable injury. Because of our decision here we are denying AMCOM's request for stay.

[21] In the Report and Order we rejected AT&T's proposal that the rules routinely allow experimental market trials. *See* 95 FCC 2d at 820. Even though the Commission has authorized limited market studies in the experimental radio services, we are not persuaded that the same should be authorized routinely in the developmental services. Developmental service should constitute, with few exceptions, technical tests. Applicants wishing to provide service to the public under a developmental authorization should request a waiver of the rule, and their applications will be subject to public notice. Market trials, therefore, should only be authorized when adequately justified and approved by the Commission. 95 FCC 2d at 820.

Elimination of the Separate Frequency Allocation, 99 FCC 2d 311 (1984).

42. The following amendments which clarify our rules are non-substantive, therefore, the notice and comment provisions of the Administrative Procedure Act are inapplicable. *See* 5 U.S.C. 553. These amendments are: Sections 22.2; 22.9(b); 22.13(f)(1); 22.15(j)(8)(iv); 22.15(b)(1)(ii); 22.43(c); 22.45; 22.101(a); 22.110; 22.113(b)(1) (ii) (iii) and (iv); 22.505; 22.515; 22.525; 22.601; 22.906(a)–(c) and 22.1006.

43. Additionally, while we also believe the remaining alterations are non-substantive, they are arguably substantive. Nevertheless, we believe good cause exists for dispensing with the APA's requirements. The rule changes throughout this proceeding respond to our policy of eliminating unnecessary government regulation and easing burdens for the public where possible. Similarly, these minor changes ease burdens on our licensees and eliminate duplicative or unnecessary rules. We have also clarified the language of certain rules which we felt were not clear enough. In light of the generally beneficial and non-controversial nature of these rule changes, notice and public comment on these changes is unnecessary and not in the public interest. These rule changes are: §§ 22.9(b); 22.15(b)(1)(ii); 22.16(e); 22.27; 22.43(a)(b); 22.44(a); 22.100(e)(f), (g)(3)(4); 22.103; 22.104(a)(1)–(3); 22.107; 22.117; 22.201(b); 22.208; 22.212; 22.501(f)(i); 22.600; 22.906(d); 22.1002.

44. Accordingly, it is ordered, that the petitions for reconsideration filed in CC Docket No. 80–57 are granted to the extent indicated herein and otherwise denied.

45. It is further ordered, that pursuant to the authority found in section 154(i), 301 and 303(r) of the Communications Act of 1934, as amended, Part 22 of the Commission's Rules and Regulations are amended as specified in Appendix B. These amendments shall become effective September 9, 1985.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

List of Parties Filing Petitions for Reconsideration:

AMCOM, INC. (Accompanied by a Petition for Stay)
Kadison, Pfaelzer, Woodard, Quinn & Rossi (Petition for Partial Reconsideration & Supplement Thereto)
Fisher, Wayland, Cooper and Leader (Petition for Partial Reconsideration)
Jubon Engineering Inc., (Petition for Reconsideration & Declaratory Ruling and Supplement Thereto)
Hatfield & Dawson, Consulting Engineers
T-Com, Inc. (Petition for Partial Reconsideration)
Schwartz, Woods & Miller
TDS, Telephone & Data Systems, Inc.

The following letters have also been treated as formal comments:

Becker, Gurman, Lukas, Myers, O'Brien & McGowan, P.C., dated January 17, 1984.
Goldberg & Spector, dated February 2, 1984.
Proskauer Rose Goetz & Mendelsohn, dated January 19, 1984.

Replies:

Telocator Network of America
Shwartz, Woods & Miller
Airphone Company, Inc., Answer, Inc. of San Antonio, Associated Telephone Answering Services System, Inc., Gencom Incorporated, Electronic Engineering Company, Emerald Communications Company, Kelley's Tele-Communications, Inc., Metro Fone Communications, Inc., Omni Communications, and Pacific Paging, Inc.
Wilkie, Farr & Gallagher
Hatfield & Dawson, Consulting Engineers
Maxcell Telecom Plus, Inc.
Marine Telephone Company, Inc.

Appendix B

PART 22—[AMENDED]

47 CFR Part 22 is amended as follows:

1. The authority citation for Part 22 continues to read as follows:

Secs. 4, 303, 48 Stat. 1066, 1082, as amended (47 U.S.C. 154,303), Sec. 553 of the Administrative Procedure Act (5 U.S.C. 553), unless otherwise noted.

1a. Section 22.2 is amended by removing the term and definition "central office" and revising the definition of Cellular Geographic Service Area to read as follows:

§ 22.2 Definitions

* * * * *

Cellular Geographic Service Area. The geographic area served by a cellular system within which the licensee is authorized to provide service.

* * * * *

2. Section 22.9 is amended by revising the heading, paragraphs (b)(1) and (d) to read as follows:

§ 22.9 Standard application forms and Permissive Changes or Minor Modifications for Public Land Mobile, Rural Radio, Domestic Public Cellular Radio Telecommunications, and Offshore Radio Services.

* * * * *

(b) *Notification of status of Facilities (FCC Form 489).* (1) When construction has been completed, in accordance with the radio station authorization the licensee shall so notify the Commission, using Form 489. The Form 489 must be filed no later than the date on which the licensee commences service to the public. When a licensee has not completed construction in accordance with the provisions of § 22.43 of this part, a timely application for extension (FCC Form 489) must be filed.

* * * * *

(d) *Permissive Changes or Minor modifications of authorization*

The following changes do not require prior Commission authorization but merely notification. A Form 489 must be filed to notify of any permissive change no later than date on which the station starts operating with the modifications.

(1) Request to delete or change antenna obstruction markings;

(2) Change in points of communications (Rural Radio Service);

(3) Correction of coordinates, provided it is not a major amendment under § 22.23(c);

(4) Construction and operation of additional transmitter locations on the same frequency as allowed under § 22.117(b);

(5) Return of a license to its original specifications if a partial assignment is not timely completed. Section 22.39(b)(5) (iii).

(6) Extension of time to complete construction. Section 22.43(b).

(7) Requests for reinstatements of authorizations if filed within 30 days after expiration. Section 22.44(a)(2).

(8) *Cellular Radio Service.* The items listed above, excluding (a)(2), apply to the cellular radio service. In addition, in the cellular service the following are considered permissive changes:

(i) A change in or addition of a radio frequency.

(ii) Engineering changes or amendments to base station facilities, enlarging the reliable service area by more than one mile along any of the eight radials, as long as the composite 39 dBu contours remain totally within the cellular geographic service area.

3. Section 22.13 is amended by revising paragraph (e) to read as follows:

§ 22.13 General application requirements

* * * * *

(e) All applicants are required to indicate at the time their application is filed whether or not a Commission grant of the application would be a "major action" as defined by § 1.1305 of the Commission's Rules. If answered affirmatively, the requisite environmental statement as prescribed in § 1.134 must be filed with the application.

* * * * *

4. Section 22.15 is amended by revising paragraphs (b)(1)(ii) and (j)(8)(iv) to read as follows:

§ 22.15 Technical content of applications.

* * * * *

(b)(1) * * *

(ii) 125 miles along any radial direction where the combination of effective radiated power in that direction and antenna height above average terrain in that direction for the proposed station exceeds the limit that is computed by applying the provisions of § 22.505 to that direction.

* * * * *

(j)(8) * * *

(iv) Drawn on a U.S. Geological Survey topographical map with a scale of 1:24,000 (7½ minute map)

5. Section 22.16 is amended by adding a new paragraph (e) to read as follows:

§ 22.16 Objective Need Standards.

* * * * *

(e) An application for an additional location on the same frequency as an authorized station will be considered as a "fill-in", and no loading study will be needed, if the reliable service area contour of the proposed transmitter is at least 50% encompassed by the reliable service area contour of another non "fill-in" transmitter(s) on the same frequency.

6. Section 22.23 is amended by revising paragraphs (c)(4) and (g), to read as follows:

§ 22.23 Amendment of Applications. (See also § 22.918)

* * * * *

(c) * * *

(4) *Changes in ownership or control.* If the amendment specifies a substantial change in beneficial ownership or control (*de jure* or *de facto*) of an applicant. *Provided, however,* such a change would not be considered major if it is unvoluntary or where it merely amends an application for modification of an authorized station to reflect a change in ownership or control that has previously been approved by the Commission.

* * * * *

(g) An application will be considered to be a newly filed application if it is amended by a major amendment (as defined in this section), except in the following circumstances:

* * * * *

7. Section 22.27 is amended by adding paragraph (c)(5) to read as follows:

§ 22.27 Public Notice period.

* * * * *

(c) * * *

(5) For developmental authorizations under Subpart F of this Part (§§ 22.400–22.406), when no waiver of § 22.404(d) is requested (no service to the public is proposed);

* * * * *

8. Section 22.43 is amended by revising paragraphs (a)(2), (a)(3), (b)(1) and (c) to read as follows:

§ 22.43 Period of construction.

(a)(1) * * *

(2) The station must be completed and ready for operation, as shown by commencement of service within 12 months after the grant of the radio station authorization. In the case of offshore telephone stations, the period shall be 18 months.

(3) If construction is not completed within the time period set forth in this rule or if the extension of time to complete construction is not timely requested the authorization for the unconstructed facility will automatically expire. Within 30 days after the authorization expires an extension of time and reinstatement request may be filed on Form 489.

(b) *Extension of Time to Complete Construction.*—(1) *General rule.* Application for extension of time to complete construction may be made on FCC Form 489. Extension of time must be filed prior to the expiration of the construction period. Extensions will be granted only if the licensee shows that the failure to complete construction is due to causes beyond his control. No extensions will be granted for delays caused by lack of financing, lack of site availability, for the transfer of an authorization, or for failure to timely order equipment. If the licensee orders equipment within 90 days of the license grant, a presumption of due diligence is created.

* * * * *

(c) *Cellular base stations.* Cellular base stations, which will provide coverage over 75% of the cellular geographic service area, as defined in § 22.903 of these rules, shall be completed and the station ready for operation within 36 months from the date the radio station authorization is granted.

9. Section 22.44 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 22.44 Termination of authorization.

(a)(1) All authorizations shall terminate on the date specified on the authorization or on the date specified by these rules unless an application for renewal or reinstatement is timely filed.

(2) If no application for renewal has been made before the authorization's expiration date, a late application for renewal will be considered only if it is filed within 30 days of the expiration date and shows that the failure to file a timely application was due to causes beyond the applicant's control. During this 30 day period reinstatement applications must be filed on Form 489. Service to subscribers need not be suspended while a late filed renewal application is pending, but such service shall be without prejudice to Commission action on the renewal application and any related sanctions.

* * * * *

10. Section 22.45 is revised to read as follows:

§ 22.45 License period.

(a) Licenses will be granted for 10 years. When a date is specified in paragraph (b), of this section, the license will be valid until that date in the year of expiration. When the Commission determines the public interest, convenience or necessity would be served by a shorter license period, the license will be granted for such period.

(b) *License Termination.* Station licenses will expire on the dates listed below, in the year of expiration:

Public Land Mobile (radio common carriers)—Apr. 1
Public Land Mobile (wireline common carriers)—July 1
Offshore Telephone—Aug. 1
Public Land Mobile (air-ground base stations)—Sept. 1
Rural Radio—Nov. 1
Cellular Radio—Oct. 1

§ 22.100 [Amended]

11. Section 22.100 is amended by removing and reserving paragraph (e) and removing paragraphs (g) and (h).

* * * * *

(e) [Reserved]

12. Section 22.101 is amended by revising paragraph (a) to read as follows:

§ 22.101 Frequency Tolerance.

(a) *Tolerance.* The carrier frequency of each transmitter shall be maintained within the following tolerances from the assigned frequencies:

Frequency range (MHz)	Frequency Tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.0005	.0005
821 to 896	.00015	.00025	.00025
928 to 929	.0005		
929 to 932	.00015		
959 to 960	.00015		
2110 to 2220	.001		

* * * * *

§ 22.103 [Removed and reserved]

13. Section 22.103 is removed and reserved.

14. Section 22.104 is amended by revising paragraphs (a)(1) and (a)(3)(i) to read as follows:

§ 22.104 Emission types.

(a)(1) *General.* Authorizations for stations in the public land mobile, rural radio, and offshore radio services will include the following emissions: F1 D, F1 E, F2 D, F3 C and F3 E; and all equipment employing these emissions shall be type accepted. Requests for emissions other than the one listed in this section require prior authorization.

* * * * *

(3) * * *

(i) The application shall describe fully the modulation characteristics, emission and occupied bandwidth, and specify the center frequency of the emitted bandwidth for each channel, carrier frequency (though suppressed), and pilot frequencies, if any. All center frequencies shall fall within the authorized bandwidth of emission as defined in Section 507. The authorized bandwidth of emission shall be centered on an assignable frequency in §§ 22.501, 22.601 and 22.1001. The total of the out-of-band emissions shall meet the requirements of § 22.106, assuming an FM transmitter with an output power equal to the sum of all ASSB output powers in the authorized bandwidth.

* * * * *

15. Section 22.107 is revised to read as follows:

§ 22.107 Standby Facilities.

(a) *Base.* Standby facilities for base stations will be authorized when the resultant reliable service area and interference contour(s) do not exceed those of the facilities which are being replaced.

(b) *Control-Repeater.* Standby control facilities will be authorized subject to non-interference to other users.

16. Section 22.110 is amended by revising paragraph (d) to read as follows:

§ 22.110 Antenna polarization.

* * * * *

(d) Above 960 MHz. Public Land Mobile stations operating above 960 MHz are not limited as to the type of polarization.

§ 22.113 [Amended]

17. Section 22.113 is amended by removing the number "376.7 =" from footnote 1 after the table in paragraph (b), and removing the word "plan" and inserting in its place "plane" in paragraphs (b)(1)(ii), (b)(1)(iii), and (b)(1)(iv), and inserting the number "377" in place of the number "120" in paragraph (c)(1).

18. Section 22.115 is amended by revising paragraphs (a)(2)(i) and (a)(3) to read as follows:

§ 22.115 Topographic Data.

(a) * * *

(2) *Co-Channel or adjacent stations.* (i) Additional radials shall be drawn to co-channel stations within distances specified in §§ 22.502 and 22.503.

* * * * *

(3) *Foreign territory or water.* When a portion of the 2 to 10 mile radial extends over foreign territory or water, such portion shall not be included on the profile graphs or in the computation of average elevation unless the radial passes over United States land between 10 and 83 miles of the station.

* * * * *

19. Section 22.117 is amended by revising paragraph (b) to read as follows:

§ 22.117 Transmitters.

* * * * *

(b) *Additional transmitters.* Licensees may construct and operate additional transmitter locations on the same frequency without obtaining prior Commission approval, provided:

(1) The Commission is notified of the new transmitter(s), through the filing of a Form 489. The Form 489 shall include a certification that the reliable service area contour and predicted interference contour of the proposed station are totally encompassed within the reliable service area contour and predicted interference contour of the existing station(s). The currently authorized reliable service area contour and predicted interference contour of the station or other commonly owned stations are not enlarged in any direction. Cellular licensees certify that the 39 dBu contours of each cell remain within the CGSA.

(i) In addition, licensees must provide a complete location description including geographic coordinates of the proposed facilities, submit a table of engineering specifications showing effective radiated power (ERP), radiation center height above average terrain for the eight radials, and an antenna sketch.

(ii) Licensees must retain a copy of a completed table MOB III found in FCC Form 401 as part of the licensees' records and this shall be made available to the Commission's staff upon request.

(2) The station must be on the United States side of lines A and C as defined in § 1.955 of this chapter.

(3) Full FAA approval has been obtained. The notification shall state that such clearance has been granted; or if it is a new antenna structure it does not exceed 20 feet high, or if on an existing structure the overall height of the existing structure has not been raised. If it is an existing antenna tower the licensee must submit marking and lighting specifications from Forms 715 and/or 715a.

(4) The application is not a "major action" as defined by rule § 1.1305. If it is a major action, then prior approval is required, and the requirements of § 1.1311 apply.

20. Section 22.201 is amended by revising paragraph (b) to read as follows:

§ 22.201 Posting station Licenses.

* * * * *

(b) A clearly legible photocopy of the authorization for each base or fixed station shall be posted at every control point of the station.

§ 22.208 [Removed and reserved]

21. Section 22.208 is removed and reserved.

22. Section 22.212 is revised to read as follows:

§ 22.212 Tests.

All tests shall be conducted so as not to cause interference to other communication systems. The Commission reserves the right to cancel or modify the licensee's authority when the public interest so requires.

23. Section 22.501 is amended by removing paragraphs (i)(3) and (i)(4) and redesignating paragraphs (i)(5) and (i)(6) as (i)(3) and (i)(4), respectively; removing the number § 22.901(c)" and inserting the number "§ 21.901(c)" in paragraph (e), and revising paragraph (f) to read as follows:

§ 22.501 Frequencies.

* * * * *

(f) 72–76 MHz band. The following frequencies are available for assignment to public land mobile control and repeater stations on a shared basis with certain other radio services. A repeater station normally will not be authorized unless the public land mobile system with which it is associated is continuously open for public correspondence.

(1) *Protection to television on channels 4 and 5.* (i) Between 10 and 80 miles. If an applicant proposes to locate a 72–76 MHz band fixed station between 10 and 80 miles from the site of any television transmitter operating on channel 4 or 5, the applicant must agree to eliminate any harmful interference

which such operations may cause to television reception on either channel 4 or 5. If the interference cannot be eliminated within 90 days of the time the matter is first brought to the licensee's attention by the Commission, operation of the interfering fixed station shall be immediately discounted.

(ii) Less than 10 miles. Applications for use of 72–76 MHz band frequencies less than 10 miles from Channel 4 or 5 television stations will be granted developmental authority pursuant to § 22.400 *et seq.* After successful developmental testing an application for a radio station authorization must follow the requirements of § 22.501(f)(1)(i). Where the proposed transmitter is co-located with the television transmitter the application will be processed according to the 10–80 mile standard.

(2) *Power.* Effective Radiated Power shall not exceed 150 watts.

72–76 MHz Band [1]

MHz	*MHz*
72.02	72.42
72.04	
72.06	72.46
72.08	
72.10	72.50
72.12	
72.14	72.54
72.16	
72.18	72.58
72.20	
72.22	72.62
72.24	72.64
72.26	72.66
72.28	72.68
72.30	72.70
72.32	72.72
72.34	72.74
72.36	72.76
72.38	72.78
72.40	72.80
72.82	75.62
72.84	75.64
72.86	75.66
72.88	75.68
72.90	75.70
72.92	75.72
72.94	75.74
72.96	75.76
72.98	75.78
75.42	75.80
	75.82
75.46	75.84
	75.86
75.50	75.88
	75.90
75.54	75.92
	75.94
75.58	75.96
	75.98

[1] Existing stations authorized in the 73–74.6 MHz band as of December 1, 1961, may continue to operate, are not required to afford protection to the radio astronomy service and must comply with the following technical specifications:

Frequency Tolerance: .005 percent.

Frequency Deviation: ±15 KHz.

Authorized Bandwidth: 40 KHz.

Modulation Limiter: Required.

Audio Low Pass Filter: Not Required.

* * * * *

24. Section 22.502 is revised to read as follows:

§ 22.502 Classification of base stations.

(a) Base stations in the public land mobile service shall be classified according to antenna height above average terrain and effective radiated power in the relevant direction. This classification is not applicable to base stations in the frequency bands 454.6625–455.000 MHz, 459.6625–460.000 MHz, 470–512 MHz band and 929–932 MHz.

Antenna height above average terrain (feet)	Class of station				
400 to 500	C	B	B	A	A
300 to 400	C	C	B	B	A
200 to 300	D	C	C	B	B
100 to 200	D	D	C	C	B
0 to 100	E	D	D	C	C

Effective radiated power (watts)				
30	60	120	250	500

(b) Any station with antenna height more than 500 feet above average terrain, but with an effective radiated power within the limits prescribed in Rules § 22.505 shall be considered to be a Class A station. Any other station is considered to constitute a special case in which an interference study is required toward any co-channel facility within 125 miles.

25. Section 22.503 is amended by revising paragraph (a) to read as follows:

§ 22.503 Geographic Separation of co-channel stations.

(a) Except as provided in § 22.502, a co-channel interference study in accordance with § 22.15(b)(2) is not required where base stations engaged in two-way communications, employing frequency modulation or phase modulation and operating co-channel in this service, are separated by not less than the distances shown below. In all other cases, a co-channel interference study is required.

* * * * *

26. Section 22.505 is amended by revising paragraph (a)(1) and (a)(2) to read as follows:

§ 22.505 Antenna height-power limit.

(a)(1) Base stations, other than in the air-to-ground radio service and in the 470–512 MHz and the 929–932 MHz bands, with antennas more than 500 feet above average terrain shall not exceed the effective radiated power as provided in the table below.

(2) Optimum antenna placement and configuration is preferable to higher power.

Antenna height (AAT) (feet)	Effective radiated power (ERP) (watts)
500	500
550	397
600	323
700	223
800	166
900	126
1,000	98
1,250	57
1,500	37
2,000	20
2,500	13
3,000	10
3,500	9
4,000	8
5,000	7

For AAT's between the above listed values, linear interpolation should be used.

* * * * *

§ 22.515 [Amended]

27. Section 22.515 is amended by removing "408" from paragraph (a)(2) and inserting in its place "489".

28. Section 22.521 is amended by revising the following entries in the table of locations in paragraph (b) to read as follows:

§ 22.521 Air-ground Radiotelephone Service.

* * * * *

(b) * * *

Location	Channel
* * * * *	
Louisiana:	
New Orleans	3, 11
Shreveport	5
Maine: Bangor	1, 7
Minnesota:	
Duluth	2
Minneapolis	3, 11

* * * * *

§ 22.525 [Amended]

29. Section 22.525 is amended by removing from paragraph (c) the reference to § 22.503(c) and inserting in its place a reference to § 22.503(d).

30. Section 22.600 is revised to read as follows:

§ 22.600 Eligibility.

Rural central office and interoffice stations may be licensed to common carriers. Rural subscriber stations may be licensed to common carriers or to the individual user of the service. Subscriber stations which do not exceed sixty (60) watts effective radiated power and whose antenna height does not exceed the criteria in § 17.7 of this chapter, are not required to obtain a Commission license to operate. Instead,

these stations will be associated with the blanket authorization issued to the central office station or base station which serves them. All rural radio stations are required to operate in compliance with Commission regulations and may be required to cease operation for failure to so comply.

§ 22.601 [Amended]

31. Section 22.601 is amended by removing the phrase "Form 408" from paragraph (f)(8) and inserting in its place "Form 489".

32. Section 22.905 is revised to read as follows:

§ 22.905 Antenna height-power for base stations.

In view of the fact that the predominant characteristic of cellular systems is frequency reuse within a given service area, the effective radiated power of base stations with transmitting antennas in excess of 500 feet above average terrain (AAT) must be reduced below 100 watts as shown in the table below.

Antenna height (AAT) (feet)	Effective radiated power (ERP) (watts)
500	100
550	79
600	65
700	45
800	33
900	25
1,000	20
1,250	11
1,500	7
2,000	4
2,500	3
3,000 and above	2

For AAT's between the above listed values, linear interpolation should be used.

33. Section 22.906 is amended by revising paragraphs (b)(1), (b)(2), (c) and (d), to read as follows:

§ 22.906 Types of Emissions and Modulation Requirements.

(b) * * *

(1) The instantaneous frequency deviation due to the supervisory audio tones shall be ±2 KHz.

(2) The instantaneous frequency deviation due to the signalling tone shall be ±8 KHz.

(c) For the purposes of wideband data transmissions, as detailed in § 22.915, stations in this service shall normally be authorized to use type F9Y emissions. The instantaneous frequency deviation due to this wideband data input shall be ±8 KHz.

(d) Each transmitter shall be equipped with a device that automatically prevents modulation levels for voice transmissions from exceeding the limit specified in paragraph (a). The modulation levels for all other transmissions shall be maintained within ±10 percent of the specified values.

* * * * *

34. Section 22.1002 is revised to read as follows:

§ 22.1002 Power limitations:

Stations in this service will not be permitted to exceed 1000 watts effective radiated power provided, however, that the effective radiated power of mobile stations operating within 20 miles of the 3 mile limit shall be 25 watts or less. In all other areas mobile stations may operate with effective radiated power of 100 watts. The effective radiated power of airborne stations is limited to 1 watt.

35. Section 22.1006 is revised to read as follows:

§ 22.1006 Temporary fixed stations (Offshore Radio).

(a) *General.* Upon proper application (FCC Form 401, 489) for the frequencies listed in § 22.1001(a), an authorization may be issued to operate a temporary fixed station. The station shall be used for Offshore Radio service only when regular facilities are not available or when such service is disrupted by storms or emergencies.

(b) *Six-month limitation.* When a temporary fixed station is to remain at a single location for more than six months, an application for authorization as a permanent fixed station (FCC Form 401, 489) must be made at least 30 days before the end of the six month period.

(c) *International Communications.* Temporary fixed stations shall not transmit between the United States and Canada or Mexico without prior authorization from the Commission. Application for authorization shall be made at the earliest possible time to permit coordination with Canada or Mexico.

36. Part 22 is amended by removing the references to "Form 408" every time they appear in this Part and inserting in their place, reference to "Form 489".

[FR Doc. 85-18931 Filed 8-8-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

Metrication of the Rules in Parts 73 and 74; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: These corrections to the *Order* relating to Metrication of FCC Rules and Regulations Parts 73 and 74, are necessary because the original printing contained erroneous information.

FOR FURTHER INFORMATION CONTACT: Michael A. Lewis, Mass Media Bureau, (202) 632-9660

Erratum

In the matter of metrication of FCC Rules and Regulations Parts 73 and 74.

Released: July 30, 1985.

In the *Order* in the above entitled proceeding (Mimeo 4656), adopted May 17, 1985, released May 22, 1985 (50 FR 23697, June 5, 1985), the titles of Figures 9a, 10a, and 10c of 47 CFR 73.699 are incorrect.

They now read respectively.

Figure 9a, Figure 10a, Figure 10c—Estimated field strength exceeded at 50 percent of the potential receiver locations for at least 50 percent of the time at a receiving antenna height of 9 meters

They are corrected herein to read.

Figure 9a, Figure 10a, Figure 10c—Estimated field strength exceeded at 50 percent of the potential receiver locations for at least 10 percent of the time at a receiving antenna height of 9 meters

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

[FR Doc. 85-18929 Filed 8-8-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 215

[Docket No. 50705-5129]

Subsistence Taking of North Pacific Fur Seals

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

ACTION: Emergency interim rule.

SUMMARY: The NMFS extends for one day the harvest allowed pursuant to its emergency interim rule governing the subsistence taking of North Pacific fur seals by Pribilovians, allowing a subsistence harvest to occur on August 6, 1985.

EFFECTIVE DATE: This emergency interim rule is effective August 6, 1985.

FOR FURTHER INFORMATION CONTACT:
Georgia Cranmore, 202–634–1792.

SUPPLEMENTARY INFORMATION:

Background

On July 8, 1985, the NMFS published in the **Federal Register** (50 FR 27914) an emergency interim rule under which the subsistence taking of North Pacific fur seals would be managed. Section 215.32 provided that the harvest season on St. Paul Island would terminate when seals had been "harvested on 19 days, on August 5, 1985, upon the expiration of [that] rule, or upon suspensison of the harvest by the Assistant Administrator" if he determined that the harvest was being conducted in a wasteful manner. Although authorized to commence the harvest on July 8, 1985, seals were not taken by the Pribilovians until July 17. Without an extension of the harvest season, seals would have been harvested on only 14 days. The emergency rule has not expired and the Assistant Administrator has not determined that the taking of seals has been conducted in a wasteful manner. Thus, the limiting factor of the harvest season is its expiration on August 5, 1985.

A range of estimates of the subsistence needs of the Pribilovians was provided in the preamble to the July 8, 1985, emergency interim rule (50 FR 27917). The estimates varied from a low of 3,358 to over 15,000 seals to meet the subsistence needs of the Islands' native population. As of August 5, the residents of St. Paul Island had harvested 3,183 seals, of which a portion had been shared with the St. George Islanders. Because even the lowest estimates of the subsistence level have yet to be attained and because of cultural needs, the Pribilovians requested a one day extension of the harvest season.

Discussion

The NMFS has determined that the one day extension of the fur seal harvest is warranted. Due to delays which occurred at the outset of the harvest period, several potential harvest days were lost. As a result, the number of seals harvested failed to reach even the lower bounds of the subsistence need estimates. By allowing the harvest to continue for one day, the harvest level may only marginally surpass this lowest estimate of subsistence need, 3,358 seals. Once this harvest level has been attained, the NMFS intends to reassess the remaining subsistence needs of the Pribilovians through notice and comment rulemaking, inviting the participation of the Aleut community and all members of the interested public.

This approach is similar to that suggested by one of the commenters on the July 8 rule. This commenter recommended that if a hunt is allowed the NMFS should establish an interim harvest level of 3,358. When that level is reached, it was further suggested that the harvest be stopped and the subsistence needs of the Pribilovians be reviewed using data from the 1985 harvest, including carcass utilization and preservation efficiency. Following a public review, "the hunt may be resumed to meet subsistence needs objectives as determined by modification of the original harvest target limit."

Need for Emergency Regulations

As stated in the preamble to the July 8 rule, after approximately the first week in August, immature female fur seals begin to arrive on St. Paul Island in significant numbers. If fur seals are to be harvested for an additional day, it is more advantageous to have the taking occur in early August rather than after the delay inherent in the rulemaking process.

It is administratively preferable to accommodate an additional harvest day by maintaining an uninterrupted schedule. Not only is the cost of monitoring the harvest kept to a minimum, but the NMFS is better able to ensure that an experienced representative is available to collect the harvest data.

Because of these compelling reasons, it is not practicable to provide for notice and comment rulemaking and the resultant delay of the harvest.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and is consistent with the Marine Mammal Protection Act, the Fur Seal Act, and other applicable law.

The Assistant Administrator for Fisheries, NOAA, also finds that, due to the potential adverse effect on the seal population which would result from a delay in conducting the additional harvest day, good cause justifying promulgation of this rule on an emergency basis exists and also makes it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of section 553 (b) and (d) of the Administrative Procedure Act.

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

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator prepared an environmental assessment (EA) for this action and concluded that there will be no significant impact on the human environment. A copy of the EA is available from the Information Contact listed above. This rule does not contain a collection of information requirement and therefore is not subject to the provisions of the Paperwork Reduction Act. This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment.

List of Subjects in 50 CFR Part 215

Administrative practice and procedure, Marine Mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

Dated: August 6, 1985.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

PART 215—[AMENDED]

Accordingly, 50 CFR Part 215 is amended as follows:

1. The authority citation for 50 CFR Part 215 continues to read as follows:

Authority: 16 U.S.C. 1151–1175, 16 U.S.C. 1361–1384.

§ 215.32 [Amended]

2. Section 215.32(b)(3)(i)(A) is amended by removing "August 5, 1985" and inserting in its place "August 6, 1985."

[FR Doc. 85–18998 Filed 8–6–85; 5:02 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 154
Friday, August 9, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing amendments to its regulations which are applicable to the Federal Employees Health Benefits (FEHB) Program to clarify and define appropriate uses of program reserves.

DATE: Comments must be received on or before September 9, 1985.

ADDRESS: Written comments may be sent to James W. Morrison, Jr. Associate Director for Compensation, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044, or delivered to OPM, Room 4351, 1900 E Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jean M. Barber Assistant Director for Pay and Benefits Policy (202) 632-3772.

SUPPLEMENTARY INFORMATION: On May 20, 1985, the U.S. Office of Personnel Management (OPM) was presented with an unprecedented proposal from the Blue Cross and Blue Shield Association to refund projected excess monies from its special reserve account for the Federal Employees Health Benefits (FEHB) Program to the Government and enrollees. Accordingly, OPM is proposing an amendment to its regulations to provide clear notice to other carriers in the FEHB Program of the availability of the refund alternative to the uses already specified for special reserves. OPM is proposing further to amend its regulations to define more precisely the point at which surplus special reserves are determined and the points at which payments to and from special reserves are to be made. This additional amendment is necessary to avoid the counterproductive, seesaw effect that will occur if the refund alternative is employed and OPM is forced by the automatic operation of current regualtions providing payments to carriers from contingency reserves to create new surpluses at the carrier level.

Reduction of Comment Period for Proposed Rulemaking

OPM finds that good cause exists for setting the comment period on this proposed rulemaking at 30 days. Rate and benefit negotiations under the Federal Employee Health Benefits Program for the contract year beginning in January 1986 are already in progress. Health plan reserve levels and goals are critical factors in these negotiations. The regulations provide clear notice to all carriers of the bases for determining, and alternatives for employing, surplus reserves.

E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they relate to OPM's management of the Employees Health Benefits Fund.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Government employees, Health insurance.

U.S. Office of Personnel Management.
Loretta Cornelius,
Acting Director.

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Accordingly, for the reasons set forth in the preamble, OPM proposes to amend 5 CFR Part 890 as follows:

1. The authority citation for Part 890 continues to read as follows:

Authority: 5 U.S.C. 8913.

2. Section 890.503 is amended by revising paragraph (c) (1), (2), (3), and (5) to read as follows:

§ 890.503 Reserves.

* * * * *

(c)(1) The contingency reserve for each plan is credited with (i) the three one-hundred-and-fourths of the enrollment charge set aside for the contingency reserve from the enrollment charges for employees and annuitants enrolled for that plan, (ii) amounts transferred in accordance with law from other contingency reserves and the administrative reserve, (iii) income from investment of the reserve, (iv) its proportionate share of the income from investment of the administrative reserve, and (v) any return of reserves of the plan. The preferred minimum balance for the contingency reserve is 1 month's subscription charges at the average monthy rate paid from the Employees Health Benefits Fund for the plan during the most recent contract period. Amount in excess of the preferred minimum balance for a contingency reserve account may be used with respect to the plan from which the reserve derives: to defray increases in future rates; to increase plan benefits; or to reduce contributions of eligible subscribers and the Government under the program through devices such as a temporary suspension of, or reduction in, required contributions or refunds of contributions to eligible subscribers and the Government.

(2) Except as provided by paragraphs (c)(3) and (c)(4) of this section, when, as of the end of a contract period, the total of all the reserves held by a carrier for the plan amounts to less than the total of the last 4 months' subscription charges paid from the fund to the carrier for the plan, the carrier is entitled to payment from the contingency reserve of the lesser of: An amount equal to the difference between the total of the last 4 months' subscription charges paid from the fund to the carrier for the plan and the total of the reserves held by the carrier for the plan, or an amount equal to the excess, if any, of the contingency reserve over the preferred minimum balance. OPM shall authorize this payment after receipt of the accounting report for the contract period. The carrier shall credit the amount so paid to the special reserve for the plan. Except as provided by paragraphs (c)(3) and (c)(4) of this section, when as of the end of a contract period, the total of all reserves held by a carrier for the plan amounts to more than the total of the

last 4 months' subscription charges paid from the fund to the carrier for the plan, the carrier shall return to OPM any amount in excess of the 4 months' subscription charges to be credited to the contingency reserve administered by OMP for the plan.

(3) If more than 50 percent of the enrollees in a plan are stationed at posts of duty outside the United States, its possessions, and the Commonwealth of Puerto Rico, when the special reserve held by the carrier for the plan at the end of a contract period amounts to less than one-twelfth of the last year's subscription charges paid from the fund to the carrier for the plan, the carrier is entitled to payment for the contingency reserve of the lesser of: An amount equal to the difference between one-twelfth of the last year's subscription charges paid from the fund to the carrier for the plan and the total of the special reserve held by the carrier for the plan, or an amount equal to the excess, if any, of the contingency reserve over the preferred minimum balance. OPM shall authorize this payment after receipt of the accounting report for the contract period. The carriers shall credit the amount so paid to the special reserve for the plan. When the special reserve held by the carrier for the plan at the end of the contract period amount to more than one-twelfth of the last year's subscription charges paid from the fund to the carrier for the plan, the carrier shall return to OPM any excess over one-twelfth of the last year's subscription charges to be credited to the contingency reserve administered by OPM for the plan.

* * * * *

(5) In addition to those amounts, if any, paid under the above subparagraphs of this paragraph, OPM may authorize such other payments from the contingency reserve as in the judgment of OPM may be in the best interest of employees and annuitants enrolled in the program. Amount paid from the contingency reserve under this subparagraph and under the above subparagraphs of this paragraph shall be considered to be subscription charges in the year in which paid. By agreement with the carrier and where good cause exists, OPM may accept payment from carrier reserves for the contingency reserve in an amount and under conditions other than those specified in the above subparagraphs of this paragraph.

[FR Doc. 85-18908 Filed 8-8-85; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 404, 405, and 408

[Docket No. 2290S]

Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule and proposed Revocations.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to replace the regulations in Parts 404 and 408 of Title 7 CFR, Eastern and Western U.S. Apple Crop Insurance Regulations, effective with the end of the 1985 crop year (November 20, 1985), with a new part for Apple Crop Insurance Regulations (7 CFR Part 405), to combine the Eastern U.S. and Western U.S. Apple Crop Insurance Regulations into one regulation to be known as the Apple Crop Insurance Regulations (7 CFR Part 405) effective for the 1986 and succeeding crop years (November 21, 1985). The intended effect of this rule is: (1) To maintain the effectiveness of the Eastern and Western U.S. Apple Crop Insurance Regulations through the 1985 crop year; (2) combine the provisions of crop insurance for apples into one regulation, effective for the 1986 and succeeding crop years; (3) offer the same insurance policy to growers in all parts of the country; (4) change to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (5) add drought and failure of irrigation water supply as insurable causes of loss; (6) establish minimum orchard insurance requirements by area; (7) require inspection of newly acquired acreage before insurance initially attaches; (8) change the method of computing indemnities when acreage, share or practice is underreported; (9) add or change the definitions of "Area A", "Area B", "Bin", "Bushel", "Loose field box", "Loss ratio", "Contiguous land", and "Unit definition"; (10) provide a Fresh Fruit Option Amendment; (11) allow continuation of premium discount for insureds with good experience in excess of 5%; (12) allow insurance to attach if application is accepted after November 21; and (13) define the end of the insurance period. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than September 9, 1985, to be sure of consideration.

ADDRESS: Written comments on this proposed rule may be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constituted a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1990.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This rule proposes that the Eastern and Western U.S. Apple crop insurance policies be combined into a single policy for insuring apples in the United States.

to be contained in 7 CFR Part 405—Apple Crop Insurance Regulations.

The Corporation's Apple Insurance regulations and policies were developed in accordance with the primary uses for the apples grown commercially in the principal production areas. The Western U.S. Apple Policy (7 CFR 404.7(d)) was developed primarily for the production of fresh fruit while the Eastern U.S. Apple Policy (7 CFR 408.7(d)) was developed primarily for production apples. More of the eastern producers are moving into fresh fruit production and have requested insurance to cover Fresh Fruit production in their area. Some Western apple growers are also moving to production and have requested insurance for that purpose in those areas, thereby further clouding the delineation which presently exists. The Corporation recently offered a Fresh Fruit Option for Eastern apple growers which effectively transferred the Western policy to Eastern growers.

The Corporation believes that the differences which exist between the Eastern and Western growers no longer require two separate policies. The Corporation therefore proposes to combine the two policies into one basic policy maintaining only those essential differences which concern marketing and production practices between the areas. The Fresh Fruit Option will be offered in all areas. Differences in coverage will be because of practice and not because of geographic location. Both 7 CFR Parts 404 and 408 will be maintained in effect through the 1985 crop year, ending on November 20, 1985. The new 7 CFR Part 405 Apple Crop Insurance Regulations will become effective for the 1986 and succeeding crop years.

Other than minor changes in language and format, the principal changes from the Apple policies now contained in 7 CFR Part 404 and 408 are:

1. Section 1.a.—Add drought and the failure of irrigation water supply because of unavoidable cause as insurable causes of loss.

2. Section 2.d.—Revise to require minimum acreage production requirements by area to qualify for insurance. With only one apple policy, differences in the way production is measured between sections of the country need to be explained. In the West, apples are sold by the bin or box. In the East, apples are sold by the bushel. A box of apples weighs 35 pounds, a bushel of apples weighs 42 pounds in all states in the west except Colorado. In Colorado, a bushel weighs 40 pounds.

3. Section 2.e.—Add a condition for inspection before insurance attaches to acreage under a first year policy or newly acquired acreage under an existing policy. Acreage which is purchased will not be insurable until it is inspected by us.

4. Section 2.f.—Add a clause to cover reporting irrigated practices. This clause is required since most Eastern apple orchards are not irrigated while most Western orchards are.

5. Section 5.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis, and coverages will reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1990 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

Remove the provisions for the transfers of insurance experience and for premium computation when insurance has not been continuous.

Deletion of the Premium Adjustment Table eliminates the need for these provisions.

6. Section 7.—Add a provision to allow for application after the usual start of the insurance period.

Change the date for the end of the insurance period and allow a variance for earlier standard harvesting practices.

7. Section 9.—Change the method of computing indemnities when acres are underreported. The production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

8. Section 15.c.—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the proposed change to mandatory APH.

9. Section 17.—Add or change definitions for the terms "Area A", "Area B", "Bin", "Bushel", "Loose field Box", "Loss ratio" and "Contiguous land".

10. Section 17.—Amend the "Unit" definition by deleting the provision allowing unit division. The difficulty of maintaining and auditing accurate and adequate records of production by small units requires elimination of this provision.

11. The Quality Provision in the Western Apple Policy for 1985 will now be covered under the Fresh Fruit Option Amendment.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Parts 404, 405, and 408

Crop insurance, Western U.S. Apples, Apples, Eastern U.S. Apples.

Proposed Rule

(a) Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Subpart headings to the Eastern U.S. Apple Crop (7 CFR Part 404) and Western U.S. Apple Crop (7 CFR Part 408) Regulations, as follows:

1. The Authority citation for 7 CFR Part 404 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

PART 404—EASTERN U.S. APPLE CROP INSURANCE REGULATIONS

2. The Subpart heading in 7 CFR Part 404 is revised to read as follows:

Subpart—Regulations for the 1984 and 1985 Crop Years

3. The Authority citation for 7 CFR Part 408 continues to read as follows:

Authority: Sec. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

PART 408—WESTERN U.S. APPLE CROP INSURANCE REGULATIONS

4. The Subpart heading in 7 CFR Part 408 is revised to read as follows:

Subpart—Regulations for the 1984 and 1985 Crop Years

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), the Federal Crop Insurance Corporation hereby proposes to add a new Part 405 to Chapter IV of Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 405 Apple Crop Insurance Regulations, effective for the 1986 and succeeding crop years, to read as follows:

PART 405—APPLE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1986 and Succeeding Crop Years

Sec.
405.1 Availability of apple crop insurance.
405.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
405.3 OMB control numbers.
405.4 Creditors.
405.5 Good faith reliance on misrepresentation.
405.6 The contract.
405.7 The application and policy.
405.8 Apple fresh fruit option amendment.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516)

Subpart—Regulations for the 1986 and Succeeding Crop Years

§ 405.1 Availability of apple crop insurance.

Insurance shall be offered under the provisions of this subpart on apples in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 405.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for apples which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 405.3 OMB control numbers.

OMB control numbers are contained in Subpart H to Part 400 in Title 7 CFR.

§ 405.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, executive, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 405.5 Good faith reliance on misrepresentation.

Nothwithstanding any other provision of the apple insurance contract, whenever: (a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or given erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Application for relief under this section must be submitted to the Corporation in writing.

§ 405.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the apple crop as provided in the policy. The contract shall consist of the application, the policy, the Fresh Fruit Option, if applicable, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 405.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the apple crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of an apple contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Apple Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Apple—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Drought;
(2) Frost;
(3) Wind;
(4) Hail;
(5) Fire;
(6) Earthquake;
(7) Volcanic eruption;
(8) Fruit-set failure; or
(9) Failure of the irrigated water supply due to an unavoidable cause occurring after insurance attaches.

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(4).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good apple management practices;

(3) The impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and share insured.

a. The crop insured will be a variety of apples established as adapted to the area, which is located on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be apples located on insurable acreage as designed by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured apples at the time insurance attaches.

d. We do not insure any acreage:

(1) Which in area A has not produced a minimum of 10 bins per acre;

(2) Which in area B has not produced a minimum of 150 bushels per arce;

(3) Which in Colorado, has not produced a minimum of 200 bushels per acre;

(4) Unless we agree, in writing, to insure such acreage;

(5) Which we inspect and consider not acceptable;

(6) The crop year the application is filed until the acreage has been inspected and accepted by us; or

(7) Acquired for the crop year until inspected and accepted by us.

e. If insurance is provided for an irrigated practice:

(1) You must report as irrigated only the acreage for which you have adequate facilities and water, at the time insurance attaches, to carry out a good apple irrigation practice; and

(2) Any loss of production caused by failure to carry out a good apple irrigation practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, will be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities will not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, and number of trees.

You must report on our form:

a. All the acreage of apples in the county in which you have a share;

b. Your share at the time insurance attaches; and

c. The number of bearing trees.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any apples located in the county. This report will be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and number of trees or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual Premium.

a. The annual premium is earned and payable when insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share when insurance attaches.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year under the terms of the experience table contained in the Eastern or Western apple policy in effect for the 1985 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1990 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for Debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches for each crop year on November 21 except that for the first crop year, if we accept your application for apple insurance after November 21, insurance will attach on the thirtieth day after you sign and submit the application. Insurance ends at the earliest of:

a. Total destruction of the apples;

b. Harvest of the unit;

c. Final adjustment of a loss; or

d. The earlier of:

(1) The end of the normal harvest period by variety for the crop year; or

(2) November 5 of the crop year.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us notice of the date and cause of damage within 10 days of such damage.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined or damage occurs during harvest, immediate notice must be given.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 10 days after the earliest of:

(a) Total destruction of the apples on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the apples which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the apples on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of apples on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of apples to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy results in lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production to be counted for a unit will include all harvested and appraised production determined to be marketable.

(1) Appraised production to be counted will include:

(a) Unharvested marketable production, and potential production lost due to uninsured causes and failure to follow recognized good apple management practices; and

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or destroyed by you without our consent.

(2) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is:

(a) Not harvested before the harvest of apples becomes general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause.

(3) The amount of production of any unharvested apples may be determined on the basis of field appraisals conducted after the end of the insurance period.

(4) If you elect to exclude hail and fire as insured causes of loss and the apples are damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(5) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in conneciton with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to use the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** on or about January 1 and July 1 of each year. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person determined to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party).

Because you may be able to recover all or part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, and excess will be paid to you.

14. Records and access to farm.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all apples produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish satisfactory records of the previous year's production to us on or before the cancellation date. If you show, prior to the cancellation date, to our satisfaction, that records are unavailable due to conditions beyond your control, such as fire, flood, or other natural disaster, the Field Actuarial Office may assign a yield for that year.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are November 20.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms

For the purposes of apple crop insurance:

a. "Area A" includes Montana, Wyoming, Utah, New Mexico, and all states west thereof.

b. "Area B" includes all other states except Colorado.

c. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding apple insurance in the county.

d. "Bin" means a standard container, accepted by the industry:

(1) Containing 25 loose field boxes or 21 bushels of apples (22 bushels for Colorado); or

(2) As designated by the actuarial table.

e. "Bushel" means a standard container, containing 42 pounds of apples (40 pounds in Colorado).

f. "Contiguous land" means land of the same ownership or rented for cash or a fixed commodity payment which is touching at any point, except that land which is separated by only a public or private right-of-way will also be considered contiguous.

g. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

h. "Crop year" means the period beginning with the date insurance attaches and extending through the normal harvest time and shall be designated by the calendar year in which the apples are normally harvested.

i. "Fruit-set failure" means failure of the apple trees to develop blossoms or set fruit due only to adverse weather conditions, but

shall not include poor pollination resulting from inadequate pollinizers in the orchard or failure to set fruit due to spray damage or other manageable causes.

j. "Harvest" means the picking of marketable apples from the trees or from the ground.

k. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

l. "Insured" means the person who submitted the application accepted by us.

m. "Loose field box" means a standard container containing:

(1) 1/25 of a bin;

(2) A minimum of 35 pounds of apples if no bin count is made; or

(3) A quantity designated by the actuarial table.

n. "Loss ratio" means the ratio of indemnity to premium.

o. "Marketable" means apples which grade U.S. No. 1, 2, or Cider in accordance with the United States Standards for Apples for Processing.

p. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

q. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

r. "Tenant" means a person who rents land from another person for a share of the apples or a share of the proceeds therefrom.

s. "Unit" means all insurable acreage of apples in the county located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the apples on such land will be considered as owned by the lessee. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

§ 405.8 Apple fresh fruit option amendment

(a) Notwithstanding the provisions of § 405.7(d) 9.e. of this part, an insured producer may, upon submission and approval of a Fresh Fruit Option Amendment (Amendment) elect to insure any insurable acreage or any designated portion thereof, under the provisions of the Amendment. Only apple acreage which is managed with the intent of producing fresh-market apples will be insurable under the Amendment. Where management practices are carried out for the production of both fresh and processing apples on insurable acreage and the election is made to insure apples under the Amendment and, those intended for processing, under the Apple policy; the election to insure on both a fresh and processing basis must be made when the Amendment is submitted. The Amendment is continuous until cancelled prior to the cancellation date.

(b) For those insureds who elect to insure apples under the Amendment, all provisions of the Apple crop insurance policy will apply except those provisions in conflict with the Amendment.

(c) The Amendment reads as follows:

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Fresh Fruit Option Amendment

(This is a continuous amendment, see Section. 15 of the basic policy)

Insured's name _____
Contract No. _____
Address _____
Crop year _____
Identification No. _____
SSN _____
Tax _____

It is hereby agreed to amend the basic Federal Crop Insurance Apple Policy (basic policy) under the following terms and conditions:

1. This Amendment must be submitted to us on or before the final date for accepting applications for the initial crop year in which you wish to insure your apples under this Amendment.

2. You must have a basic policy in force.

3. You must insure all the acreage of apples in the county in which you have a share regardless of the intended use (fresh-market or processing).

4. In addition to section 8 of the policy, grading of the fruit must be done by us prior to harvest or no quality adjustment will be made.

5. Separate line entries according to intended use (fresh-market or processing) must be included on the acreage report required under section 3 of the basic policy.

6. Your apples intended for processing will be insured under the quality provisions of Option A only.

7. Your apples intended for fresh-market will be insured under the quality provisions of either Option A or Option B, whichever you select.

8. If you select Option A only, Option A will apply to all of your apples intended for processing and fresh-market.

9. If you select Option B (or both options), Option B will apply to all of your apples intended for fresh-market and Option A will apply to all of your apples intended for processing.

10. You must select either Option A or Option B.

Option A

In addition to Section 9.e and in lieu of 17.o. of the basic policy, your protection to count for any acreage designated for processing and/or fresh-market will be adjusted when your apples are damaged by hail to the extent that such apples will not grade U.S. No. 1 (processor grade). The adjustment factor (not to exceed 1) will be the ratio of the average market price (received by you or determined by us, whichever is larger), for your damaged production to the average market price for U.S. No. 1 (processor grade) apples. There will be no adjustment for quality if the apples do not grade U.S. No. 1 because of size, color or russeting.

Option B

a. In lieu of sections 9.e.(1), 9.e.(2), 17.j. and 17.o. of the basic policy, the total production to be counted for a unit must include all harvested and appraised production. Harvested apple production which, due to hail damage, does not grade 80 percent U.S. Fancy or better, in accordance with applicable USDA Standards, will be adjusted as follows:

(1) Production with 21 thru 40 percent not grading U.S. Fancy or better due to hail damage will be reduced 2 percent for each percent in excess of 20 percent. The difference between the reduced production and the total production will be considered cull production.

(2) Production with 41 thru 50 percent not grading U.S. Fancy or better due to hail damage will be reduced 40 percent plus an additional 3 percent for each percent in excess of 40 percent. The difference between the reduced production and the total production will be considered cull production.

(3) Production with 51 thru 64 percent not grading U.S. Fancy or better due to hail damage will be reduced 70 percent plus an additional 2 percent for each percent in excess of 50 percent. The difference between the reduced production and the total production will be considered cull production.

(4) Production with 65 percent or more not grading U.S. Fancy or better due to hail damage will be considered 100 percent cull production.

b. Apples which are knocked to the ground by wind or frozen to the extent that they can be harvested but not packed or marketed as fresh apples will be considered 100% cull production.

c. 30 percent of all cull production, as determined above, will be counted as production. No reduction in grade will be applied to any apple grading less than U.S. Fancy due solely to shape, russeting or color.

d. Appraised production to be counted must include:

(1) Potential production lost due to uninsured causes and failure to follow recognized good apple management practices; and

(2) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or destroyed by you without our consent.

e. Any appraisal we have made on insured acreage will be considered production to count unless such appraised production:

(1) Is harvested;

(2) Is further damaged by an insured cause; or

(3) In whole or part, consists of (i) apples knocked to the ground by wind or hail; or, (ii) frozen while on the tree to the extent that harvest is not practical.

11. Your premium rate for apples under the option elected by you will be established by the actuarial table.

12. All provisions of the basic policy not in conflict with this amendment are applicable.

13. All determinations under this amendment will be made by us.

14. This amendment may be cancelled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date provided by the policy, preceding such crop year.

Insured's signature _____

Date _____

Corporation representative's signature and code number _____

Date _____

Collection of Information and Data (Privacy Act)

The following statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. 552(a)):

The authority for requesting the information to be supplied to this form is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and the regulations for insuring apples under the Apple Crop Insurance Regulations (7 CFR 405). The information requested is necessary for the Federal Crop Insurance Corporation (FCIC) to process the opion to insure apples, determine the correct premium and indemnity, and, to determine the correct parties to the insurance contract. The information may be furnished to FCIC contract agencies and contract loss adjusters, reinsured companies, other U.S Department of Agriculture Agencies, Internal Revenue Service, Department of Justice, or other State and Federal law enforcement agencies, and in response to orders of a court, administrative tribunal or opposing counsel as evidence in the course of litigation.

Furnishing the Social Security Number is voluntary and no adverse action will result from failure to do so. Furnishing the information, other than the Social Security Number, is also voluntary; however, failure to furnish the correct, complete information requested other than the Social Security Number may result in rejection of the option for insuring apples and subsequent denial of any claim for indemnity which may be filed under such option or may substantially delay acceptance of the option for insuring apples and any subsequent claim for indemnity.

Done in Washington, D.C., on June 18, 1985.

Merritt W. Sprague,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-18895 Filed 8-8-85; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 409

[Docket No. 0018A]

Arizona-California Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Arizona-California Citrus Crop Insurance Regulations (7 CFR Part 409), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Add as a cause of loss the unavoidable failure of irrigation water supply; (2) prescribe procedures for insuring Arizona-California citrus on an "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (3) add provisions for acreage in which there are no acceptable production records; (4) change the method of computing indemnities when acreage, share, or practice is underreported; (5) add a definition of "Loss ratio"; and (6) redefine the definition of "unit" to restrict division. The authority for the prommulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than September 9, 1985, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a reveiw as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is April 1, 1990.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the Arizona-California Citrus policy are:

1. Section 1.a.—Add the failure of irrigation water supply due to unavoidable cause as an insurable cause of loss.

2. Section 2.d.—Require inspection and an agreement in writing to insure a unit with no production records.

3. Section 5.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis. Coverages will therefore reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they will retain any discount under the present schedule through the 1991 crop year or until their loss experience

causes them to lose the advantage, whichever is earlier.

Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the premium adjustment table eliminates the need for these provisions.

4. Section 9.d.—When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the complexity of calculations.

5. Section 15.c.—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the proposed change to mandatory APH.

6. Section 17.i.—Add a definition for "Loss ratio" to clarify its use in Section 5.

7. Section 17.m.—Amend the "Unit" definition by deleting the provision allowing unit division. The difficulty of maintaining and auditing accurate and adequate records of production by small units require elimination of this provision.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 409

Crop insurance, Arizona-California citrus.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Arizona-California Citrus Crop Insurance Regulations (7 CFR Part 409), effective for the 1987 and succeeding crop years, to read as follows:

PART 409—ARIZONA-CALIFORNIA CITRUS INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1987 and Succeeding Crop Years.

§ 409.1 Availability of Arizona-California citrus crop insurance.

Insurance shall be offered under the provisions of this subpart on citrus in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 409.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for Arizona-California citrus which will be included in the actuarial table on file in applicable service offices and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance per acre from among those amounts shown on the actuarial table for the crop year.

§ 409.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400 in Title 7 CFR.

§ 409.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 409.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Arizona-California Citrus insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000, finds that:

(1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said insured relied thereon in good faith; and

(3) To require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 409.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the citrus crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 409.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the citrus crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse

conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a citrus insurance contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Arizona-California Citrus Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Arizona-California Citrus—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Through this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Wildlife;

(4) Earthquake;

(5) Volcanic eruption;

(6) Failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches; or

(7) Direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9f(7). Direct Mediterranean Fruit Fly damage will be actual physical damage to the citrus on the unit which causes such citrus to be unmarketable and will not include unmarketability of such citrus as a direct result of a quarantine, boycott, or refusal to accept the citrus by any entity without regard to actual physical damage to such citrus.

b. We will not insure against any loss of production due to:

(1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove;

(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(3) The failure to follow recognized good citrus grove practices;

(4) The impoundment of water by any governmental, public, or private dam or reservoir project;

(5) Any cause not specified in section 1a as an insured loss;

(6) The failure to carry out a good citrus irrigation practice; or

(7) The failure or breakdown of irrigation equipment or facilities.

2. Crop, acreage, and share insured.

a. The crop insured will be any of the following citrus types, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table, which you elect:

Type I—Navel oranges;

Type II—Sweet oranges;

Type III—Valencia oranges;

Type IV—Grapefruit;

Type V—Lemons;

Type VI—Kinnow mandarins;

Type VII—Minneola tangelos; or

Type VIII—Orlando tangelos;

b. The acreage insured for each crop year will be that acreage of citrus located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured citrus on the date insurance attaches.

d. We do not insure any acreage:

(1) Which is not irrigated;

(2) On which the trees have not reached the sixth growing season after being set out; and

(3) Which does not have acceptable records of production, unless inspected by us and considered acceptable and we agree, in writing, to insure such acreage.

e. Insurance will not attach or be considered to have attached to any acreage of the crop, for the crop year the application is filed until the acreage has been inspected and accepted by us.

f. Insurance may attach only by written agreement with us on any acreage with less than 90 percent of a stand, based on the original planting pattern.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of acreage, share, number of trees, and practice.

You must report on our form:

a. all the acreage of citrus in the county in which you have a share;

b. The practice;

c. Your share on the date insurance attaches; and

d. The number of bearing trees.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any citrus grown in the county. This report must be submitted annually on or before December 10. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by December 10, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1985 crop year under the terms of the experience table contained in the citrus policy in effect for the 1986 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1991 crop year.

(2) The premium reduction will not increase because of favorable experience.

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1986 crop year.

(4) Once the loss ratio exceeds .80, no further premium reduction will apply.

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches on December 1 prior to the calendar year of normal bloom, and ends at the earliest of:

(1) Total destruction of the citrus;

(2) Harvest of the citrus;

(3) Final adjustment of a loss; or

(4) The date following the year in which the bloom is normally set as follows:

(a) August 31 for Navel oranges and Southern California lemons;

(b) November 30 for Valencia oranges; or

(c) July 31 for all other types of citrus.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice promptly:

(a) After insured damage to the citrus becomes apparent, giving the date(s) and cause(s) of such damage; or

(b) If you decide not to further care for or harvest any part of it.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice must be given. If harvest will begin after the end of the insurance period, notice must be given on or before the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the citrus which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirments of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earlier of:

(1) Total destruction of the citrus on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of citrus on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of citrus to be counted (see section 9f);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. If a determination is made that frost protection equipment was not properly utilized or not properly reported, the indemnity for the unit will be reduced by the percentage of premium reduction allowed for frost protection equipment. You must, at our request, provide us records showing the start-stop times by dates for each period the equipment was used.

f. The total production (cartons) to be counted for each unit will include all harvested production marketed as fresh packed fruit and all appraised production determined to be marketable as fresh packed fruit.

(1) Any production will be considered marketed or marketable as fresh packed fruit unless due to insurable causes, such production was not marketed or marketable as fresh packed fruit.

(2) In the absence of acceptable records to determine the disposition of harvested citrus, we may determine such disposition and the amount of such production to be counted for the unit.

(3) Appraised production to be counted will include:

(a) Unharvested production, and potential production lost due to uninsured causes and failure to follow recognized good citrus grove practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause or destroyed by you without our consent.

(4) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production is:

(a) Not harvested before harvest of the insured citrus type becomes general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause;

(5) Citrus which cannot be marketed due to insurable causes will not be considered production.

(6) The amount of production of any unharvested citrus may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the citrus is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

(8) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

g. You must not abandon any acreage to us.

h. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1506(c). You must bring suit within 12 months of the date notice of denial is received by you.

i. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fee, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insurance attaches for any crop year, any indemnity will be paid to the person(s) determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production of the unit before the fire and after the fire.

10. Concealment of fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for you loss, they your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to grove.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the grove for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless conceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish us satisfactory records of production for the crop year prior to the previous crop year on or before November 30 following the calendar year in which the bloom is normally set. If you show, prior to such date, to our satisfaction, that records are unavailable due to conditions beyond your control, such as fire, flood, or other natural disaster, the Field Actuarial Office may assign a yield for that year.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are November 30.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

b. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of Arizona-California citrus crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

b. "Carton" as to each insured citrus type means the standard container for marketing fresh packed fruit as shown below by citrus type. In the absence of marketing records on such a carton basis, production will be converted to cartons on the basis of the following average net pounds of packed fruit in a standard packed carton.

Container size	Types of fruit	Pounds
Container #58	Navel oranges, Valencia oranges & sweet oranges.	38
Container #58	Lemons	40
Container #59	Grapefruit	32
Container #60	Tangerines (including tangelos) and mandarin oranges.	25

c. "Contiguous land" means land of the same ownership or rented for cash on a fixed commodity which is touching at any point except that land which is separated by only a public or private right-of-way will be considered contiguous.

d. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

e. "Crop year" means the period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time, and will be designated by the calendar year following the year in which the bloom is normally set.

f. "Harvest" means the severance of mature citrus from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

j. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Tenant" means a person who rents land from another person for a share of the citrus or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of any one of the citrus types referred to in section 2 of this policy, located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus on such land will be considered as owned by the lessee. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C. on April 17, 1985.

Merritt W. Sprague,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-18884 Filed 8-8-85; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 413

[Docket No. 2186S]

Texas Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Texas Citrus Crop Insurance Regulations (7 CFR Part 413), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Specify and restrict the perils insured against; (2) modify procedures for obtaining insurance in certain instances of low production history; (3) specify the crop year insurance first attaches when there are no acceptable production records; (4) add provisions for insurance on newly acquired acreage; (5) add stage guarantees; (6) change the method of computing indemnities when acreage, share or practice is underreported; (7) prescribe procedures for insuring Texas citrus on an "Actual Production History" (APH) basis; (8) remove the Premium Adjustment Table and provide for cancellation for not furnishing records; (9) add definitions of "Loss ratio," "Cyclone," "Hedged," and "Topped," and; (10) redefine "unit" to restrict division. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this rule must be submitted

not later than September 9, 1985, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review data established for these regulations is April 1, 1990.

Merritt W. Sprague, Manager, FCIC, has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the Texas Citrus policy are:

1. Section 1.a.—Perils insured against are named because the program cannot be administered equitably if all adverse weather conditions are insured against. A proper premium cannot be established for all adverse weather conditions due to the 18-month insurance period. This change will allow the program to be administered equitably and provide insurance on a sound actuarial basis.

2. Section 2.d.(2)—Clarify procedures for an insurance offer at a given production guarantee, after inspection, on production potential of less than 3 tons per acre. This change will allow us to offer insurance to the grower to insure the production potential after a crop year in which substantial damage occurs.

3. Section 2.e.—Require inspection and a written agreement to insure a unit with no production records or a newly acquired acreage.

4. Section 4.b.—Provide stage guarantees to limit the liability during a period when insurance attaches on two crop years at the same time.

5. Section 5.a.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis. Coverages will therefore reflect the actual production history of the crop on the unit.

6. Section 5.c. and d.—Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the premium adjustment table eliminates the need for these provisions.

7. Section 9.d.—When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the complexity of calculations.

8. Section 15.c.—Add a clause to cancel the contract if production history is not furnished by the calcellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the proposed change to mandatory APH.

9. Section 15.e.—Clarify when insurance attaches.

10. Section 17.—Add definitions for "Cyclone," "Hedged," "Loss ratio," and "Topped" for further clarification. Amend the "Unit" definition by deleting the provision allowing unit division. The difficulty of maintaining and auditing accurate and adequate records of production by small units requires elimination of further unit division.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 413

Crop insurance, Texas citrus.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Texas Citrus Crop Insurance Regulations (7 CFR Part 413), effective for the 1987 and succeeding crop years, to read as follows:

PART 413—TEXAS CITRUS INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1987 and Succeeding Crop Years

§ 413.1 Availability of Texas citrus crop insurance.

Insurance shall be offered under the provisions of this subpart on citrus in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 413.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and amounts if insurance for citrus which will be included in the actuarial table on file in applicable service offices and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect an amount of insurance per acre from among those amounts shown on the actuarial table for the crop year.

§ 413.3 OMB control numbers

OMB control numbers are contained in Subpart H to Part 400 in Title 7 CFR.

§ 413.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 413.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Texas Citrus insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000 finds that:

(1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said insured relied thereon in good faith; and

(3) to require the payment of the additional premiums or to deny such insured's entitlement to the idemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Application for relief under this section must be submitted to the Corporation in writing.

§ 413.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the citrus crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial Table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 413.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the citrus crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1987 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a citrus insurance contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Texas Citrus Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Texas Citrus—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Freeze;

(2) Excess moisture;

(3) Hail;

(4) Fire;

(5) Tornado;

(6) Cyclone;

(7) Failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches; or

(8) Direct Mediterranean Fruit Fly damage;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(9). Direct Mediterranean Fruit Fly damage will be actual physical damage to the citrus on the unit which causes such citrus to be unmarketable and will not include unmarketability of such citrus as a direct result of a quarantine, boycott, or refusal to accept the citrus by any entity without regard to actual physical damage to such citrus.

b. We will not insure against any loss of production due to:

(1) Fire, where weeds and other forms of undergrowth have not been controlled or tree pruning debris has not been removed from the grove;

(2) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(3) The failure to follow recognized good citrus grove practices;

(4) The impoundment of water by any governmental, public, or private dam or reservoir project;

(5) The failure or breakdown of irrigation equipment or facilities;

(6) The failure to carry out a good citrus irrigation practice; or

(7) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be any of the following citrus types which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table, which you elect:

Type I—Early and midseason oranges;

Type II—Late oranges (including Temples);

Type III—Grapefruit, except the Star Ruby and Ruby Red varieties;

Type IV—Star Ruby variety of grapefruit; or

Type V—Ruby Red variety of grapefruit.

b. The acreage insured for each crop year will be that acreage of citrus located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured citrus on the date insurance attaches.

d. We do not insure any acreage:

(1) Which has not produced an average of 3 tons or oranges or grapefruit per acre the previous year unless inspected by us and we agree, in writing, to the amount of insurance coverage; or

(2) If the practices carried out are not in accordance with the practices for which the premium rates have been established.

e. Insurance will not attach until any acreage has been inspected and accepted by us:

(1) For the crop year the application is filed;

(2) Acquired for the crop year; or

(3) Without acceptable production records.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of acreage, share, number of trees, and practice.

You must report on our form:

a. All the acreage of citrus in the county in which you have a share;

b. The practice;

c. Your share on the date insurance attaches;

d. The number of bearing trees; and

e. The number of trees topped, hedged, or pruned.

You must designate separately any acreage that is not insurable. You must report if you do not have a share if any citrus grown in the county. This report must be submitted annually on or before June 30.

All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by June 30, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability of any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities will be contained in the actuarial table.

b. The production gurantee in the actuarial table is the second stage guarantee. The first stage guarantee is 25 percent of the second stage guarantee. The stages are:

(1) First stage applies from the date insurance attaches until April 1 of the following calendar year of normal bloom (Our liability will be limited to the first stage guarantee if the fruit was damaged during this period to the extent that growers in the area generally would not further care for the crop); and

(2) Second stage applies from April 1 of the calendar year of normal bloom through the end of the insurance period.

c. Coverage level 2 will apply if you have not elected a coverage level.

d. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches.

b. Interest will accrue at the rate of one and one-half percent (1-½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches on December 1 prior to the calendar year of normal bloom, except:

(1) That for the crop year following a crop year in which substantial damage occurred, insurance will not attach until the acreage is inspected and accepted by us and you agree, in writing, to the production guarantee we determine for that crop year;

(2) That for the initial crop year, if we accept your application for citrus insurance after December 1, insurance will attach on the twentieth day after you sign the application; and

(3) If additional acreage is acquired after the acreage reporting date, insurance will not attach until the acreage is inspected and accepted by us.

b. Insurance ends at the earliest of:

(1) Total destruction of the citrus;

(2) Harvest;

(3) Final adjustment of a loss; or

(4) May 31 of the calendar year following the normal year of bloom.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice promptly:

(a) After insured damage to the citrus becomes apparent, giving the date(s) and cause(s) of such damage; or

(b) If you decide not to further care for or harvest any part of the citrus on the unit.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss of any unit.

(3) If probable loss is later determined, immediate notice must be given. If harvest will begin after the end of the insurance period, notice must be given on or before the calendar date for the end of the insurance period (see section 7b(4)).

b. You must obtain written consent from us before you destroy any of the citrus which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the citrus on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period (see section 76b(4)).

b. We will not pay any indemnity unless you:

(1) Establish the total production of citrus on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of citrus to be counted (see section 9e);

(3) Multiplying the remainder by price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production to be counted for a unit will include all harvested and appraised production.

(1) Any citrus production which is not marketed as fresh fruit and due to insurable causes does not contain 120 or more gallons of juice per ton, will be adjusted by:

(a) Dividing the gallons of juice per ton obtained from the damaged citrus by 120; and

(b) Multiplying the result by the number of tons of such citrus. If individual records of juice content are not available, an average juice content will be used.

(2) Where the actuarial table provides for and you elect the fresh fruit option, citrus production which is more marketable as fresh fruit due to insurable causes will be adjusted by:

(a) Dividing the value per ton of the damaged citrus by the price of undamaged citrus; and

(b) Multiplying the results by the number of tons of such citrus.

The applicable price for undamaged citrus will be:

(a) The local market price the week before damage occurred, or

(b) The contract price if the contract was entered into between the producer and buyer before damage occurred.

(3) Any production will be considered marketed or marketable as fresh fruit unless due to insurable causes, such production was not marketed as fresh fruit.

(4) In the absence of acceptable records to determine the disposition of harvested citrus, we may elect to determine such disposition and the amount of such production to be counted for the unit.

(5) Any citrus on the ground which is not picked up and marketed will be considered lost if the damage was due to an insured cause.

(6) Appraised production to be counted will include:

(a) Unharvested production, and potential production lost due to uninsured causes and failure to follow recognized good citrus grove practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause or destroyed by you without our consent.

(7) Any appraisal we have made on insured acreage will be considered production to count unless the appraised production is:

(a) Not harvested before the harvest of the insured citrus type becomes general in the county;

(b) Harvested; or

(c) Further damaged by an insured cause.

(8) The amount of production of any unharvested citrus may be determined on the basis of field appraisals conducted after the end of the insurance period.

(9) If you elect to exclude hail and fire as insured causes of loss and the citrus is damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

(10) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insurance attaches for any crop year, any indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid pr payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on any crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to grove.

You must keep, for 2 years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the grove for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless conceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish satisfactory records of production for the crop year prior to the previous crop year on or before the cancellation date. If you show, prior to such date, to our satisfaction, that records are unavailable due to conditions beyond your control, such as fire, flood, or other natural disaster, the Field Acturial Office may assign a yield for that year.

d. This contract will teminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted an indemnity claim will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are November 30 prior to the date insurance attaches.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of Texas citrus crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

b. "Contiguous land" means land of the same ownership or rented for cash or a fixed commodity which is touching at any point except that land which is separated by only a public or private right-of-way will be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time, and will be designated by the calendar year following the year in which the bloom is normally set.

e. "Cyclone" means severe weather consisting of high winds and/or rain with the intensity of storm or hurricane, so designated by the U.S. Weather Service, with one or more closed isobars.

f. "Harvest" means the severance of mature citrus from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

g. "Hedged" means to cut back the side branches for better or more fruitful growth.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

k. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

l. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. "Tenant" means a person who rents land from another person for a share of the citrus or a share of the proceeds therefrom.

n. "Topped" means to cut back the upper branches for better or more fruitful growth.

o. "Unit" means all insurable acreage of any one of the citrus types referred to in section 2 of this policy, located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus on such land will be considered as owned by the lessee. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on June 3, 1985.

Merritt W. Sprague,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-18885 Filed 8-8-85; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 439

[Docket No. 0019A]

Almond Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Almond Crop Insurance Regulations (7 CFR Part 439), effective for the 1986 and Succeeding crop years. The intended effect of this rule is to provide for: (1) Adding as a cause of loss the unavoidable failure of irrigation water supply after insurance attaches; (2) changing to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (3) changing the method of computing indemnities when acreage, share, or practice is underreported; (4) changing the cancellation and termination dates; (5) adding a definition of "Loss ratio" and amending the definitions for "Contiguous land" and "Total meat pounds"; and (6) deleting a provision of "unit definition" allowing division of land in the unit. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than September 9, 1985, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 1, 1990.

Merritt W. Sprague, Manager, FCIC has determined that this action (1) is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the almond policy are:

1. Section 1.a.(7)—Add the failure of the irrigation water supply because of unavoidable cause as an insurable cause of loss. This clarifies intent since it is implied in Section 2.d.(1).

2. Section 3.d.—Delete this section because the provision requiring production history for insurable acreage on each unit is now covered in Section 15.c.

3. Section 5.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis and coverages will, therefore, reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1990 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

4. Section 5.—Remove the provisions for the transfer of insurance experience and for premium computation when insurance has been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

5. Section 9.d.—Change the method for computation of indemnities when

acres are underreported. The production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

6. Section 15.c.—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the proposed change to mandatory APH.

7. Section 15.e.—Change the cancellation and termination date from December 10 to December 31. This change is made to coincide with the sales closing date.

8. Section 17.b. and 1.—Redefine "Contiguous land" and "Total meat pounds"

9. Section 17.h.—Add a definition for the term "Loss Ratio" to clarify its use in Section 5.

10. Section 17.m.—Amend the "Unit" definition by deleting the provision allowing unit division. The difficulty of maintaining and auditing accurate and adequate records of production by small units require elimination of this provision.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments will be available for public inspection in the Office of the Manager, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 439

Crop insurance, Almonds.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Almond Crop Insurance Regulations (7 CFR Part 439), effective for the 1986 and succeeding crop years, to read as follows:

PART 439—ALMOND CROP INSURANCE REGULATIONS

Subpart: Regulations for the 1986 and Succeeding Crop Years

Sec.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

§ 439.1 Availability of almond crop insurance.

Insurance shall be offered under the provisions of this subpart on almonds in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 439.2 Premium rates, production guarantees, coverage levels, and at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for almonds which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 439.3 OMB control numbers.

OMB control numbers are contained in Subpart H to Part 400 in Title 7 CFR.

§ 439.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 439.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Almond insurance contract, whenever: (a) an insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Applications for relief under this section must be submitted to the Corporation in writing.

§ 439.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the almond crop as provided in the policy. The contract shall consist of the application, the policy and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 439.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the almond crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corpration at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable in any year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately

discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of an almond contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Almond Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Almond Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occuring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Wildlife;

(4) Earthquake;

(5) Volcanic eruption;

(6) Direct Mediterranean Fruit Fly damage; or

(7) Failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(4). Direct Mediterranean Fruit Fly damage will be actual physical damage to the almonds which causes such almonds to be considered unmarketable and will not include unmarketability of such almonds as a direct result of a quarantine, boycott or refusal to accept the almonds by any entity without regard to actual physical damage to such almonds.

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good almond farming practices;

(3) The impoundment of water by any governmental, public, or private dam or reservior project;

(4) The failure to carry out a good almond irrigation practice;

(5) The breakdown of irrigation equipment or facilities; or

(6) Any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be almonds which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be almonds grown on insurable acreage as designated by the acturial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share will be your share as landlord, owner-operator, or tenant in the insured almonds at the time insurance attaches.

d. We do not insure any acreage:

(1) Which is not irrigated; or

(2) On which the trees have not reached the seventh growing season after being set out.

e. Insurance may attach only by written agreement with us on any acreage with less than 90 percent of a stand, based on the original planting pattern.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the date of insurance attaches.

3. Report of Acreage, Share, and Practice.

You must report on our form:

a. All the acreage of almonds in the county in which you have a share;

b. The practice; and

c. Your share at the time insurance attaches.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any almonds grown in the county. This report must be submitted annually on or before December 31. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you have not elected a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual Premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share on the date insurance attaches.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year under the terms of the experience table contained in the almond policy in effect for the 1985 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1990 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period.

Insurance attaches for each crop year on December 11 and ends at the earliest of:

a. Total destruction of the almonds;

b. Harvest of the almonds;

c. Final adjustment of a loss; or

d. November 30.

8. Notice of Damage or Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if during the period before harvest, the almonds on any unit are damaged and you decide not to futher care for or harvest any part of them.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss of any unit.

(3) If probable loss is later determined or if damage occurs during harvest, immediate notice must be given.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 10 days after the earliest of:

(a) Total destruction of the almonds on the unit;

(b) Harvest of the unit; or

(c) November 30.

b. You must obtain written consent from us before you destroy any of the almonds which are not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the almonds on the unit;

(2) Harvest of the unit; or

(3) November 30.

b. We will not pay any indemnity unless you:

(1) Establish the total production of almonds on the unit and that any loss of production has been directly caused by one

or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of almonds to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported and not on the actual information determined. All production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production to be counted for a unit will include all harvested and appraised production.

(1) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good almond farming practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause or destroyed by you without our consent; and

(c) Any appraised production on unharvested acreage.

(2) Any appraisal we have made on insured acreage will be considered production to count unless such appraised production:

(a) Is marketed; or

(b) Is further damaged by an insured cause.

(3) Almonds which cannot be marketed due to insurable causes, as determined by us, will not be considered production.

(4) If you elect to exclude hail and fire as insured causes of loss and the almonds are damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(5) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the person(s) we determine to be benefically entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all almonds produced on each unit, including separate records showing the same information for production from any uninsured acreage. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated a provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will be canceled if you do not furnish to us, on or before the cancellation date, satisfactory records of the previous year's production. The Field Actuarial Office may assign a yield for a year if, prior to the cancellation date you show, to our satisfaction, that records are unavailable due to conditions beyond your control, such as fire, flood, or other natural disaster.

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim will be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are December 31.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table provide the price election which you are deemed to have elected. All contract changes will be available at your service office by August 31 preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of almond crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding almond insurance in the county.

b. "Contiguous land" means land of the same ownership or rented for cash or a fixed commodity payment which is touching at any point, except that land which is separated by only a public or private right-of-way will be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches and extending through the normal harvest time and will be designated by the calendar year in which the almonds are normally harvested.

e. "Harvest" means the removal of the almonds from the orchard.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "loss ratio" means the ratio of indemnity(ies) to premium(s).

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Tenant" means a person who rents land from another person for a share of the almonds or a share of the proceeds therefrom.

l. "Total meat pounds" means the total pounds of good almond meats (both loose whole and chipped meats, and inshell meats) as determined by us. Unshelled almonds will be converted to meat pounds.

m. "Unit" means all insurable acreage of almonds in the county which is located on contiguous land on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the almonds on such land will be considered as owned by the lessee. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C. on May 16, 1985.

Merritt W. Sprague,

Manager, Federal Crop Insurance Corporation.

FR Doc. 85-18886 Filed 8-8-85; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 1065

Proposed Temporary Revision of Diversion Limitation Percentages; Milk in the Nebraska-Western Iowa Marketing Area

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed temporary revision of rule.

SUMMARY: This notice invites written comments on a proposal to relax temporarily certain provisions of the Nebraska-Western Iowa Federal milk order. The proposed action would relax for September 1985 through March 1986 the limits on how much milk not needed for fluid (bottling) use may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The action was requested by a cooperative association representing a substantial number of producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due no later than August 16, 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: Constance M. Brenner, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447-7311.

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 ensure that dairy farmers will 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.*), and the provisions of § 1065.13(d)(4) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Nebraska-Western Iowa marketing area is being considered for the months of September 1985 through March 1986.

All persons who desire to submit written data, views or arguments about the proposed revision should sent two copies of their views to the Dairy Division, AMS, Room 2968, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, by the 7th day after publication of this notice in the **Federal Register.** The period for filing comments is limited to seven days because a longer period would not provide the time needed to complete the required procedures and include September 1985 in the temporary revision period.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours (7 CFR 1.26(b)).

Statement of Consideration

The provisions proposed to be revised are the diversion limitation percentages set forth in § 1065.13(d). The revisions would be applicable for the months of September 1985 through March 1986. The specific revisions would increase the diversion limitation percentages for the months of September 1985 through March 1986 by 20 percentage points from the present 40 percent to 60 percent.

Section 1065.13(d) of the Nebraska-Western Iowa milk order allows the Director of the Dairy Division to increase or decrease the diversion limitation percentages by up to 20 percentage points during any month to prevent uneconomic shipments merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

Associated Milk Producers, Inc., a cooperative association which represents producers supplying the Nebraska-Western Iowa market, requested that for the months of September 1985 through March 1986, the percentage of allowable diversions be increased 20 percentage points.

The cooperative states that for the period in question their milk production is expected to be higher than normal and that the order provisions require more milk to move through pool plants than is necessary to meet the fluid, or bottling, requirements of the market. The cooperative cites improved milk quality as a result of less pumping and more economic hauling as the benefits to be gained from the proposed temporary relaxation. According to the cooperative, the financial status of its producer members may be jeopardized unless the more economic hauling practice resulting from increased diversion allowances can be adopted.

The cooperative also states that diversion percentages should be the reciprocal of supply plant shipping percentages in order to allow the maximum amount of milk to move directly to manufacturing plants. The 60-percent diversion limits for September 1985 through March 1986 would complement the 40-percent supply plant shipping requirement for September 1985 through March 1986. The cooperative indicated that there is a lack of reciprocity between the shipping standards and the diversion limits for the period after March 1986 but will wait until early 1986 before making any decision on any further request for a revision.

Therefore, it may be appropriate to relax the aforementioned provisions of § 1065.13(d) for the months of September 1985 through March 1986 to prevent uneconomic shipments of milk.

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1065 continues to read as follows:

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

Signed at Washington, D.C., on: August 2, 1985.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 85–18795 Filed 8–8–85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85–AWP–30]

Proposed Establishment of a Transition Area.

AGENCY: Federal Aviation Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a transition area at Little River, California, to provide controlled airspace for aircraft executing a new Standard Instrument Approach Procedure (SIAP) to Mendocino County Airport. This action is necessary to ensure segregation of aircraft using approach procedures in instrument weather conditions and other aircraft operating in visual weather conditions.

DATES: Comments must be received on or before September 15, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, AWP–530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007.

The official docket may be examined in the Office of the Western-Pacific, Regional Counsel, Room 6W14, at 15000 Aviation Boulevard, Hawthorne, California.

An informal docket may be examined during normal business hours at the Airspace and Procedures Branch, Room 6E4, at the above address.

FOR FURTHER INFORMATION CONTACT: Curtis Alms, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Hawthorne, California 90261; telephone (213) 536–6649.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments are specificially invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AWP–30." The postcard will be date/time stamped and returned to the commenter. All comments submitted will be available for examination at the address listed above, both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, 15000 Aviation Boulevard, Hawthorne, California 90261. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Little River, California, to accommodate aircraft executing a VOR/DME instrument approach procedure to Mendocino County Airport. The intended effect of this action is to ensure segregation of aircraft using the new approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The FAA determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrent preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Aviation safety Control zones/ Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a) 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Little River, CA—[New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Mendocino County Airport (lat. 39°15'47" N., long. 123°45'06" W.) within 2 miles each side of a bearing 119° from the airport extending from the 5-mile radius area to 9.5 miles southeast of the airport.

Issued in Los Angeles, California on July 19, 1985.

Wayne C. Newcomb,

Acting Director, Western-Pacific Region.

[FR Doc. 85-18864 Filed 8-8-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM-5-6-000]

Waiver of the Water Quality Certification Requirement of Section 401(a)(1) of the Clean Water Act

August 6, 1985.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is proposing to amend Part 4 of its regulations to establish procedures governing waiver of the water quality certification requirements of section 401(a)(1) of the Clean Water Act (CWA), 33 U.S.C. 1341(a)(1) (1982). This Notice of Proposed Rulemaking allows a state ninety days from the date the Commission issues a public notice of a license application or one year after state receipt of a request for certification, whichever occurs first, to grant or deny requests for certification. This approach balances the interests of the states, the Commission and the developer by promoting expeditious review of license applications while accomodating the authority over water quality certification. In light of the prefiling consultation requirements and other Commission procedures that must transpire prior to issuance of public notice of the license application, the states should have adequate time, substantially more than ninety days, to act on these requests for certification.

DATE: Written comments on this proposed rule must be filed with the Commission October 8, 1985.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 8325 North Capitol Street NE. Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Arlene Pianko Groner, Federal Energy Regulatory Commission, 8325 North Capitol Street NE. Washington, D.C. 20426. (202) 357-8542.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Federal Energy Regulatory Commission (Commission) is proposing to amend Part 4 of its regulations to define when the certification requirements of section 401(a)(1) of the Clean Water Act (CWA)[1] have been waived by failure of the state or interstate agency to act on a request for certification filed by an application for a Commission hydroelectric license. This procedure would facilitate the Commission's orderly and expeditious review of pending license applications.

II. Background

A. Requirements of Section 401(a)(1) of the CWA

The CWA prohibits the Commission from licensing the construction or operation of facilities which may result in any discharge of water or pollutants into the navigable waters of the United States, unless the applicant for such license obtains certification from the state in which the discharge will originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the point where the discharge will originate, that any discharge will comply with the water quality standards of the CWA. If section 401 certification is denied, the Commission may not license any project that may result in a discharge. However, the statute explicitly permits licensing if the state or interstate agency has failed to act on the request for certification within the reasonable period of time, not to exceed one year, from the date the certifying agency received the request for certification.[2]

B. Commission Interpretation of Section 401(a)(1) of the CWA

In Washington County Hydro Development Associates, 28 FERC ¶ 61,341 (September 18, 1984), the Commission construed the waiver provision of CWA. The Commission interpreted the "reasonable period of time (which shall not exceed one year)" referred to in section 401(a)(1) as commencing on the date the state accepted the request for certification, not on the date the request was received. After reviewing the legislative history of the CWA, the Commission rejected the literal meaning of the statutory phrase "receipt of such request," because it found:

> [S]uch an interpretation would undermine the fundamental purpose of Section 401, which is to vest in the states certain rights regarding water quality. If applicants for certification were able to trigger the running of the one year waiver period by filing applications devoid of appropriate information, the states would have a difficult time acquiring the information necessary to make informed decisions on such requests. Clearly, state certifying agencies must be able to reflect their need for the requisite information in their filing requirements.

On March 26, 1985, the Department of Environmental Protection of the State of Maine requested clarification of the *Washington County* decision. While generally supporting the Commission's holding in *Washington County*, Maine explained that the Commission's "use of the phrase 'acceptable for processing' creates an unfortunate and, we suspect, wholly unintended dilemma." According to Maine's Department of Environmental Protection, by state statute and agency regulation it is required to determine whether a request for certification is "acceptable for processing" within ten working days after the request has been filed. The Department's staff therefore simply determines whether the minimal filing requirements have been met; *e.g.*, that the request is properly signed and dated, that the applicant has standing, that the required public notice has been given, and that the general information specified in the application form has been provided. Thus, Maine emphasized that its acceptance of a request for

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[1] 33 U.S.C. 1341(a)(1) (1982).

[2] Section 401(a)(1) states:

> If the State, interstate agency, or Administrator [of the Environmental Protection Agency], as the case may be, fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request, the certification requirements of this subsection shall be waived with respect to such Federal application.

certification for processing is not intended to determine whether the state has acquired "the information necessary to make informed decisions on such requests," as *Washington County* assumed it would. Maine therefore requested the Commission to "interpret the holding in *Washington County* to mean that the one year waiver period under section 401(a)(1) of the Clean Water Act should be considered as commencing on the date a state agency deems an application substantively complete."

C. Other Administrative Interpretations of Section 401(a)(1) of the CWA

Both the United States Army Corps of Engineers (Corps) and the Environmental Protection Agency (EPA) have promulgated regulations concerning the certification requirements of Section 401(a)(1).

Applications for any Department of the Army permit must list authorizations required by other Federal, interstate, state or local agencies for the work proposed in the application, and must include all approvals received or denials already made.[3] The regulation specifies that certification under Section 401 is required for discharge of dredged or fill material in the waters of the United States.[4] Upon receiving an application for a permit, the district engineer has fifteen days to review its completeness.[5]

If he finds it incomplete, the district engineer requests from the applicant any additional information necessary for processing.[6] In cases in which the district engineer determines that water quality certification is required by Section 401 of the CWA, the district engineer so notifies the applicant, and obtains from him or from the certifying agency a copy of the certification.[7] Within fifteen days of receipt of all the information necessary to render the application complete, the district engineer issues a public notice that an application was filed.[8] This notice will indicate that water quality certification, if required, has been requested or obtained.[9]

Although the Corps will not grant a permit until the required certification has been obtained or waived, it has developed procedures to determine how such waiver can occur:[10]

Waiver may be explicit, or will be deemed to occur if the certifying agency fails or refuses to act on a request for certification within sixty days after receipt of such a request unless the district engineer determines a shorter or longer period is reasonable for the state to act. The request for certification must be made in accordance with the regulations of the certifying agency. In determining whether or not a waiver period has commenced or waiver has occurred, the district engineer will verify that the certifying agency has received a valid request for certification.

The district engineer is also authorized to extend or shorten the period of time for state consideration of a request for certification, as long as the total period of time does not exceed one year.[11]

The EPA also employs a sixty-day deadline, but uses a different procedure. Before issuing a National Pollution Discharge Elimination System permit, the EPA notifies the certifying state agency that it has received an application without a state certification, and requests that certification be granted or denied.[12] The EPA then proceeds to review the permit application. If state certification has not been received when the draft permit is ready, the Regional Administrator sends the certifying agency:[13]

(1) a copy of the draft permit,

(2) a statement that the permit cannot be issued without state certification, or a waiver of this right, and

(3) an explanation that a waiver will be deemed to have occurred unless that right is exercised within a specified time that cannot exceed sixty days from the date the draft permit was mailed, unless the Regional Administrator finds that unusual circumstances require more time.

Neither the Corps' nor the EPA's regulations on this point have been the subject of judicial review.

III. Proposed Rule and Rationale

Under the proposed rule and reasonable period of time for state review will be the shorter of the following two periods: one year from the state's receipt of the request for certification or ninety days from the date the Commission issues notice that the license application has been filed.

The existing Commission regulations require a license applicant to submit either a copy of the state certification (or agency statement that such certification is waived) or a copy of a dated letter requesting certification.[14] As the *Washington County* decision demonstrates, however, the Commission has no regulation which determines when a waiver occurs through failure or refusal to act.

In *Washington County*, the Commission sought to accommodate Congress' decision that the states should have broad authority over water quality certification. However, the clarification sought by the State of Maine demonstrates that the approach taken in *Washington County* is impractical. It now appears that implementation of *Washington County* would unduly entangle us in state affairs, a result precisely opposite the intent of that decision. Moreover, the modification of *Washington County* that Maine requests would enable the state to extend indefinitely the "reasonable period of time" for state review of a request for certification. Such an interpretation would contravene Congress' purpose in enacting the waiver provision: "to do away with dalliance or unreasonable delay."[15]

Moreover, recent Supreme Court precedents have underscored that agencies must not depart from the clear language of a statute. In *United States* v. *Boyle*, 105 S. Ct. 687 (1985), the Supreme Court interpreted literally a fixed time deadline which required that a federal estate tax return must be filed within nine months of a decedent's death. In so doing, the Supreme Court noted that "[d]eadlines are inherently arbitrary; fixed dates, however, are often essential to accomplish necessary results." 105 S. Ct. at 692. In *United States* v. *Locke*, 105 S. Ct. 1785 (1985), the Supreme Court held that statutory filing deadlines generally require literal construction. The Court stated, "to attempt to decide whether some date other than the one set out in the statute is the date actually 'intended' by Congress is to set all sail on an aimless journey, for the purpose of a filing deadline would be just as well served by nearly any date a court might choose as the date Congress has in fact set out in the statute." 105 S. Ct. at 1792.

In light of the Supreme Court's recent holdings in *Boyle* and *Locke*, and the potential for significant delay and involvement in state affairs inherent in the *Washington County* approach, the

[3] 33 CFR 325.1(d)(1) (1984).
[4] 33 CFR 325.1(d)(4) (1984).
[5] 33 CFR 325.2(a)(1) (1984).
[6] *Id.*
[7] 33 CFR 325.2(b)(1) (1984).
[8] 33 CFR 325.2(a)(2) (1984).
[9] 33 CFR 325.3(a)(8) (1984).
[10] 33 CFR 325.2(b)(1)(ii) (1984).
[11] 33 CFR 325.2(b)(1)(ii) (1984).
[12] 40 CFR 124.53(b) (1984).
[13] 40 CFR 124.53(c) (1984).
[14] 18 CFR 4.41(f)(2)(vii), 4.51(f)(2)(vi), and 4.61(a)(2)(ii) (1985). The Commission revised its hydroelectric license application regulations, 18 CFR Part 4, effective June 10, 1985. *See* 50 FR 11,658 (Mar. 25, 1985). All citations herein to Part 4 refer to the revised regulations.
[15] 115 Cong. Rec. 9264 (April 16, 1969) (statement of Rep. Edmonson, sponsor of the original version of the waiver provision).

Commission proposes to adopt a new approach which does not subject the Commission's processes to another agency's decision whether to accept water quality certificate applications. The CWA expressly militates against delay by providing for waiver of its process if the certifying agency "fails or refuses to act on a request for certification, within a reasonable period of time (which shall not exceed one year) after receipt of such request." The Commission's objective is also to aid effective administration of the CWA by proposing a rule that emphasizes firm deadlines that are measured from the date the request is received by the state.

The proposed rule is entirely in accord with the objectives set forth in *Washington County*. The states not only are unimpeded from exercising their clear statutory authority to act on requests for certification, as appropriate. The Commission believes that they will also have adequate time to secure all the information required for an informed judgment.

The proposed rule determines what is a "reasonable period of time" for state consideration of a request for certification. The CWA establishes a maximum period for state action of one year from the date the state receives the request for certification. Both the EPA and the Corps have established sixty days as a reasonable period of time to determine waiver, but have differing procedures to determine when the sixty days commences. The proposed rule sets ninety days as the reasonable period, linking the onset of the reasonable period to a date on which the Commission gives notice of the pending license application. The actual time available to the states for consideration of an application will, in most cases, be significantly greater.

By the time this Commission issues a notice of the license application, a state already will have had several months to review the request for certification. The Commission's regulations require license applicants to consult with each appropriate Federal and state agency before submitting their applications to the Commission.[16] To satisfy the filing requirements, a license applicant must also request state water quality certification before filing a license application. When the license application is filed, the Commission first determines whether the application is acceptable for filing.[17] If the application conforms to the Commission's filing requirements, the applicant is notified that the application has been accepted for filing as of a certain date, and a public notice is issued.[18] In most cases, however, the application is found deficient in some respect. An applicant who has filed a deficient application is given up to ninety days from the date of notification to correct deficiencies.[19] Once the required information has been submitted, the Commission issues the public notice of the filing of the license application.[20] However, if the revised application does not conform, or if the revisions are not submitted on time, the revised application is rejected.[21] Similarly, if the original application patently fails to substantially comply with the Commission's filing requirements, or if the project is precluded by law, the application will be rejected.[22]

By linking the commencement of the waiver period with the public notice, the proposed rule is designed to ensure that the state will have before it a complete license application to assist its decision to grant, deny, or waive the water quality certificate. This procedure will, in large measure, satisfy the Commission's concern expressed in *Washington County* that the states have "the information necessary to make informed decisions on such requests." Equally important to the Commission, however, is ensuring that its staff does not expend substantial resources on hydropower projects that are destined to be disqualified from licensing for failure to obtain a water quality certificate or waiver. The Commission also wishes to avoid needless duplication by having access to the state's water quality analysis before the Commission's staff commences its environmental review of the application. This latter objective can only be reached if the state's water quality analysis is completed before the Commission's analysis is begun. Finally, the proposed rule will provide developers with certainty regarding water quality certification reasonably early in the licensing process.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA)[23] requires agencies to prepare certain statements, descriptions and analyses of rules that will have "a significant economic impact on a substantial number of small entities."[24] The Commission is not required to make such an analysis if a rule will not have such an impact.[25]

To the extent the proposed rule has any impact upon license applicants that may be small entities, the proposed rule should reduce the uncertainties and potential delays involved in seeking a water quality certification and, subsequently, a hydropower license. In any case, the Commission does not believe that the rule would have a "significant economic impact on a substantial number of small entities." Pursuant to section 605(b) of the RFA, the Commission certifies that this rule will not have a "significant economic impact on a substantial number of small entitites."

V. Paperwork Reduction Act Statement

The information collection provisions proposed in this notice are being submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3502 (1982) and OMB's regulations, 5 CFR 1320.13 (1985). Interested persons can obtain information on the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (Attention: Arlene Pianko Groner (202) 357–8542). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Written Comment Procedure

The Commission invites interested persons to submit written data, views and other information concerning the matters set out in this notice. An original and fourteen copies of such comments should be filed with the Commission by October 8, 1985. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should refer to Docket No. RM85–6–000.

All written submission in this rulemaking will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North

[16] 18 CFR 4.38(a) (1985).
[17] 18 CFR 4.32 (1985).
[18] 18 CFR 4.32(c) (1985).
[19] 18 CFR 4.32(d)(1)(i) (1985).
[20] 18 CFR 4.32(d)(1)(ii) (1985).
[21] 18 CFR 4.32(d)(1)(iii) (1985).
[22] 18 CFR 4.32(d)(2) (1985).
[23] 5 U.S.C. 601–612 (1982).
[24] *Id.* at section 605(a).
[25] *Id.* at section 605(b)

Capitol Street NE., Washington, D.C. 20426.

List of Subjects in 18 CFR Part 4

Licenses, Permits, Exemptions, Determination of project costs, Electric power, Reporting and recordkeeping requirements.

In consideration of the foregoing, the Commission proposes to amend Part 4, Chapter 1, Title 18 of the Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 4—[AMENDED]

1. The authority citation for Part 4 continues to read as follows:

Authority: Federal Power Act, 16 U.S.C. 791a–825r (1982); Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982); Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Exec. Order No. 12,009; 3 CFR 142 (1978), unless otherwise noted.

2. In § 4.38, paragraphs (c) and (e) are revised, to read as follows:

§ 4.38 Pre-filing consultation requirements.

* * * * *

(c) An applicant must document to the Commission in Exhibit E of its application that the requirements of all three stages of the consultation process have been fully satisfied and must include:

(1) Any agency letters containing comments, recommendations, and terms and conditions; and

(2) With regard to certification requirements for license applicants under Section 401 of the Federal Water Pollution Control Act (Clean Water Act) [*see* 33 U.S.C. 1341], the following:

(i) A copy of the water quality certificate, or

(ii) A copy of the request for certification, including proof of the date that the certifying agency received the request in accordance with applicable law governing filings with that agency.

* * * * *

(e)(1) If all the appropriate agencies waive compliance with any requirement of this section, or are deemed by the Commission to waive compliance under this section, the applicant may omit compliance with that requirement. Except for waiver of water quality certification under paragraph (e)(2) of this section,the applicant must describe in Exhibit E of its application that circumstance of any waiver under this section.

(2) A state or interstate agency is deemed to have waived the certification requirements of section 401(a)(1) of the Clean Water Act if the certifying agency has not denied or granted certification on the earlier of:

(i) One year after the date the certifying agency received the request for certification; or

(ii) Ninety days after the date of issuance of the Commission's public notice of the license application under § 4.32.

* * * * *

§ 4.41 [Amended]

3. In § 4.41, paragraph (f)(2)(vii) is removed.

§ 4.5 [Amended]

4. In § 4.52, paragraph (f)(2)(vi) is removed.

§ 4.61 [Amended]

5. In § 4.61, paragraph (a)(1) is removed, and paragraphs (a)(2), (a)(3), and (a)(4) are redesignated as paragraphs (a)(1), (a)(2), and (a)(3), respectively.

[FR Doc. 85–18921 Filed 8–8–85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 600, 610, and 680

[Docket No. 81N-0096]

Biological Products; Allergenic Extracts; Implementation of Efficacy Review

Correction

In FR Doc. 85–1298 beginning on page 3082 in the issue of Wednesday, January 23, 1985, make the following corrections:

1. On page 3089, in the first column, in paragraph (4), in the third line, "hed titled" should read "head tilted".

2. On page 3096, in the second column, in the second paragraph, in the nineteenth line, between "groups;" and "(e)" insert: "(c) there was no difference in the C3 and C4 levels in the 3 groups; (d) serum immunoglobulin levels were the same in all 3 groups;".

3. On page 3105, in the second column, in paragraph 6d, in the twelfth line, "experienced" should read "exercised".

4. On page 3108 in the second column, in the second paragraph in the third line, insert "consist" between "remainder" and "of".

5. On page 3112, in the second column, in the eighth line, the first word should read "consistently".

6. On page 3124, in the table in the second column, in the entry *"P. rugel"*, the "Diagnosis" column should read "IIIA".

7. On page 3136, in the first column, in the first line, "unique" should read "quite".

8. On page 3141, in the third column, in the eleventh line from the bottom, after "tests", insert "were". In the ninth line from the bottom, after "sheep", insert "sorrel".

9. On page 3156, in the second column, in paragraph b, in the twelfth line the sentence should begin: "The tala (*C. tala*) is reported . . .".

10. On page 3160, in the third column, in entry (46), in the second line after "6:" the number should read "358–392". In entry (49), in the third line, the citation should read "49:445–452, 1956.".

11. On page 3166, in the table, in the third entry from the bottom (skunk fur), in the second and third columns, "IIIA" should read "IIIB".

12. On page 3170, in the first column, in paragraph (2), in the ninth line, insert "or in a population" between "population" and "with".

13. On page 3174, in the second column, in paragraph (4), in the thirtieth line, "danger" should read "dander".

14. On page 3174, in the third column, in the first complete paragraph, in the twenty-fourth line, "danger" should read "dander".

15. On page 3183, in the third column, in the fourth paragraph, beginning with "Snyder", in the tenth line, insert "reaction" between "The" and "rate".

16. On page 3188, in the second column, in the last paragraph, in the third line, "therefore" should read "heretofore".

17. On page 3189, in the third column, in the last paragraph, in the fourth line, "1:10" should read "1:100".

18. On page 3191, in the first column, under **REFERENCES,** in entry (12), in the fifth line, "848" should read "858".

19. On page 3205, in the third column, in the fourth complete paragraph, in the third line, "grain must" should read "grain smut".

20. On page 3207, in the second column, in entry (52), in the fourth line, "116" should read "16".

21. On page 3220, in the first column, under **REFERENCES,** in entry (12), in the fifth line, "115–11P" should read "115P-116P"; and in entry (13), in the sixth line, "63P–64)" should read "63P–64P".

22. On page 3223, in the first column, in paragraph (3)(ii), in the sixth line, "10" should read "19".

23. On page 3244, in the second column, in the thirty-fourth line, "they" should read "whey".

24. On page 3249, in the first column, in the table, in the entry "Shad", the "Category" column should read "I".

25. On page 3258, in the first column, in the third complete paragraph, in the eighteenth line, insert "the patients reported a good result. With use of *Alternaria* extract," between "of" and "the".

26. On page 3259, in the third column, in the fourth paragraph, in the eleventh and twelfth lines, insert "with appropriate allergens but not" between "treated" and "with".

27. On page 3265, in the table, under Oral Immunotherapy, the ninth entry "IIIA" (Wild feverfew) should read "IIIB"; and under Oleoresin, the entry for Asparagus should be followed by the designation "IIIA" under the Patch test and Oral Immunotherapy columns.

28. On page 3266, in the third column, in paragraph b, the seventeenth line should read: "but the pattern varies from patient to patient".

29. On page 3279, in the third column, under **REFERENCES**, in entry (14), in the fourth line, "194" should read "195".

30. On page 3280, in the second column, under the heading *A Product Classifications*, in the tenth line "basis" should read "data".

31. On page 3287, in the second column, in the first complete paragraph, in the second line, "502" should read "505".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 207

[Docket No. R-85-1241; FR-1842]

Multifamily Housing Mortgage Insurance; Notice of Default Submitted by Mortgagee

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

ACTION: Proposed rule.

SUMMARY: Currently, under 24 CFR Part 207, the basic regulation for Multifamily Mortgage Insurance, a mortgagee is entitled to receive insurance benefits if a default on the mortgage continues for a period of 30 days. Part 207 also requires the mortgagee to notify the FHA Commissioner of any default within 30 days after this 30-day grace period. This rule would amend Part 207 to require that the mortgagee immediately notify the Commissioner if a default is not cured by the mortgagor by close of business of the 16th day after such default occurs. The mortgagee must also file a formal notice after the 30-day grace period, and monthly thereafter until the default is cured, the mortgagee has acquired title to the property, or the insurance contract is terminated. The purpose of this revision is to provide the Commissioner time to determine whether the default can be cured before a mortgagee becomes entitled to insurance benefits. This rule would be applicable to all of HUD's multifamily insurance programs, except where coinsurance is involved.

DATE: Comments due October 8, 1985.

ADDRESSES: Communications concerning this rule should be identified by the above docket number and title and comments should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Copies of written views or coments will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Conrad Egan, Office of Multifamily Housing Management, Room 6158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 426-3968. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: Under 24 CFR 207.255(c), a multifamily mortgagee is entitled to receive insurance benefits if a default on an insured mortgage continues for 30 days. This entitlement is not dependent upon a mortgagee's notifying HUD of the default, although § 207.258(a) requires that the mortgagee effect its claim by filing an election to assign or foreclose within 45 days after it becomes entitled to receive benefits (i.e., after the 30-day grace period). It has been the Department's longstanding position that entitlement to benefits may continue even if the mortgagors tenders payment after expiration of the 30-day grace period but before an election is filed. In such a case the mortgagee may either apply the payments to cure the default, and then reinstate the mortgage, or it may hold the payments in escrow, and file an election to assign or foreclose.

Currently, § 207.256 requires the mortgagee to notify HUD of a default within 30 days after the 30-day grace period. This notice is not a request for insurance benefits. Rather, its purpose is to give HUD the opportunity to look into the possibility of the mortgagor's curing the default, thereby possibly avoiding an insurance claim. However, since the notice need not be given until after the 30-day grace period has expired, the mortgagee is entitled to receive insurance benefits despite HUDs efforts to cure the default. During periods of very high interest rates, some mortgagees have assigned mortgages that would have been readily curable, had HUD been given prior notice.

This rule proposes to give the Department approximately two weeks in which to investigate the possibility of the mortgagor's curing its default before the mortgagee becomes entitled to insurance benefits.

The rule proposes to amend § 207.256 to require that a mortgagee immediately notify the FHA Commissioner of any default that is not cured by the mortgagor by the 16th day after the default occurs. This will put the Department in a position to investigate the possibility of curing a default before the expiration of the 30-day grace period after which entitlement to insurance benefits vests. It will also provide the Department with timely information on the default status of projects with respect to which the mortgagee has a right to file an insurance claim. This new 16-day notice requirement would apply with respect both to payment defaults and to covenant violations that have resulted in the acceleration of the mortgage debt (see 24 CFR 207.255(a) (1) and (2)). The mortgagee would also be required to file with the Commissioner a formal notice of default at the end of the 30-day grace period and monthly thereafter until (1) the default is cured, (2) the mortgage has acquired title to the property, or (3) the insurance contract is terminated.

This rule would be applicable to all HUD's multifamily full insurance programs, since the regulations for those programs incorporate § 207.256 by reference. The only exceptions are the Department's multifamily coinsurance programs. Under coinsurance, all responsibility for mortgage servicing is delegated to the mortgagee.

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 by the President on February 17, 1981. Analysis of the proposed 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 government agencies, or geographic regions; or (3) have a significant adverse effect on

competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, because the scope of revised reporting requirements contained in the rule is extremely limited.

The information collection requirement contained in this rule was submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and has been assigned OMB Control Number 2502–0041.

This Rule is listed as item number 68 (H–4–84) in the Department's Semiannual Agenda of Regulations published on April 29, 1985 (50 FR 17286), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.103, 14.112, 14.115, 14.116, 14.123, 14.124, 14.125, 14.126, 14.127, 14.128, 14.129, 14.134, 14.135, 14.137, 14.138, 14.139, 14.151, 14.154 and 14.155.

List of Subjects in 24 CFR Part 207

Mortgage insurance.

PART 207—[AMENDED]

Accordingly, 24 CFR Part 207 is proposed to be amended as follows:

1. The Authority Citation for 24 CFR Part 207 would continue to read as follows:

Authority: Secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 207.256(a) would be revised to read as follows:

§ 207.256 Notice.

(a) If the default, as defined in § 207.255, is not cured by close of business of the 16th day after such default occurs, the mortgagee shall immediately notify the Commissioner in writing of such default. At the end of the 30-day grace period, the mortgagee shall file with the Commissioner, on a form approved by the Commissioner, its formal notice of default. Unless waived by the Commissioner, the mortgagee must continue to submit this notice monthly until (1) the default has been cured; (2) the mortgagee has acquired title to the property; or (3) the insurance contract has been terminated.

* * * * *

(Approved by the Office of Management and Budget under OMB control number 2502–0041)

Dated: July 16, 1985.

Janet Hale,

Acting Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85–18957 Filed 8–8–85; 8:45 am]

BILLING CODE 4210–27–M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1502

National Environmental Policy Act Regulations

AGENCY: Executive Office of the President, CEQ.

ACTION: Proposed amendment to 40 CFR 1502.22.

SUMMARY: In 1978, the Council on Environmental Quality (CEQ) issued binding regulations to implement the procedural provisions of the National Environmental Policy Act (NEPA). The regulations address the administration of the environmental assessment process for actions undertaken by all federal agencies. Since 1978, CEQ has continued its oversight of the regulations by, among other things, maintaining active monitoring of the implementation of the regulations in the federal agencies, reviewing the interpretations of the regulations by the federal courts, asking for public comment on methods of improving the effectiveness of the regulations, holding public meetings, and issuing guidance documents interpreting various aspects of the regulations. During the past two years, CEQ has paid particular attention to one of the regulations (40 CFR 1502.22) which, among other things, requires federal agencies to include a "worst case analysis" in an environmental impact statement if there is incomplete or unavailable information relevant to significant adverse impacts. CEQ is concerned that the requirement to prepare a "worst case analysis" in certain circumstances has been the impetus for judicial decisions which require federal agencies to go beyond the "rule of reason" in their analysis of potentially severe impacts. After an intensive review of the "worst case analysis" issue, including publication of an Advance Notice of Proposed Rulemaking asking for comment on the entire regulation which addresses "incomplete or unavailable information" in an environmental impact statement, CEQ has voted to amend the regulation. The proposed amendment requires the agencies (1) to affirmatively disclose the fact that information important to evaluating significant adverse effects on the human environment is missing; (2) to explain the relevance of the missing information; (3) to summarize the existing credible scientific evidence which is relevant to the agency's evaluation of the significant adverse impacts on the human environment; and (4) to evaluate that evidence. The proposed amendment also specifies that the impacts to be evaluated include low probability/catastrophic consequences, when the analysis is based on credible scientific support and not on pure conjecture, and is within the rule of reason. These requirements are proposed as a substitute for "worst case analysis". The proposed amendment also rewords and clarifies the other portions of the regulation.

Upon promulgation of this proposed amendment, conforming guidance will be provided in place of the Council's existing guidance on this regulation, Question 20 of *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 40 FR 18032 (1981).

DATE: Comments must be received by September 23, 1985. All comments received will be available for public inspection at CEQ.

ADDRESS: Comments should be sent to Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality (address same as above), 202–395–5754.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

Under Executive Order 12291, CEQ must judge whether a regulation is major and, therefore, whether a Regulatory Impact Analysis must be prepared. This regulation does not satisfy any of the criteria specified in section 1(b) of the Executive Order and, as such, does not constitute a major rulemaking. As

required by Executive Order 12291, this regulation was submitted to the Office of Management and Budget for review. Any written comments from OMB to CEQ are available from Julia Alessio, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006.

Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to Mr. Richard Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 26 Jackson Place, NW., Washington, D.C. 20503. The final rule responds to OMB and public comments on the information collection requirements.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* CEQ is required to prepare a Regulatory Flexibility Analysis for proposed regulations which would have a significant impact on a substantial number of small entities. No analysis is required, however, when the Chairman of the Council certifies that the rule will not have a significant economic impact on a substantial number of small entities. Today's proposed rule would have no effect upon small entities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b), that this final proposed rule would not have a significant impact on a substantial number of small entities.

1. Background

The National Environmental Policy Act, signed into law by President Nixon on January 1, 1970, articulated national policy and goals for the nation, established the Council on Environmental Quality, and, among other things, required all federal agencies to assess the environmental impacts of and alternatives to proposals for major federal actions significantly affecting the quality of the human environment. The Council on Environmental Quality (CEQ), charged with the duty of overseeing the implementation of NEPA, developed guidelines to aid federal agencies in assessing the environmental impacts of their proposals. A combination of agency practice, judicial decisions and CEQ guidance resulted in the development of an environmental impact assessment process, which includes the preparation of environmental impact statements (EIS's) for certain types of federal actions.

In 1977, CEQ was directed by Executive Order 11991 to promulgate binding regulations implementing the procedural provisions of NEPA. The Council was specifically directed to:

> . . . make the environmental impact statement more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives.

Accordingly, after receiving and responding to the suggestions and comments of federal, state and local governmental officials, private citizens, business and industry representatives, and public interest organizations, the Council issued the NEPA regulations on November 29, 1978. 40 CFR 1500–1508 (1984). The regulations became effective for, and binding upon, most federal agencies on July 30, 1979, and for all remaining federal agencies on November 30, 1979.

Since promulgation of the NEPA regulations, the Council has continually reviewed the regulations to identify areas where further interpretation or guidance is required. This review has resulted in several guidance documents.[1] Although continual attention is required to ensure that the mandate of the regulations is being fulfilled, the Council believes that the regulations are generally working well.

During the past two years, however, the Council has received numerous requests from both government agencies and private parties to review the regulation which addresses "incomplete or unavailable information" in the EIS process. That regulation currently reads as follows:

> § 1502.22 Incomplete or unavailable information.
>
> When an agency is evaluating significant adverse effects on the human environment in an environmental impact statement and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.
>
> (a) If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.
>
> (b) If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis and an indication of the probability or improbability of its occurrence. 40 CFR 1502.22

On August 11, 1983, the Council proposed guidance regarding the "worst case analysis" requirement and asked for comments on the proposed guidance. 48 FR 36486 (1983). The draft guidance suggested an initial threshold of probability should be crossed before the requirements in 40 CFR 1502.22 became applicable. Although some commentators agreed with the guidance, others believed that the proposed threshold would unwisely undercut analysis of low probability/severe consequences. Other writers suggested different approaches to the issue, or advocated an amendment to the regulation rather than guidance. After reviewing the comments received in response to that proposal, the Council withdrew the proposed guidance, stating its intent to give the matter additional examination before publishing a new proposal. 49 FR 4803 (1984). On December 31, 1984, the Council issued an Advance Notice of Proposed Rulemaking for 40 CFR 1502.22, and stated that it was considering the need to amend the regulation. 49 FR 50744 (1984). The Advance Notice of Proposed Rulemaking posed five questions and asked for thoughtful written comments in response to them. The questions were:

1. Under what circumstance and to what extent must a federal agency engage in forecasting or speculation when confronted with scientific uncertainty or gaps in information concerning the environmental effects of a proposed action?

2. How can an analysis be structured to present reasonable forecasting in the face of scientific uncertainty or information gaps about the effects of proposed action to provide more useful and understandable information for decisionmakers and other interested parties?

3. Does the type of analysis called for in 40 CFR 1502.22 require federal agencies to go beyond the "rule of reason", as traditionally expressed in judicial decisions interpreting NEPA?

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[1] *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 46 FR 18026 (1981); *Memorandum for General Counsels, NEPA Liaisons and Participants in Scoping*, April 30, 1981 (Available upon request to the General Counsel's Office, CEQ); *Guidance Regarding NEPA Regulations*, 48 FR 34263 (1983).

4. Should a threshold standard be established which would trigger the preparation of the type of analysis identified in response to question one, such as a threshold of severe consequences, a threshold of probability, or a threshold of scientific credibility?

5. Is the term "worst case" appropriate for this type of analysis? If so, how should it be defined? If not, what is the most appropriate term for this type of analysis, and how should it be defined?

The Council received a total of 161 responses: 68 comments from business and industry; 33 from public interest groups; 23 from federal agencies; 19 from individual commentators; 16 from state governments; and 2 from Congressional or legislative interests. A majority of commentators cited problems with the requirement to perform a "worst case analysis", although they recognized the need to address potential impacts in the face of missing information. Many commentators thought that either the regulation itself or recent judicial decisions from the U.S. Court of Appeals for the Ninth Circuit required agencies to go beyond the "rule of reason". These commentators suggested that the "rule of reason" should be made specifically applicable to the requirements of § 1502.22. A minority of commentators felt strongly that the current regulation is adequate and should not be amended.

Some commentators stressed the disclosure part of the regulation, and said that the truly important feature of the regulation was to force the agencies to acknowledge scientific uncertainty or information gaps. Other commentators offered specific suggestions for defining the type of analysis which would be appropriate in particular instances where missing information is an important factor in the decisionmaking process. A summary of all comments received is available from the Office of General Counsel.

On March 18, 1985, the Council held a meeting, open to the public, to discuss the comments received in response to the Advance Notice of Proposed Rulemaking. 50 FR 9535 (1985). Shortly after that meeting, the Council voted to amend the regulation.

PURPOSE AND ANALYSIS OF PROPOSED AMENDMENT

Discussion of Existing Regulation and Problems

The NEPA process requires federal agencies to disclose the environmental impacts of proposed major federal actions which significantly affect the quality of the human environment in an environmental impact statement (EIS). The EIS must include a rigorous evaluation of the direct and indirect environmental impacts of the proposed action and of all reasonable alternatives to the proposed action. In the context of preparing an EIS, agencies are sometimes faced with a situation in which there is information missing which relates to significant adverse impacts. Early in the history of interpreting NEPA, it was decided that an agency cannot avoid drafting an EIS because some information regarding the potential environmental impacts is unknown; indeed, "one of the functions of a NEPA statement is to indicate the extent to which environmental effects are essentially unknown." *Scientists' Institute for Public Information, Inc.* v. *Atomic Energy Commission*, 481 F.2d 1079, 1092 (D.C. Cir. 1973).

Section 1502.22 attempts to address the difficulty of analyzing in an environmental impact statement (EIS) the consequences of a proposed action in the face of incomplete or unavailable information. The regulation requires an agency to disclose the fact that information is lacking or that scientific uncertainty exists, and to obtain that information if it is essential to a reasoned choice among alternatives and the overall costs of doing so are not exorbitant. If the agency is unable to obtain the information because of overall costs or because the means to obtain it are not known, and the agency proceeds in the face of uncertainty, it must include a "worst case analysis" in the EIS. Although nothing in the official regulatory record reveals the reason that the Council chose the "worst case analysis" construct, which was not required by previous judicial opinions construing NEPA or by CEQ guidelines, it was apparently created as a device to require agencies to complete the analysis in the EIS, rather than allowing agencies to disregard uncertainties as having no weight in the balancing process.

After an intensive review of the regulation, the Council has concluded that the "worst case analysis" requirement is an unsatisfactory approach to the analysis of potential consequences in the face of missing information. The requirement challenges the agencies to speculate on the "worst" possible consequence of a proposed action. Many respondents to the Council's Advance Notice of Proposed Rulemaking pointed to the limitless nature of the inquiry established by this requirement; that is, one can always conjure up a worse "worst case" by adding an additional variable to a hypothetical scenario. Experts in the field of risk analysis and perception stated that the "worst case analysis" lacks defensible rationale or procedures, and that the current regulatory language stands "without any discernible link to the disciplines that have devoted so much thought and effort toward developing rational ways to cope with problems of uncertainty. It is, therefore, not surprising that no one knows how to do a worst case analysis. . . ", Slovic, P., February 1, 1985, Response to ANPRM.

Moreover, in the institutional context of litigation over EIS(s) the "worst case" rule has proved counterproductive, because it has led to agencies being required to devote substantial time and resources to preparation of analyses which are not considered useful to decisionmakers and divert the EIS process from its intended purpose.

The "worst case analysis" requirement has been interpreted to require agencies to present a discussion of a particular disastrous impact even when the agency believes that no credible scientific data has indicated that the particular impact could be caused by the proposed action. For example, in *Save Our Ecosystems* v. *Clark*, 747 F.2d 1240 (9th Cir. 1984), the Bureau of Land Management was ordered to prepare a "worst case analysis" assuming a causal effect between the use of certain herbicides on federal forest land and the development of cancer in human beings, despite the agency's contention that such an analysis would be pure guesswork because no credible scientific data supported the contention that cancer could occur at any dose. The Council believes that pure conjecture, that is, a conjectural analysis, lacking a credible scientific basis is *not* useful to either the decisionmaker or the public; rather, it could appear to be an indulgence in speculation for its own sake without a firm connection between credible science and the hypothetical consequences of an agency's proposed action.

Further, the Council views such an interpretation of the "worst case analysis" requirement as inconsistent with the "rule of reason", which courts have traditionally used to interpret an agency's duty under NEPA when faced with the problem of uncertainty.[2] In

[2] "Because NEPA is silent on the problem of uncertainty resulting from missing information, the courts have been forced to grapple with the issue case by case and have established a 'rule of reason' approach." *Sierra Club* v. *Sigler*, 695 F.2d 957 (5th Cir. 1983).

interpreting the requirements of NEPA, courts have recognized, "on the one hand that the Act mandates that no agency limit its environmental activity by the use of an artificial framework and on the other that the Act does not intend to impose an impossible standard on the agency." *Environmental Defense Fund, Inc.* v. *Corps of Engineers*, 492 F. 2d 1123 (5th Cir. 1974). Similarly, in the first NEPA case to deal specifically with the "rule of reason" standard as applied to the problem of scientific uncertainty or missing information, the Court of Appeals for the District of Columbia Circuit stated that, "[NEPA's] requirement that the agency describe the anticipated environmental effects of a proposed action is subject to a rule of reason. The agency need not foresee the unforeseeable, but by the same token, neither can it avoid drafting an impact statement simply because describing the environmental effects of alternatives to particular agency action involves some degree of forecasting . . . 'The statute must be construed in the light of reason if it is not to demand what is, fairly speaking, not meaningfully possible . . .' [citing *Calvert Cliffs' Coordinating Committee* v. *Atomic Energy Commission*, 499 F.2d 1109, 1114 (D.C. Cir. 1971)]. But implicit in this rule of reason is the overriding statutory duty of compliance with impact statement procedures 'to the fullest extent possible.' " *Scientists' Institute for Public Information, Inc.* v. *Atomic Energy Commission*, 481 F.2d 1079, 1092 (D.C. Cir. 1973). The Council believes that the current "worst case analysis" requirement, as interpreted by recent judicial decisions, imposes a requirement on the agencies which goes beyond this "rule of reason": That of defining and analyzing a particular set of hypothetical consequences which can be imagined as the "worst" possible result of a proposed action, without regard to support from scientific opinion, evidence, and experience.

The Proposed Amendment

It is well established that, in complying with NEPA, agencies must fairly analyze and comment upon the consequences of their actions in the face of missing information in an EIS. The Council strongly believes such analyses must be based upon credible science, so that the information will be of value to the decisionmaker and the public. The proposed amendment simply but precisely sets forth an agency's duties when, in preparing an EIS, the agency determines that there is missing information which is important to evaluating significant adverse impacts on the human environment. First, the agency must make reasonable efforts, in light of overall costs and the state of the art, to obtain the missing information. If that effort is not possible or successful, the agency must then disclose the fact that the information is missing; explain the relevance of the missing information to the agency's evaluation of significant adverse impacts on the human environment; summarize the existing credible scientific evidence which is relevant to analysis of significant adverse impacts; and present the agency's own evaluation of that scientific evidence in the EIS. Thus, the proposed regulation retains the duty to describe the consequences of a remote, but potentially severe impact, but grounds the duty in evaluation of scientific opinion rather than in the framework of a conjectural "worst case analysis". Section 1502.22 must, of course, be read in the context of the more general requirements for preparation of an EIS (40 CFR 1502, *et seq.*). These include the rigorous evaluation of the direct, indirect and cumulative impacts of a proposed action, alternatives to the proposed action, and appropriate mitigation measures. (40 CFR 1502 *et seq.*).

The proposed regulation would apply in the circumstances which frame the current requirement; that is, when there is missing information important to the evaluation of significant adverse impacts on the human environment. After consideration of the comments received in response to the Advance Notice of Proposed Rulemaking, the Council has chosen to impose scientific credibility as the "threshold" to trigger the requirements of the proposed regulation. In identifying potentially significant adverse impacts, an agency must forecast those consequences which have a low probability of occurrence but have potentially catastrophic consequences when there is credible scientific support to suggest that the impact could occur as a result of the proposed action. The agency is not required to include opinions about or an evaluation of impacts which are based on pure conjecture, without a sound rationale or valid data.

The Council intends for the phrase "overall costs" to be interpreted as including financial and other costs, such as cost in terms of time. This is consistent with the interpretation of the phrase in the current regulation. 43 FR 55978, 55984 (1978).

Finally, in light of the attention paid in recent months to "Bhopal"-type disasters, the Council wishes to emphasize that, in our judgment, the proposed regulation is better designed to lead to more informed decisionmaking, and, thus, will be more helpful in preventing such low probability/high consequence disasters than the current "worst case" rule. By requiring agencies to focus their analysis on reasonably foreseeable impacts, the proposal will generate information and discussion on those consequences of greatest concern to the public and of greatest relevance to the agency's decision. This will, we believe, constitute a substantial step forward over the current "worst case analysis" approach.

The proposed regulation requires agencies to take affirmative action, not otherwise required in the EIS process, when there is missing information about a significant adverse impact. The requirement to disclose all credible scientific evidence extends to those views which are generally viewed as "minority views" within the scientific community or to those views which are opposite those of the views subscribed to by the agency. The proposed amendment is thus consistent with the "rule of reason" as applied to the requirement that an agency make a good faith effort to describe the reasonably foreseeable environmental impacts of a program, even in the face of missing information. *Scientists Institute for Public Information* v. *Atomic Energy Commission*, 481 F.2d 1079 at 1092 (D.C. Cir. 1973). It is also consistent with the holding in *Sierra Club* v. *Sigler*, 695 F.2d 957 (5th Cir. 1983), that the probable remoteness of an impact does not excuse an agency from an evaluation of those impacts when there is a body of data with which an evaluation can be made which is not unreasonably speculative. *Id.* at 974. The Council intends that the evaluation of adverse impacts under this section will be founded on science which is competent and worthy of belief, and which is based upon theoretical approaches or research results generally accepted in the scientific community. The Council believes that this requirement will greatly enhance the utility of analyses under this section for both the decisionmaker and the public.

List of Subjects in 40 CFR Part 1502

Environmental impact statements.

PART 1502—[Amended].

40 CFR Part 1502 is proposed to be amended as follows:

1. The authority citation for Part 1502 continues to read:

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), sec. 309 of

the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

2. Section 1502.22 is revised to read as follows:

§ 1502.22. Incomplete or unavailable information.

In preparing an environmental impact statement, the agency shall make reasonable efforts, in light of overall costs and state of the art, to obtain missing information which, in its judgment, is important to evaluating significant adverse impacts on the human environment that are reasonably foreseeable. If, for the reasons stated above, the agency is unable to obtain this missing information, the agency shall include within the environmental impact statement (a) a statement that such information is missing, (b) a statement of the relevance of the missing information to evaluating significant adverse impacts on the human environment, (c) a summary of existing credible scientific evidence which is relevant to evaluating the significant adverse impacts on the human environment, and (d) the agency's evaluation of such evidence. "Reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that they have credible scientific support, are not based on pure conjecture, and are within the rule of reason.

A. Alan Hill,

Chairman.

[FR Doc. 85-18609 Filed 8-8-85; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

[OMB-005-N]

Medicare Program; Office of Management and Budget Request for Review of Collection of Information Requirements

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of OMB action on collection of information requirements.

SUMMARY: As a result of reviews performed under the authority of the Paperwork Reduction Act of 1980, the Office of Management and Budget has directed that HCFA revise selected collection of information requirements in HCFA regulations. This notice informs the public of OMB's decision and states our intention to develop notices of proposed rulemaking: (1) To change the regulations, as appropriate, and (2) to solicit comments on the collection of information requirements. Consistent with the provisions of 5 CFR 1320.14, OMB has granted continued approval of the current collection of information requirements for a limited time.

DATE: To assure consideration, comments must be received by September 9, 1985.

ADDRESS: Address comments in writing to: Health Care Financing Administration, Department of Health and Human Services, Attention: OMB-005-N, P.O. Box 26676, Baltimore, Maryland 21207.

Address a copy of comments on collection of information requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3203, New Executive Office Building, Washington, D.C. 20503, Attention: Fay Iudicello.

FOR FURTHER INFORMATION CONTACT: Frank Burns, (301) 594-8651—Information Collection Requirements Stefan Miller, (301) 597-6394-Conditions of Participation and Coverage.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1980 (44 U.S.C. 3507) establishes policies and procedures for controlling paperwork burdens imposed by Federal agencies on the public. In regulations at 5 CFR 1320.14, effective May 2, 1983, the Office of Management and Budget (OMB) set forth procedures for its review of collection of information requirements contained in existing regulations that had not been previously reviewed by OMB or the General Accounting Office.

In accordance with an agreed-upon schedule, HCFA identified and submitted for review a number of items for approval. (Approval results in assignment of a control number, listed at 42 CFR 400.310.) OMB has directed that we initiate proposals to change certain collection of information requirements. In such instances, OMB's procedures require Federal agencies to publish a notice in the **Federal Register** informing the public of these proposed changes in the collection of information requirements and that OMB has approved the information requirements for a limited period of time. (This process is described in OMB regulations, 5 CFR 1320.14(f).)

The collection of information requirements most recently identified as those that may be overly prescriptive appear in 42 CFR Part 405, Subparts L, M, and Q. Therefore, we are publishing this notice to solicit public comments on the feasibility of revising the collection of information requirements that are not specifically required by statute and to inform the public that OMB has granted limited continued approval of these questioned requirements. Under an interagency agreement, HCFA will work with the Centers for Disease Control on the requirements in Subpart M (Conditions of Coverage of Services of Independent Laboratories).

We will accept comments on the collection of information requirements contained in the following rules that OMB has identified for change:

1. 42 CFR Part 405, Subpart L (Conditions of Participation; Home Health Agencies).

(a) Section 405.1221, which specifies that written requirements be developed for home health agencies' organizational structure, qualifying services, administrative controls, personnel policies and contracts, coordination of patient services, services under arrangements, and institutional planning.

(b) Section 405.1223(a), which specifies the development of a written plan of treatment established and periodically reviewed by a physician and details the requirements of the plan of treatment.

(c) Section 405.1223(b), which requires a review of the total plan of treatment by home health agency personnel and the attending physician as often as the severity of the patient's condition requires, but at least once every 60 days. The agency professional staff is also required to alert the physician promptly of any changes that suggest a need to alter the plan of treatment.

(d) Sections 405.1224 (a) and (b), which describe the duties of registered nurses and licensed practical nurses as those duties which relate to the preparation of clinical and progress notes set forth in the plan of treatment.

(e) Section 405.1225(a), which describes the duties of physical therapist and occupational therapist assistants under the supervision of a qualified physical or occupational therapist as those which include the preparation of clinical and progress notes in accordance with the plan of treatment.

(f) Section 405.1226, which describes the duties of qualified social workers offering medical social services as those which include preparing clinical and

progress notes on the patient's condition and assisting in the development of the plan of treatment.

(g) Section 405.1228, which contains specific requirements for content, maintenance and retention of clinical records for every patient receiving home health services.

(h) Section 405.1229, which requires home health agencies to have written policies requiring an overall evaluation of the agency's total program once a year by specified persons. The content of the evaluation and the disposition of evaluation results are specified.

2. 42 CFR Part 405, Subpart M (Conditions of Coverage of Services of Independent Laboratories).

(a) Section 405.1314(a)(2), which specifies requirements for maintaining records of all proficiency testing results in programs in which laboratories are participants and make these records routinely available to all State survey agencies, with certain exceptions.

(b) Section 405.1315(f), which requires independent laboratories to have written personnel policies, procedures and practices and to maintain employee records that include specific information.

(c) Section 405.1316(a), which requires the clinical laboratory to maintain records and a compilation of all automated and manual methods for tests which are performed in or offered by the laboratory.

(d) Section 405.1316(f), which requires independent laboratories to maintain records of the daily acquisition of specimens and specifies what information must be included in the record.

(e) Section 405.1316(g), which requires the laboratory director to promptly send the laboratory report to the licensed physician or other authorized person who requested the test. It also requires that a suitable record of each test result be maintained for a period of at least 2 years after the date of submittal of the report or for a period of time required by State law for such records, whichever is longer.

(f) Sections 405.1317 (a)(5) and (a)(6), which require written approval by the director or supervisor of all changes in laboratory procedures and the maintenance and availability of laboratory records to laboratory personnel as well as to the Secretary.

(g) Section 405.1317(b)(3), which specifies the method and frequency for checking laboratory instruments used in clinical chemistry and the maintenance of records for this purpose.

The Subpart M requirements were originally established to assure the accountability of laboratories in quality control and the performance of acceptable test results. We particularly will be interested in comments on which of these requirements remain viable quality assurance tools and which may represent unnecessary burdens on laboratory management.

3. 42 CFR Part 405, Subpart Q (Conditions of Participation: Clinics, Rehabilitation Agencies, and Public Health Agencies as Providers of Outpatient Physical Therapy Services; and Conditions for Coverage: Outpatient Physical Therapy Services Furnished by Physical Therapists in Independent Practice).

(a) Section 405.1720(b), which permits rehabilitation agencies to provide social or vocational adjustment services under a written contract with others (that is, other than salaried employees), provided the agency retains responsibility for, and control and supervision of, these services. The terms of the contract are specified in detail.

(b) Section 405.1721(a), which contains specific requirements for the terms of a contract under which an organization provides outpatient physical therapy or speech pathology services under an arrangement with others.

(c) Section 405.1722, which specifies requirements for maintaining clinical records for clinics, rehabilitation agencies, and public health agencies as providers of outpatient physical therapy or speech pathology services.

(d) Sections 405.1736 (b) and (d), which specify requirements for the content and retention of clinical records for physical therapists in independent practice.

The public is invited also to comment on any other requirements of Subparts L, M, and Q that they believe are collection of information requirements.

After reviewing comments we received on this notice, we will, within 120 days, initiate a notice or notices of proposed rulemaking concerning these collection of information requirements.

(Section 1102 of the Social Security Act, 42 U.S.C. 1302; 5 CFR 1320.14(f))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: July 10, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85-18926 Filed 8-8-85; 8:45 am]

BILLING CODE 4120-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 84-232; FCC 85-329]

Future Public Safety Telecommunications Requirements

AGENCY: Federal Communications Commission.

ACTION: Order regarding staff report.

SUMMARY: The FCC adopted an Order releasing a Staff Report on future public safety telecommunications requirements. This action is part of its Congressional mandate to develop a Public Safety Plan to govern future spectrum allocation decisions.

DATES: Submit comments on or before October 30, 1985 and reply comments on or before November 29, 1985.

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

FOR FURTHER INFORMATION CONTACT: Joseph A. Levin, Land Mobile & Microwave Division, Private Radio Bureau, (202) 632-7125.

SUPPLEMENTARY INFORMATION:

Order

In the Matter of Future Public Safety Telecommunications Requirements; PR Docket No. 84-232.

Adopted: June 21, 1985.
Released: August 1, 1985.

By the Commission.

1. The Report being released by the Commission through this *Order* is the second phase of a three part project to develop a plan to assure that the Commission considers the current and future communications requirements of public safety entities in making spectrum allocations. Phase one consisted of a *Notice of Inquiry* (*Inquiry*) which was adopted by the Commission on March 1, 1984 (49 FR 9754; March 15, 1984). The *Inquiry* was designed to solicit comments from the public safety community and other interested parties regarding future public safety telecommunications requirements. The Report was prepared by the Private Radio Bureau to consolidate the available information regarding future public safety telecommunications requirements, as well as information regarding possible alternative means for meeting the future requirements which are identified. It is expected that the public safety community and other interested parties will review the Report and provide comments which will assist the

Commission in the third and final phase of this proceeding, development of a Public Safety Plan.

2. The Report consists of six main sections: (1) A discussion of current public safety allocations; (2) a discussion of the growth factors responsible for increasing public safety communication requirements as presented in the comments to the Inquiry; (3) nationwide and geographic projections of public safety spectrum needs through the year 2000; (4) a discussion of proposed public safety allocations; (5) a discussion of the impact of new technologies on these projections; and (6) a discussion of a number of alternative means to meet the projected future needs of the public safety radio services.

3. While we seek comments on all aspects of the Report, we are especially interested in reactions to the options discussed in Chapter 7, as well as any additional options commenters may wish to propose. These comments will be used by the staff in the development of the Public Safety Plan which will assure that the future telecommunications requirements of public safety entities are met.

4. Accordingly, IT IS HEREBY ORDERED, that the Private Radio Bureau Report, entitled Future Public Safety Telecommunications Requirements, be published as a staff Report and be made available to the public through the Commission's records duplication contractor. Copies also will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street, NW., Washington, DC. The Commission adopts this *Order* 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). Pursuant to the procedures set out in § 1.415 of the Commission's Rules, 47 CFR 1.415, interested persons may file comments on or before October 30, 1985 and reply comments on or before November 29, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in adopting a Public Safety Plan.

5. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting open copy. All comments will be given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

6. For further information contact Joseph A. Levin, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-7125.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-18635 Filed 8-8-85; 8:45 am]

BILLING CODE 6712-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[AIDAR Case 85-1]

48 CFR Part 752 and Appendix D

Proposed Acquisition Regulation Amendment Regarding Differential and Allowances

AGENCY: Agency for International Development, IDCA.

ACTION: Proposed rule.

SUMMARY: This proposed AID Acquisition Regulation (AIDAR) change amends the Differential and Allowances clauses to provide a danger pay allowance as additional compensation above basic compensation to U.S. contractor employees for service at places in foreign areas where there exist conditions of civil insurrection, civil war, terrorism or wartime conditions which threaten physical harm or imminent danger to the health or well-being of the employee.

DATE: Comments on the proposed rule should be submitted in writing and be received on or before September 9, 1985, at the address shown below to be considered in the formulation of the final rule.

ADDRESS: Interested parties should submit written comments to: Agency for International Development, Attn: M/SER/CM/SD/POL, Room 713, SA-14, Washington, D.C. 20523.

Please cite AIDAR Case 85-1 in all correspondence related to this proposal.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia L. Bullock, M/SER/CM/SD/POL. Telephone (703) 235-9107

SUPPLEMENTARY INFORMATION: This proposed AIDAR Amendment is being made available for review and comment in accordance with FAR 1.502-2 and AIDAR 701.374(b).

Danger pay is an allowance that provides additional compensation above basic compensation to an employee in a foreign area where civil insurrection, civil war, terrorism or wartime conditions threaten physical harm or imminent danger to the health or well-being of the employee. The danger pay allowance is in lieu of that part of the post differential which is attributable to political violence. Consequently, the post differential may be reduced while danger pay is in effect to avoid dual crediting for political violence.

List of Subjects in 48 CFR Part 752

Government procurement.

Therefore, it is proposed that 48 CFR Part 752 and Appendix D of Chapter 7 be amended as follows:

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for Part 752 continues to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

2. Section 752.7028, Differential and Allowances, is amended fy revising the clause date from "Apr. 1984" to "Aug. 1985" and by adding a new paragraph (j) to the clause to read as follows:

752.7028 Differentials and allowances.

* * * * *

Differentials and Allowances (Aug. 1985)

* * * * *

(j) *Danger pay allowance.* (1) The contractor will be reimbursed for payments made to its employees for danger pay not to exceed that paid AID employees in the cooperating country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 650, as from time to time amended.

(2) Danger pay is an allowance that provides additional compensation above basic compensation to an employee in a foreign area where civil insurrection, civil war, terrorism or wartime conditions threaten physical harm or imminent danger to the health or well-being of the employee. The danger pay allowance is in lieu of that part of the post differential which is attributable to political violence. Consequently, the post differential may be reduced while danger pay is in effect to avoid dual crediting for political violence.

Appendix D of Chapter 7—[Amended]

3. Clause 6. of Attachment 2, Form AID 1420-37, "General Provisions", Appendix D of this chapter is amended to add a new paragraph (g) as follows:

Appendix D—Direct AID Contracts with U.S. Citizens or U.S. Residents for Personal Services Abroad

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Attachment 2 to Appendix D—Form AID 1420-37, "General Provisions"

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6. Differential and Allowances

(g) Danger pay allowance.....Chapter 650.

* * * * *

Dated: July 29, 1985.

John F. Owens,

AID Procurement Executive.

[FR Doc. 85-18847 Filed 8-8-85; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82-03; Notice 2]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

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

ACTION: Termination of rulemaking.

SUMMARY: The purpose of this notice is to terminate rulemaking on whether the cab of a vehicle is an acceptable alternative location for the mounting of clearance lamps. A notice of request for comments on this subject was published on February 22, 1982 (47 FR 7712). The notice was responsive to a petition by Truck Body and Equipment Association (TBEA) which represented that the present location is not acceptable on every vehicle configuration, and that manufacturing costs could be reduced through allowance of an alternative location. Rulemaking is terminated because of the safety value of the current location and because the alleged problem of glare appeared less prevalent than reported and cost savings would be minimal.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590, (202-426-2153).

SUPPLEMENTARY INFORMATION: Paragraph S4.1.1 of 49 CFR 571.108 requires vehicles whose width is 80 inches or greater to be equipped with a set of two clearance lamps on both the front and rear of the vehicle. The purpose of these lamps is to signify the presence of a wide vehicle on the roadway, and Table II requires that they be mounted "to indicate the overall width of the vehicle * * * and as near the top as practicable".

In 1979, TBEA petitioned for rulemaking that would allow front clearance lamps to be mounted on top of the cab. According to it, repair and service type trucks often have a reflected light in rearview mirrors that is a problem for the drivers when the lamps are located at the top of the utility body, and as a consequence, these lamps are frequently disabled by the drivers to eliminate this problem. Further, the width of current chassis-cabs is almost the same as the bodies that are mounted on them. A change of this nature would aid truck manufacturers and may reduce the costs for some vehicles.

Specific area for which the agency requested information and data were:

1. Whether a safety need exists to mark both the height and width of the front of vehicles 80 inches and wider.
2. Whether changes are needed in performance or general requirements of clearance lamps or other front marker lamps for vehicles 80 inches and wider.
3. Whether the mirror glare problem is experienced only by certain types of trucks.
4. Recommendation of an alternative location when top-mounted clearance lamps cause a reflected light problem, and whether the term "as near the top as practicable" may be interpreted to mean that the lamps may be mounted just below the field of view of the rearview mirror.
5. The effects on safety if the front clearance lamps were located on top of the cab instead of at the maximum width of the vehicle "as near the top as practicable."
6. The cost savings that could result from an alternative location.

Eight comments were received on the petition, from Grumman Olson, Wisconsin Electric Power Company, Abex Corporation, National L.P. Gas Association, Truck Safety Equipment Institute (TSEI), American Trucking Association (ATA), Hackney and Sons, and Fruehauf Corporation.

The agency first asked if a safety need existed requiring the marking of both the height and width of large vehicles. Some commenters felt that there was a need to indicate the width, but not the height of vehicles more than 80 inches wide, while others supported the requirement that clearance lamps be located as high as practicable. A couple of submissions argued that the cab mounted location was sufficient for safety.

NHTSA's second question was whether changes are needed in performance or general requirements of clearance lamps or other front marker lamps. There was a variety of responses: That the agency should specify an allowable range of mounting heights from the ground, that clearance lamps are redundant, that the present requirements should be maintained; there was no consensus from the responses.

Whether the mirror glare problem is experienced only by certain trucks was NHTSA's third question. ATA and Fruehauf were of the opinion that glare presents a problem. Wisconsin Electric Power commented that the problem occurs only with truck bodies of medium height, but that there are a number of ways it can be mitigated. TSEI believes that the problem appears to be exaggerated. Grumman Olson stated that it was not aware of a problem. Hackney does not manufacture bodies with clearance lamps in the direct field of view of the rearview mirror. Abex believes that the importance of clearance lamps outweighs any temporary discomfort caused by glare; mirrors may be adjusted to a comfortable setting.

Next, the agency asked for comments on recommended alternative locations; in general, commenters favored a range of mounting heights.

NHTSA's penultimate request was for comments of the effect upon safety if clearance lamps were cab-mounted rather than located as high as practicable to indicate the overall width of the vehicle. Grumman Olson, ATA, Hackney, and Fruehauf believed that there would be no effect. Wisconsin Electric, Abex, and TSEI argued that a change would compromise the function of the lamp, and be detrimental to it. National L.P. Gas Association did not comment.

Finally, NHTSA asked for comments on possible cost savings that could result from an alternative location. Comments ranged from "$20" (Grumman Olson) to "minimal" (Abex, TSEI).

In summary, the comments indicate that there is a need for marking wide vehicles, and that the marking lamps should be as high on the vehicle as practicable, in accord with the present requirements. If a driver perceives glare in the rear view mirror,—apparently an infrequent occurrence—the mirror may be adjusted, relocated, or replaced with a different kind to alleviate discomfort. It is also possible to install lamps at the low end of the Standard No. 108's intensity range, 0.62 candela, which should not be bothersome when viewed in a mirror. Many manufacturers place clearance lamps on cabs when there is no legal need to do so, and therefore the primary cost savings as seen by these

manufacturers would appear to be in not having to supply them for the truck body were Standard No. 108 amended as TBEA envisioned. The converse, as NHTSA sees it, is that savings would result if these manufacturers omitted the lamps from truck cabs when they are not required.

Because an amendment of the nature requested would compromise the nature of the indication of vehicle width provided by clearance lamps, NHTSA has decided to take no further rulemaking action on this subject and is closing Docket 82–3.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on August 5, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85–18950 Filed 8–8–85; 8:45 am]

BILLING CODE 4910–59–M

Notices

Federal Register
Vol. 50, No. 154
Friday, August 9, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Coconino National Forest Grazing Advisory Board; Meeting

The Coconino National Forest Grazing Advisory Board will meet at 1:30 p.m., September 6, 1985, at the Mormon Lake Lodge, Mormon Lake Arizona.

The purpose of the meeting is to:

1. Review the minutes of September 6, 1984 meeting.

2. Review the 1987–1988 and Proposed Work Plans involving Range Betterment Funds.

3. Review Allotment Management Plans that may come before the Board.

The meeting is open to the public.

Dated: August 1, 1985.

Neil R. Paulson,

Forest Supervisor.

[FR Doc. 85–18910 Filed 8–8–85; 8:45 am]

BILLING CODE 3410–11–M

Federal Grain Inspection Service

Advisory Committee Meeting

Pursuant to the provision of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given to the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.

Date: September 4, 1985.

Place: Sheraton Hotel, 7301 NW. Tiffany Springs Road, Kansas City, Missouri 64153.

Time: 8:30 a.m.

Purpose: A subcommittee to review and prepare recommendations to the Federal Grain Inspection Service Advisory Committee on insect infestation.

The agenda includes a review of what action the Federal Grain Inspection Service should take in responding to wheat milling industry concerns, what insect infestation problems are likely to result from losing liquid grain fumigants, and whether the loss of liquid grain fumigants will result in a need to amend the Official United States Standards for Grain.

The meeting will be open to the public. Public participant will be limited to written statements unless otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting or submit written statements before or at the meeting should contact Michael Vehle, Subcommittee Chairman, P.O. Box 1023, Mitchell, South Dakota 57301, telephone (605) 966–6677.

Dated: August 2, 1985.

Kenneth A. Gilles,

Administrator, Federal Grain Inspection Service.

[FR Doc. 85–18979 Filed 8–8–85; 8:45 am]

BILLING CODE 3410–EN–M

THE COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will next meet in open session on Wednesday, September 11, 1985 at 10:00 a.m. in the Commission's offices at 708 Jackson Place, NW., Washington, D.C. 20006 to discuss various projects affecting the appearance of Washington including buildings, memorials, parks, etc., also matters of design referred by other agencies of the government. Access for handicapped persons will be through the main entrance to the New Executive Office Building on 17th Street between Pennsylvania Avenue and H Street, NW.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the following address or call the telephone number set forth below: Fine Arts Commission, 708 Jackson Place, NW., Washington, D.C. 20006, (202) 566–1066.

Dated in Washington, DC, August 5, 1985.

Charles H. Atherton,

Secretary.

[FR Doc. 85–18915 Filed 8–8–85; 8:45 am]

BILLING CODE 6330–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–403]

Postponement of Final Antidumping Duty Determination; Certain Welded Rectangular Carbon Steel Pipes and Tubes From Taiwan

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the respondent in this investigation that the final determination be postponed until not later than 135 days after the date of publication of the preliminary determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)); and that we have determined to postpone our final determination as to whether sales of certain welded rectangular carbon steel pipes and tubes (pipes and tubes) from Taiwan have occurred at less than fair value until not later than December 4, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Karen L. Sackett, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1273.

SUPPLEMENTARY INFORMATION: On January 11, 1985, we published a notice in the **Federal Register** (50 FR 1614) that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673(b)), an antidumping duty investigation to determine whether imports of pipes and tubes from Taiwan were being, or were likely to be, sold at less than fair value. On February 7, 1985 (50 FR 5326), the International Trade Commission determined that there is a reasonable indication that imports of pipes and tubes from Taiwan are materially injuring a U.S. industry. On July 22, 1985, we published a preliminary determination of sales at less than fair value with respect to this merchandise (50 FR 29714). The notice stated that if the investigation proceeded normally,

we would make our final determination by September 30, 1985.

On July 26, 1985, counsel for Yieh Hsing, the respondent in this case, requested that we extend the period for the final determination until not later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. Section 735(a)(2)(A) of the Act provides that the Department may postpone its final determination concerning sales at less than fair value until not later than 135 days after the date on which it published a notice of its preliminary determination, if exporters who account for a significant portion of the merchandise which is the subject of the investigation request a postponement after an affirmative preliminary determination.

Yieh Hsing is qualified to make such a request since it accounts for virtually all exports of the merchandise under investigation. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, the Department will issue a final determination in this case not later than December 4, 1985.

At the request of the respondent, the public hearing is also being postponed until 2:00 p.m. on October 18, 1985, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Accordingly, prehearing briefs must be submitted to the Deputy Assistant Secretary by October 11, 1985.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 2, 1985.

[FR Doc. 85-18961 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-533-502]

Initiation of an Antidumping Duty Investigation: Welded Carbon Steel Standard Pipe and Tube From India

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of welded carbon steel standard pipe and tube (standard pipe and tube) from India are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, U.S. industry. The ITC will make its preliminary determination on or before August 30, 1985. If this investigation proceeds normally, we will make our preliminary determination on or before December 23, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Terri Feldman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-3534.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1985, we received a petition filed in proper form by the Standard Pipe and Tube Subcommittee of the Committee on Pipe and Tube Imports (CPTI), and by each of the member companies who produce standard pipe and tube. In compliance with the filing requirements of §353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of pipe and tube from India are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on standard pipe and tube from India and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether standard pipe and tube (as detailed in the "Scope of Investigation" section of this notice) from India are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally we will make our preliminary determination on or before December 23, 1985.

Scope of Investigation

The products covered by this investigation are welded carbon steel pipe and tube with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3231 and 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. These products are commonly referred to in the industry as standard pipe or tube produced to various ASTM specifications, most notably A-120, A-53 or A-135.

United States Price and Foreign Market Value

Petitioners based United States price on the average free along side (FAS) value of standard pipe and tube imported from India as reported by the Bureau of Census, Department of Commerce for the first quarter of 1985 (IM145X), and on price quotes that United States importers received from Zenith Pipe (Zenith), for the first four months of 1985. Using price quotes from Zenith, petitioners arrived at an ex-factory cost by subtracting the insurance, freight and duty charges from the price quotes received by United States importers. To arrive at freight, insurance and duty cost petitioners used the difference between cost, insurance and freight (CIF) value and the FAS value, for shipments of pipe and tube to specific locations, as quoted in the Bureau of Census, Department of Commerce import statistics for pipe and tube imports.

Petitioners based foreign market value on home market list prices for Zenith standard pipe and tube as of June 1985.

Based on the comparison of United States prices and foreign market value, petitioners allege dumping margins ranging rom 190 percent to 278 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the

Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 30, 1985, whether there is a reasonable indication that imports of welded carbon steel standard pipe and tube from India materially injure, or threaten material injury, to a U.S. industry. If its determination is negative the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 5, 1985.

[FR Doc. 85-18988 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-502]

Initiation of Antidumping Duty Investigation: Welded Carbon Steel API Line Pipe From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether welded carbon steel API line pipe (line pipe) from Taiwan is being, or is likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. The ITC will make its preliminary determination on or before August 30, 1985. If this investigation proceeds normally, we will make our preliminary determination on or before December 23, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: John Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-4929.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1985, we received a petition filed in proper form by the Line Pipe Subcommittee of the Committee on Pipe and Tube Imports (CPTI) and by each of the member companies who produce line pipe. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of line pipe from Taiwan are being, or are likely to be, sold in the U.S. at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on line pipe from Taiwan and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether line pipe from Taiwan is being, or is likely to be, sold in the U.S. at less than fair value. If our investigation proceeds normally we will make our preliminary determination on or before December 23, 1985.

Scope of the Investigation

The product covered under this investigation is welded carbon steel line pipe with an outside diameter of 0.375 inch or more but not over 16 inches, and with a wall thickness of not less than .065 inch, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3208 and 610.3209. This product is produced to various API specifications for line pipe, most notably API-5L or API-5LX.

United States Price and Foreign Market Value

Petitioners based the United States price on API line pipe import statistics for Taiwan as reported by the Bureau of Census, Department of Commerce, for the months of January, February and March, 1985 (IM145X).

Petitioners based foreign market value on the weighted average cost of all steel pipes and tubes in the Taiwan area, for the fourth quarter of 1984. These data were obtained from an official Taiwan publication, prepared by the Department of Statistics, Ministry of Economic Affairs, dated February, 1985. The publication is entitled "Industrial Statistics Monthly, Taiwan Area, The Republic of China."

Based on a comparison of United States price and foreign market values, petitioners allege a dumping margin of 34.8 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 30, 1985, whether there is a reasonable indication that imports of welded carbon steel API line pipe from Taiwan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 5, 1985.

[FR Doc. 85-18985 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-489-501]

Initiation of Antidumping Duty Investigations: Certain Welded Carbon Steel Pipe and Tube Products From Turkey

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating antidumping duty investigations to determine whether certain welded carbon steel pipe and tube products (standard pipe and tube and line pipe), as described in the "Scope of the Investigations" section of this notice, from Turkey are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of these actions so that it may determine whether imports of these products materially injure, or threaten

material injury to, a U.S. industry. The ITC will make its preliminary determinations on or before August 30, 1985. If these investigations proceed normally, we will make our preliminary determinations on or before December 23, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: William Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone (202) 377–1766.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1985, we received a petition in proper form filed by the Standard Pipe and Tube Subcommittee and the Line Pipe Subcommittee of the Committee on Pipe and Tube Imports (CPTI) and by each of their member companies who produce standard pipe and tube and line pipe. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of certain welded carbon steel pipe and tube products from Turkey are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of antidumping duty investigations, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain welded carbon steel pipe and tube products from Turkey and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating antidumping duty investigations to determine whether certain welded carbon steel pipe and tube products (as described in the "Scope of Investigations" section of this notice) from Turkey are being, or are likely to be, sold in the United States at less than fair value. If our investigations proceed normally, we will make our preliminary determinations on or before December 23, 1985.

Scope of Investigations

The products covered by these investigations are:

(1) welded carbon steel pipe and tube products with an outside diameter of .375 inch or more but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A–120, A–53, or A–135; and (2) welded carbon steel line pipe with an outside diameter of .375 inch or more but not over 16 inches, and with a wall thickness of not less than .065 inch, currently classifiable in the TSUSA, under items 610.3208 and 610.3209. These products are produced to various API specifications for line pipe, most notably API–5L or API–5LX.

U.S. Price and Foreign Market Value

The petitioners based the United States price upon Bureau of Census import statistics for January 1985 for line pipe and for the first quarter of 1985 for standard pipe and tube.

Petitioners based foreign market value on constructed value. To obtain a constructed value, petitioners estimated raw material costs by adding to the average price of raw material inputs imported into Turkey in 1983, the difference between domestic ex-factory prices and c.i.f. import prices, as reported by a World Bank study. Petitioners adjusted these prices to reflect increases in the world market prices for sheet and plate in order to obtain estimated 1985 prices. To this adjusted raw material cost, petitioners constructed a value for various pipe and tube products by adding costs for scrap, zinc for galvanizing, and conversion to pipe and tube products. Petitioners then added 10 percent for selling, general, and administrative expenses and 8 percent for profit, as required by the statute (19 U.S.C. 1677b(e)(1)(B)).

Based on the comparison of United States price and foreign market value, petitioners allege average dumping margins of 113 percent for line pipe and 97 to 142 percent for standard pipe and tube.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by August 30, 1985, whether there is a reasonable indication that imports of certain welded carbon steel pipe and tube products from Turkey materially injure, or threaten material injury to, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 5, 1985.

[FR Doc. 85–18986 Filed 8–8–85; 8:45 am]

BILLING CODE 3510–DS–M

[A–479–502]

Initiation of Antidumping Duty Investigations: Certain Welded Carbon Steel Pipe and Tube Products From Yugoslavia

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating antidumping duty investigations to determine whether certain welded carbon steel pipe and tube products (standard pipe and tube and line pipe), as described in the "Scope of the Investigations" section of this notice, from Yugoslavia are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a U.S. industry. The ITC will make its preliminary determinations on or before August 30, 1985. If these investigations proceed normally, we will make our preliminary determinations on or before December 23, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Jenkins, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone (202) 377–1756.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1985, we received a petition in proper form filed by the standard pipe and tube subcommittee and the line pipe subcommittee of the Committee on Pipe and Tube Imports (CPTI) and by each of their member companies who produce standard pipe and tube and line pipe. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of certain welded carbon steel pipe and tube products from Yugoslavia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injured, or threaten material injury to, a U.S. industry.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of antidumpting duty investigations, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain welded carbon steel pipe and tube products (as described in the "Scope of Investigations" section of this notice) from Yugoslavia and have found that it meets the requirements of section 732(b) of the Act. For purposes of these investigations, we are treating Yugoslavia as a non-state controlled economy. Therefore, we are initiating antidumping duty investigations to determine whether certain welded carbon steel pipe and tube products from Yugoslavia are being, or are likely to be, sold in the United States at less than fair value. If our investigations proceed normally, we will make our preliminary determinations or or before December 23, 1985.

Scope of Investigations

The products covered by these investigations are:

(1) welded carbon steel pipe and tube products with an outside diameter of .375 inch or more but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA) under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A–120, A–53, or A–135; and (2) welded carbon steel line pipe with an outside diameter of .375 inch or more but not over 16 inches, and with a wall thickness of not less than .065 inch, currently classifiable in the TSUSA under items 610.3208 and 610.3209. These products are produced to various API specifications for line pipe, most notably API–5L or API–5LX.

U.S. Price and Foreign Market Value

The petitioners based the United States price upon offers for sale of line pipe received from a U.S. importer. The United States price for standard pipe was based on Bureau of Census import statistics for the first quarter of 1985.

Petitioners based foreign market value on constructed value. To obtain a constructed value, petitioners used the average price of raw material inputs imported into Yugoslavia in 1983, and adjusted them to reflect increases in world market prices for sheet and plate in order to obtain estimated 1985 prices. To this adjusted raw material cost, petitioners constructed a value for various pipe and tube products by adding costs for scrap, zinc for galvanizing, and conversion to pipe and tube products. Petitioners then added 10 percent for selling, general, and administrative expenses and 8 percent for profit, as required by the statute (19 U.S.C. 1677b(e)(1)(B)).

Based on the comparison of United States price and foreign market value, petitioners allege average dumping margins of from 106 of 117 percent for line pipe and from 84 to 91 percent for standard pipe and tube.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by August 30, 1985, whether there is a reasonable indication that imports of certain welded carbon steel pipe and tube products from Yugoslavia materially injure, or threaten material injury to, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Actingt Deputy Assistant Secretary for Import Administration.

August 5, 1985.

[FR Doc. 85–18987 Filed 8–8–85; 8:45 am]

BILLING CODE 3510–DS–M

[C–479–503]

Initiation of Countervailing Duty Investigations: Certain Welded Carbon Steel Pipe and Tube Products From Yugoslavia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Yugoslavia of certain welded carbon steel pipe and tube products (standard pipe and tube and line pipe), as described in the "Scope of Investigations" section of this notice, receive benefits which constitute bounties or grants within the meaning of the countervailing duty law. If our investigations proceed normally, we will make our preliminary determinations on or before October 9, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Terry Link or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–0189 or 377–2438.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1985, we received a petition in proper form filed by the standard pipe and tube subcommittee and the line pipe subcommittee of the Committee on Pipe and Tube Imports (CPTI) and by each of their member companies who produce standard pipe and tube and line pipe. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Yugoslavia of certain welded carbon steel pipe and tube products receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Yugoslavia is not a "country under the Agreement" within the meaning of section 701(b) of the Act, and the merchandise being investigated is dutiable. Therefore, sections 303(a)(1) and (b) of the Act apply to these investigations. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of these products materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of countervailing duty investigations, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain welded carbon steel pipe and tube products from Yugoslavia and have found that it meets the requirements of section 702(b) of the Act. For purposes of these initiations, we are treating Yugoslavia as a market economy. We are initiating countervailing duty investigations to determine whether the manufacturers, producers, or exporters in Yugoslavia of certain welded carbon steel pipe and tube products (as described in the "Scope of Investigations" section of this notice) receive benefits which constitute bounties or grants. If our investigations proceed normally, we will make our preliminary determinations on or before October 9, 1985.

Scope of Investigations

The products covered by these investigations are:

(1) welded carbon steel pipe and tube with an outside diameter of .375 inch or more but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. These products, commonly referred to in the industry as standard pipe or structural tubing, are produced to various ASTM specifications, most notably A–120, A–53 or A–135; and

(2) welded carbon steel line pipe with an outside diameter of .375 inch or more but not over 16 inches, and with a wall thickness of not less than .065 inch, currently classifiable in the TSUSA under items 610.3208 and 610.3209. These products are produced to various API specifications for line pipe, most notably API–5L or API–5LX.

Allegations of Bounties or Grants

The petition alleges that producers, manufacturers, or exporters in Yugoslavia of certain welded carbon steel pipe and tube products receive benefits under the following programs which constitute bounties or grants. We are initiating investigations on the following allegations:

- Export Bonuses;
- Preferential Export Credit;
- Export Credit Insurance;
- Income Tax Exemptions on Export Earnings;
- Duty Refunds and Duty Exemptions on Non-Physically Incorporated Imported Inputs;
- Foreign Exchange Retention Scheme;
- Preferential Credit for Priority Sector Development; and
- Loans to Firms in Less Developed Regions.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 5, 1985.

[FR Doc. 85–18981 Filed 8–8–85; 8:45 am]

BILLING CODE 3510–DS–M

[C–489–502]

Initiation of Countervailing Duty Investigations: Certain Welded Carbon Steel Pipe and Tube Projects From Turkey

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Turkey of certain welded carbon steel pipe and tube products (standard pipe and tube and line pipe), as described in the "Scope of Investigations" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of these actions, so that it may determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry. The ITC will make its preliminary determinations on or before August 30, 1985. If our investigations proceed normally, we will make our preliminary determinations on or before October 9, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Terry Link or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–0189 or 377–2438.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1985, we received a petition in proper form filed by the standard pipe and tube subcommittee and the line pipe subcommittee of the Committee on Pipe and Tube Imports (CPTI) and by each of their member companies who produce standard pipe and tube and line pipe. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Turkey of certain welded carbon steel pipe and tube products receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Turkey is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to these investigations and the ITC is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigations

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of countervailing duty investigations, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain welded carbon steel pipe and tube products from Turkey and have found that it meets the requirements of section 702(b) of the Act. Therefore, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters in Turkey of certain welded carbon steel pipe and tube products (as described in the "Scope of Investigations" section of this notice) receive benefits which constitute subsidies. If our investigations proceed normally, we will make our preliminary determinations on or before October 9, 1985.

Scope of Investigations

The products covered by these investigations are:

(1) Welded carbon steel pipe and tube with an outside diameter of .375 inch or more but not over 16 inches, of any wall

thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A–120, A–53 or A–135; and

(2) welded carbon steel line pipe with an outside diameter of .375 inch or more but not over 16 inches, and with a wall thickness of not less than .065 inch, currently classifiable in the TSUSA, under items 610.3208 and 610.3209. These products are produced to various API specifications for line pipe, most notably API–5L or API–5LX.

Allegations of Subsidies

The petition alleges that manufacturers, producers, or exporters in Turkey of certain welded carbon steel pipe and tube products receive benefits under the following programs which constitute subsidies. We are initiating investigations on the following allegations:

- General Incentives Program.
  - —Income and Corporation Tax Allowances
  - —Exemptions From or Deferrals of Customs Duties and Other Duties, Fees, and Taxes
  - —Interest Rebates
- Export Tax Rebates.
- Preferential Export Financing.
- Deductions from Taxable Income for Export Revenues.
- Resource Utilization Support Fund Payments.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by August 30, 1985, whether there is a reasonable indication that imports of certain welded carbon steel pipe and tube products from Turkey materially injure, or threaten material injury to, a U.S. industry. If its determinations are negative, these investigations will terminate; otherwise, they will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 2, 1985.

[FR Doc. 85–18984 Filed 8–8–85; 8:45 am]

BILLING CODE 3510–DS–M

[C–553–503]

Initiation of Countervailing Duty Investigation: Welded Carbon Steel Standard Pipe and Tube From India

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in India of welded carbon steel standard pipe and tube, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine imports of these products materially injure, or threaten material injury to, a U.S. industry. The ITC will make its preliminary determination on or before August 30, 1985. If our investigation proceeds normally, we will make our preliminary determination on or before October 9, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Mary Martin or Betsy Killian, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–3464 or 377–1673.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1985, we received a petition in proper form filed by the standard pipe and tube subcommittee of the Committee on Pipe and Tube Imports (CPTI), and by each of the member companies who produce standard pipe and tube. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in India of welded carbon steel standard pipe and tube receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since India is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation and the ITC is required to determine whether imports of the subject merchandise from India materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on welded carbon steel standard pipe and tube from India and have found that it meets the requirements of section 702(b) of the Act. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in India of welded carbon steel standard pipe and tube, (as described in the "Scope of Investigation" section of this notice) receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before October 9, 1985.

Scope of Investigation

The products covered by this investigation are welded carbon steel pipe and tube, with an outside diameter of .375 inch or more but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items, 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. This product, commonly referred to in the industry as standard pipe or tube, is produced to various ASTM specifications, most notably A–120, A–53 or A–135.

Allegations of Subsidies

The petition alleges that manufacturers, producers, or exporters in India of welded carbon steel standard pipe and tube receive benefits under the following programs which constitute subsidies. We are initiating an investigation on the following allegations:

- Cash Compensatory Support (CCS) Program.
- Preferential Export Credits—The "Packing Credit" Program.

• Import Replenishment Licenses (REPs).

• Regional Benefits to New Facilities in Madhya Pradesh.

—Preferential Power Rates
—Investment Grants
—Sales Tax Exemptions or Deferments
—Feasibility Study Cost Reimbursement
—Preferential Water Rates

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 30, 1985, whether there is a reasonable indication that imports of welded carbon steel standard pipe and tube from India materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-18983 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-583-503]

Initiation of Countervailing Duty Investigation: Welded Carbon Steel Line Pipe From Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Taiwan of welded carbon steel line pipe (line pipe), as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of the subject merchandise from Taiwan materially injure, or threaten material injury to, a U.S. industry. The ITC will make its preliminary determination on or before August 30, 1985. If our investigation proceeds normally, we will make our preliminary determination on or before October 9, 1985.

EFFECTIVE DATE: August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Terry Link or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0189 or 377-2438.

SUPPLEMENTARY INFORMATION:

The Petition

On July 16, 1985, we received a petition in proper form filed by the line pipe subcommittee of the Committee on Pipe and Tube Imports (CPTI) and by each of the member companies who produce line pipe. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Taiwan of line pipe receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Taiwan is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Taiwan materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on line pipe from Taiwan and have found that it meets the requirements of section 702(b) of the Act. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Taiwan of line pipe (as described in the "Scope of Investigation" section of this notice) receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before October 9, 1985.

Scope of Investigation

The product covered by this investigation is welded carbon steel line pipe with an outside diameter of .375 inch or more but not over 16 inches, and with a wall thickness of not less than .065 inch, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3208 and 610.3209. This product is produced to various API specifications for line pipe, most notably API-5L or API-5X.

Allegations of Subsidies

The petition alleges that manufacturers, producers, or exporters in Taiwan of line pipe receive benefits under the following programs which constitute subsidies. We are initiating an investigation on the following allegations:

• Preferential Export Financing.
• Export Loss Reserves.
• Tax Exemptions for Export Sales.
• Preferential Prices for Raw Materials.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by August 30, 1985, whether there is a reasonable indication that imports of line pipe from Taiwan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 5, 1985.

[FR Doc. 85-18982 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Permits; Pacific Coast Groundfish Fishery

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

ACTION: Notice of issuance of experimental fishing permits.

SUMMARY: This notice announces the issuance of seventeen experimental fishing permits to U.S. fishermen to harvest groundfish using set nets in the fishery conservation zone north of 38° N. latitude. Five of these permits subsequently have been invalidated. The permits allow experimental fishing which otherwise would be prohibited by Federal regulations. This action is authorized by the Pacific Coast Groundfish Fishery Management Plan and implementing regulations.

EFFECTIVE DATES: May 1, 1985 through December 31, 1985.

ADDRESS: Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE, Seattle, Washington 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) and implementing regulations at 50 CFR Part 663 specify that experimental fishing permits (EFPs) may be issued to authorize fishing that would otherwise be prohibited by the FMP and regulations. The procedures for issuing EFPs are contained in the regulations at § 663.10.

Regulations at § 663.26(c) prohibit fishing for groundfish using set nets (anchored gillnets) north of 38° N. latitude because the Pacific Fishery Management Council (Council) when developing the FMP was concerned about the potential for an unacceptably high incidental catch of salmon and halibut, the potential for set nets to continue fishing indefinitely if lost or unattended, and the potential for conflict between fixed and mobile gear if used in the same area. In addition, the major target species of set net fisheries are currently fully utilized by other gear types. In order to obtain information on set nets and their use in harvesting groundfish, NMFS has issued EFPs for set nets fishing for sablefish in northern Washington since 1982 when the first EFP was issued. Three EFPs were also issued in 1983 and in 1984.The first application for a 1985 EFP to harvest groundfish (sablefish, lingcod and rockfish) with set nets in the Pacific Ocean north of 38° N. latitude was received from one of the prior year's permittees. A notice acknowledging receipt of the application and requesting public comment was published in the Federal Register on January 31, 1985 (50 FR 4545). This notice also announced that other applications for this experimental fishery would be accepted until February 15, 1985. Seventeen additional applications were received and processed (50 FR 10290, March 14, 1985). No comments were received on any of the eighteen applications. One of the applicants did not submit additional required information as requested and his incomplete application was not considered any further. The remaining seventeen applications were considered by the Council at its March public meeting in Portland, Oregon. The Council recommended that EFPs be issued to all seventeen applicants. Therefore, NMFS issued the seventeen EFPs under § 663.10.These EFPs provide for set net fishing for sablefish, lingcod and rockfish in the FCZ off the coast of Washington, Oregon and California from May 1, 1985, through December 31, 1985. It is anticipated that most of the experimental fishing will occur off the coast of Washington. Five permits have been invalidated as the permittees indicated they would not be able to fish under them. The terms and conditions of the EFPs are the same as those in 1984 with some minor revisions. Seven of the EFPs restrict the permittees to the area north of 48° N. latitude and five EFPs are for south of 48° N. latitude, except that sets may be made in waters deeper than 180 fathoms north of 48° N. latitude. A catch limit of 1,350 tons of groundfish (750 tons sablefish, 400 tons lingcod, and 200 tons rockfish) in each area is in effect for these EFPs. No sets in either area may be made in waters shallower then 90 fathoms. NMFS observers will be aboard the vessels whenever possible. Further details and information on these permits or copies of the permits may be obtained from the Regional Director at the above address.

(16 U.S.C. 1801 *et seq.*)

Dated: August 6, 1985.

Joseph W. Angelovic,

Deputy Assistant Administrator For Science and Technology, National Marine Fisheries Service.

[FR Doc. 85–18989 Filed 8–8–85; 8:45 am]

BILLING CODE 3570-22-M

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council and its Administrative Subcommittee will hold separate public meetings. The council will convene its 54th regular meeting to elect officers; to consider fishery management plans under development, and to discuss other Council matters. The Council's Administrative Subcommittee will discuss issues related to its regular administrative operations.

The approximate schedule for the meetings will be that the Council will convene September 4, 1985, at 9 a.m., and adjourn at 5 p.m.; reconvene September 5, at 9 a.m., and adjourn at noon. The Administrative Subcommittee will convene September 3, at 2 p.m., and adjourn at 5 p.m. All meetings will be held at the Conference Room of the Hotel Pierre, San Juan, Puerto Rico.

For further information contact the Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918; telephone: (809) 753–4926.

Dated: August 6, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–18990 Filed 8–8–85; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico/South Atlantic Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico and South Atlantic Fishery Management Councils will convene public meetings of their advisory bodies as follows:

Gulf of Mexico Council's Stone Crab Advisory Panel Meeting

The Council will convene a public meeting of its Stone Crab Advisory Panel to review the effectiveness of the stone crab fishery management plan (FMP) and to discuss the need for any provisions to the plan. The meeting will convene August 21, 1985, from 10 a.m. to approximately 4 p.m.

Intercouncil Scientific and Statistical Committees (SSCs)

The Gulf of Mexico and South Atlantic Fishery Management Councils will convene their standing SSCs in conjunction with the Gulf Council's special mackerel, special spiny lobster, and special stone crab members to take the following actions on the spiny lobster, stone crab, swordfish, snapper/grouper and mackerel FMPs: (1) Review

plan objectives; (2) evaluate the level of objectives achieved; (3) discuss the staff report; (4) review any new scientific data; (5) discuss recommendations for plan changes and, (6) discuss new research and statistical requirements.

The Intercouncil SSC meeting will convene at 1 p.m., August 26, 1985, and recess at approximately 5 p.m.; reconvene at 8:30 a.m., August 27, 1985, and recess at approximately 5 p.m.; reconvene at 8 a.m., August 28, 1985, and adjourn at approximately 4 p.m.

The special spiny lobster and swordfish review session will convene August 26, 1985, at approximately 1:30 p.m., and adjourn at approximately 5 p.m.; the special stone crab and snapper/grouper review session will convene August 27, 1985, at 8:30 a.m., and adjourn at approximately noon, and the special mackerel review session will convene on August 28, at 8 a.m., and adjourn at approximately noon. All public meetings will take place at the Ramada Inn, 5303 West Kennedy Boulevard, Tampa, FL.

For further information contact the Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, FL 33609; telephone: (813) 228–2815.

Dated: August 6, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–18991 Filed 8–8–85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Application for Permit; Dr. Warren M. Zapol, Dr. Robert C. Schneider, and Dr. Donald Siniff

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Dr. Warren Zapol et al. (P120B).

b. Address: Harvard Medical School, Department of Anesthesia, Massachusetts General Hospital, Boston, Massachusetts 02114.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Crabeater seal (*Lobodon carcinophagus*) 240/year; Leopard seal (*Hydrurga leptonyx*) 240/year; Weddell seal (*Leptonychotes weddelli*) 120/year; Ross seal (*Ommatophoca rossi*) 20/year.

4. Type of Take: The application requests authorization to take by killing 40 crabeater seals, 40 leopard seals, and 20 Weddell seals each year and to take by harassment 200 crabeater, 200 leopard, 100 Weddell, and 20 Ross seals each year. The animals authorized for sacrifice may be radiotagged, have specimen materials collected or be euthanized for tissue collections.

5. Location of activity: Palmer Peninsula and adjacent islands, Antarctica.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: August 5, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–18995 Filed 8–8–85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; BBN Laboratories Incorporated

On May 9, 1985, notice was pusblished in the **Federal Register** (50 FR 19562) that an application had been filed by BBN Laboratories Incorporated, 10 Moulton Street, Cambridge, Massachusetts 02238 for a permit to take gray whales (*Eschrichtius robustus*) for the purposes of scientific research.

Notice is hereby given that on August 1, 1985 as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts, 01930–3799; and

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Dated: August 5, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–18993 Filed 8–8–85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit Dolphin Research Center

On March 8, 1985, notice was published in the **Federal Register** (50 FR 9482) that an application had been filed by The Dolphin Research Center, P.O. Box 2875, Marathon Shores, Florida 33052, for a permit to take eight (8) Atlantic botttlenose dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that on August 2, 1985, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702

Dated: August 2, 1985.

Richard B. Roe,

Director, Office of Protected Species and National Marine Fisheries Service.

[FR Doc. 85-18994 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit Ocean Action, Inc.

On June 7, 1985, notice was published in the **Federal Register** (50 FR 24615) that an application had been filed by Ocean Acton, Inc. (P238), P.O. Box 3637, South Padre Island, Texas 78597 for a permit to take six (6) Atlantic bottlenose dolphins (*Tursiops truncatus*) for public display.

Notice is hereby given that on July 30, 1985, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: August 5, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-18992 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for General Permit

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the U.S. fishery conservation zone during 1986 as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-140) and the regulations thereunder.

VEB Fischfang Rostock, 2510 Rostock 5, German Democratic Republic has applied for a Category 1: "Towed or Dragged Gear" general permit to take up to 8 harbor seals and 10 cetaceans in the North Atlantic Ocean.

The application is available for review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Interested parties may submit written views on this application within 30 days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, D.C. 20235.

Dated: August 2, 1985.

J.W. Angelovic,

Deputy Assistant Administrator for National Marine Fisheries Service.

[FR Doc. 85-18996 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Limit for Certain Cotton Textile Products Produced or Manufactured in the People's Republic of China

August 6, 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 August 12, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 28, 1984 a notice was published in the **Federal Register** (49 FR 50434) announcing the import restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in China and exported to the United States during the agreement year which began on January 1, 1985.

During consultations held during 1985 under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, the Governments of the United States and the People's Republic of China agreed to establish a specific limit of 50,526,200 square yards for cotton sheeting in Category 313, produced or manufactured in China and exported during the agreement year which began on January 1, 1985. The new limit may be adjusted for carryover and carryforward during the agreement year.

The United States Government has decided to control imports in this category at the agreement limit. Accordingly, in the letter published below, the Chairman of CITA directs the Commissioner of Customs to prohibit entry or withdrawal from warehouse for consumption in the United States of textile products in Category 313 in excess of the agreement limit.

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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

August 6, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effective by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed, effective on August 12, 1985, to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 313, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985, in excess of 50,526,200 square yards.[1]

In carrying out this directive textile products in the foregoing category which have been exported to the United States during the agreement year which began on January 1, 1984 and extended through December 31, 1984, shall, to the extent of any unfilled balance, be charged against the restraint limit established for such goods during that twelve-month period. In the event the restraint limit established for that period has been exhausted by previous entries, such goods shall be subject to the limit set forth in this letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in

[1] The limit has been adjusted to account for any imports exported after December 31, 1984.

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), Novembr 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 this action falls 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 Textiles Agreements.

[FR Doc. 85-18960 Filed 8-8-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

July 31, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on Biotechnology for Man in Space will meet September 11-12, 1985 at the Pentagon, Washington, DC, from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting will be to write a report concerning the potential military roles for humans in space and readiness (on a technology by technology basis) of the USAF to handle space related biotechnology problems.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically, subparagraph (1) thereof and is closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-18918 Filed 8-8-85; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

July 31, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on Options for Attack of Strategic Relocatable Targets will meet in the Pentagon on September 17, 1985 from 8:30 a.m. to 4:00 p.m. The purpose of the meeting will be to review findings to date on existing and programmed systems which may be effectively applied to attack of mobile ballistic missiles and to review the committee's final draft report.

The meeting will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically, subparagraph (1) thereof.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-18919 Filed 8-8-85; 8:45 am]

BILLING CODE 3910-01-N

USAF Scientific Advisory Board; Meeting

July 29, 1985.

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group will meet August 28, 1985 from 8:00 a.m. to 4:30 p.m. and on August 29, from 8:00 a.m. to 3:00 p.m., at Wright-Patterson Air Force Base, Ohio in Building 485, Room 39, Area B. The purpose of this meeting is to review the Avionics Integrity Program (AVIP).

The meeting will involve classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically, subparagraph (1) thereof and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202)-697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-18920 Filed 8-8-85; 8:45 am]

BILLING CODE 3910-01-N

Corps of Engineers, Department of the Army

Intent To prepare a Draft Environmental Impact Statement (DEIS); Multi-Purpose Project, Weiser River, Washington County, ID.

AGENCY: Corps of Engineers, Army Department, DOD.

ACTION: Notice of Intent to prepare a DEIS.

SUMMARY: 1. Galloway project purposes include streamflow augmentation for anadromous fish; hydroelectric power; agricultural water supply; flood damage reduction (about 4,000 acres of agricultural land between river miles 0 12); and recreation (camping, picnicking, swimming, fishing, boating, and waterskiing on a new reservoir). Project feasibility hinges on the benefits of increasing flows to improve anadromous fish passage in the lower Snake and Columbia Rivers.

2. Alternatives to be investigated include:

A—Galloway Damsite
B—Raising Brownlee Dam
C—Water Purchase
D—Goodrich Site
E—Vista Site
F—Lost Valley Site
G—Tamarack Site
H—No Action

3. Significant issues to be addressed in the DEIS include effects of the alternatives on enhancing fish runs; impacts on water quality in the area; impact on the timber industry; and impacts on wildlife, fisheries, endangered species, cultural resources, and socioeconomics. The project will be reviewed under all applicable Federal, state, and local statutes.

4. The Fish and Wildlife Service, U.S. Department of the Interior, will be a cooperating agency in preparation of the DEIS. Other affected Federal, state, and local agencies; affected Indian tribes; and other interested organizations and parties are invited to participate in scoping for the DEIS. A formal scope meeting is planned; however, comments should be directed to the address given below.

5. The draft feasibility report and DEIS should be available on or about November 1985.

ADDRESS: Comments concerning the project and DEIS should be addressed to John L. McKern, Chief, Environmental Resources Branch, Walla Walla District, Corps of Engineers, Building 602, City-County Airport, Walla Walla, WA 99362-9265. Comments or questions can be telephoned to W.E. McDonald, (509) 522-6627 or FTS 434-6627.

Terrence C. Salt,

Lieutenant Colonel, Corps of Engineers, Acting District Engineer.

[FR Doc. 85-18916 Filed 8-8-85; 8:45 am]

BILLING CODE 3710-GC-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before September 9, 1985.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory of obligations.

The Deputy Secretary for Management publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: August 6, 1984.

Linda M. Combs,

Deputy Under Secretary for Management.

Office of the Secretary

Type of Review Requested: Extension
Title: Application for the Secretary's Discretionary Program
Agency Form Number: ED 914
Frequency: Annually
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
Reporting Burden: Responses: 400; Burden Hours 7,600
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The application form for the Secretary of Education's Discretionary Program is used to apply for grants under section 583 of the Education Consolidation and Improvement Act of 1981, as amended. Grant awards will be made to States, localities and other entities for planning or demonstrating the implementation of teacher incentive structures and for improving elementary and secondary school programs.

Office of Educational Research and Improvement

Type of Review Requested: Revision
Title: Final Financial Status and Performance Report for Higher Education Act Library Programs—Title II-B and Title II-C
Agency Form Number: ED 606, 601-1
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden: Responses: 75; Burden Hours 300
Recordkeeping Burden: Recordkeepers: 75; Burden Hours: 75

Abstract: The consolidated report form is used to determine the utilization of grant funds and project performance for two discretionary grant programs under Title II-B (Library Career Training) and Title II-C (Strengthening Research Library Resources) of the higher Education Act, as amended.

Type of Review Requested: Revision
Title: National Survey of Private Schools, 1985-86
Agency Form Number: ED 2455, 2455-A
Frequency: Biennually
Affected Public: Individuals or households; Non-profit institutions; Small businesses or organizations (Private Schools)
Reporting Burden: Responses: 19,000; Burden Hours 14,250
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: This survey is designed to provide information needed by departmental policy makers, in relation to such current issues as public funds to private school pupils, and qualifications of and compensation to private school teachers.

Office of Elementary and Secondary Education

Type of Review Requested: Extension
Title: Indian Student Certification Form—Indian Education Programs
Agency Form Number: ED 506
Frequency: Annually
Affected Public: Local educational agencies; Tribal schools
Reporting Burden: Responses: 25,000; Burden Hours 3,125
Recordkeeping Burden: Recordkeepers: 25,000; Burden Hours: 3,125

Abstract: A completed Student Certification Form for each Indian student must be on file in the office of the applicant in order to qualify for a formula grant under Part A of the Indian Education Act, Pub. L. 92-318, as amended. The grant is based on the number of *bona fide* Indian students identified by the applicant.

Office of Postsecondary Education

Type of Review Requested: New
Title: Performance Report Form for the Endowment Grant Program
Agency Form Number: E40-10P
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden: Responses: 50; Burden Hours: 50
Recordkeeping Burden: Recordkeepers: 50; Burden Hours: 100

Abstract: The Endowment Grant Program consists of matching grants to institutions of higher education which they, in turn, invest in low-risk securities for 20 years. Grantees, on this form, would essentially report to the Government what has happened to their investment and what they have done with the return on the investment.

Type of Review Requested: Extension
Title: Request for Institutional Eligibility for Programs under the Higher Education Act of 1965, as Amended
Agency Form Number: ED 1059
Frequency: On occasion
Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions
Reporting Burden: Responses: 1,000; Burden Hours: 1,000
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The Secretary of Education must determine whether postsecondary educational institutions meet the statutory and regulatory requirements for eligibility to apply for funding for programs authorized by the Higher Education Act of 1965, as amended. The Secretary uses the information collected on this form to determine the eligibility of these institutions.

Type of Review Requested: Extension
Title: Physician's Certification of Borrower's Total and Permanent Disability
Agency Form Number: ED 1172
Frequency: One-time
Affected Public: Individuals or households
Reporting Burden: Responses: 2,000; Burden Hours: 500
Recordkeeping Burden: Recordkeepers: 2,000; Burden Hours: 1,000

Abstract: This form is submitted by borrowers holding student financial

assistance loan notes who desire to have the balance of the loan cancelled because of total and permanent disability. The form must be completed by a physician or other authorized official.

Office of Special Education and Rehabilitative Services

Type of Review Requested: New
Title: Annual Report on State Agency Independent Living Rehabilitation Services, Title VII, Part A
Agency Form Number: ED (RSA) 7A
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 83; Burden Hours: 664
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The form will be used to monitor Independent Living (IL) State agency activities of services provided to the most severely disabled individuals, as authorized by Title VII, Part A of the Rehabilitation Act of 1973, as amended.

Type of Review Requested: New
Title: Logitudinal Study on a Sample of Handicapped Students
Agency Form Number: B20–12P
Frequency: One time
Affected Public: Individuals or housholds; State or local governments; Non-profit institutions
Reporting Burden: Responses: 331; Burden Hours: 195.3
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: This study will collect information on the educational, occupational, and independent living status of a sample of handicapped students while in school and upon leaving school and entering work. Study results will inform the Department and Congress about the transitional progress of handicapped students from special education to work.

[FR Doc. 85–18966 Filed 8–8–85; 8:45 am]
BILLING CODE 4000–01–M

Office of Postsecondary Education

Talent Search and Educational Opportunity Centers Programs; Application Notice for Noncompeting Continuation Awards for Fiscal Year 1986

Applications are invited for noncompeting continuation awards under the Talent Search and Educational Opportunity Centers Porgrams for Fiscal Year 1986.

Authority for these programs is contained in sections 417A, 417B, and 417E of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d, 1070d–1 and 1070d–1c)

The Secretary is authorized to make grants under the Talent Search and Educational Opportunity Centers Programs to institutions of higher education, public and private agencies and organizations, and, in exceptional cases, to secondary schools. (34 CFR 643 and 644, respectively).

The purpose of the grant awards under both Talent Search and Educational Opportunity Centers programs is to permit applicants to carry out projects designed to identify qualified individuals from disadvantaged backgrounds and to assist them in preparing for programs in postsecondary education.

Closing date for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by October 15, 1985.

If an application for a noncompeting continuation award is late, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Room 3633, ROB #3, Attention: 84.044 (Talent Search), or 84.066 (Educational Opportunity Centers), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Available funds: The Administration's fiscal year 1986 budget request does not include funding for the Talent Search and Educational Opportunity Centers Programs. However, if Congress appropriates funds for these programs for fiscal year 1986, the Department plans to make these funds available for noncompeting continuation awards. Accordingly, noncompeting continuation applications are being requested to allow for sufficient time to evaluate them and complete the grants process prior to the end of the fiscal year, should the Congress appropriate funds for these programs, even through no funds are currently proposed for the Talent Search and Educational Opportunity Centers Programs. Current grantees will be notified if and when funds become available.

Application forms: Application forms for noncompeting continuation awards are expected to be ready for mailing no later than September 1, 1985. They are mailed routinely to curently funded projects. If a grantee does not receive the forms by September 15, 1985, the grantee should telephone the Education Outreach Branch of the Division of Student Services at (202) 245–2165.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee perfomance requirements beyond those imposed under the statute and regulations. The Secretary strongly urges that applicants submit only information that is requested.

(Approved by the Office of Management and Budget under Control Numbers 1840–0549 and 1840–0065, respectively)

Applicable regulations: The following Regulations are applicable to noncompeting continuation awards:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78. Applicants should note that the criteria for making

continuation awards are in 34 CFR 75.253.

(b) Regulations governing the Talent Search and Educational Opportunity Centers Programs (34 CFR Part 643 and 644, respectively).

Further Information: For further information contact the Education Outreach Branch, Division of Student Services, U.S. Department of Education, Post Office Box 23772, Washington, D.C. 20026–3772. Telephone: (202) 245–2165.

(20 U.S.C. 1070d, 1070d–1b, and 1070–1c)

(Catalog of Federal Domestic Assistance Number: 84.044 and 84.066—Talent Search and Educational Opportunity Centers Program, respectively)

Dated: August 6, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Eduction.

[FR Doc. 85–18967 Filed 8–8–85; 8:45 am]

BILLING CODE 4000–01–M

Office of Special Education and Rehabilitative Services

Discretionary Grant Programs

Correction

In FR Doc. 85–17340 beginning on page 29721 in the issue of Monday, July 22, 1985, make the following corrections:

1. On page 29724, in the third column, in the fourth complete paragraph, in the first line, "State" should read "States".

2. On page 29725, in the second column, announcement "48.023N" should read "84.023N".

3. On page 29727, in the first column, in the third complete paragraph, in the fifth line, "determines" should read "determined".

4. On page 29727, in the second column, in the heading "*Secondary Education and Transitional Service for Handicapped Youth*", "service" should read "services".

5. On page 29729, in the second column, in the third line, "second of" should read "second or".

6. On page 29730, in the first column, under announcement 84.086Y–D, in the *Program information*, in the third line, "from" should read "for".

7. On page 29730, in the first column, under announcement 84.086 Y–E, in the *Program information*, in the second line, remove "or third"; and in the third line, "from" should read "for".

8. On page 29730, in the second column, under announcement 84.086Y–H, in the *Program information*, in the second line, insert "or third" between "second" and "budget"; and in the third line "from" should read "for".

9. On page 29730, in the second column, announcement "84.086–K" should read "84.086Y–K"; and in the *Program information*, in the third line "from" should read "for".

10. On page 29731, in the first column, in the third complete paragraph, in the first line, "point" should read "points".

11. On page 29731, in the third column, under announcement 84.024 F, under *Intergovernmental review*, in the first column of the list of States, insert "Hawaii" after "Georgia" and before "Indiana".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–85–023; OFP Case No. 67047–9284–20–24]

Powerplant and Industrial Fuel Use; Sunlaw Energy Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by Sunlaw Energy Corporation.

SUMMARY: On July 18, 1985, Sunlaw Energy Corporation (Sunlaw) 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 Sunlaw/Industrial Park I (IPI) facility located in Santa Fe Springs, 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 49.9 MW (net) combined cycle cogeneration facility consisting of (1) a gas turbine generator, (2) a waste heat recovery steam generator, (3) a steam extraction turbine generator and (4) ancillary equipment. The plant will burn only natural gas. It is expected that virtually all of the net annual electric power produced by the cogenrator will be sold to Southern California Edison (SCE), making the cogeneration facility an electric powerplant pursuant to the definitions contained in 10 CFR 500.2. The facility will produce approximately 138,500 lbs. of steam per hour which will be sold to Speciality Paper, a paper mill. Sunlaw 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 § 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, Monday through Friday, 9:00 a.m. to 4:00 p.m., 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 September 23, 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–85–023 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, Telephone (202) 252–1774.

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A–

113, 1000 Independence Avenue, SW, Washington, D.C. 20584, Telephone (202) 252–6947.

SUPPLEMENTARY INFORMATION: Sunlaw proposes to install a cogeneration system at the Sunlaw/Industrial Park I, Santa Fe Springs, California, which will (1) generate electrical power for sale to SCE, and (2) produce steam to meet Speciality Paper's mill requirements. The proposed cogeneration system will be operated by Sunlaw. The system will consist of a gas turbine generator which will produce electric power, a waste heat recovery system, and an extraction steam turbine which will produce steam and additional electric power for sale to SCE.

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), Sunlaw has certified to ERA that:

1. The oil or gas to be consumed by the congeneration facility will be less than that which would otherwise be consumed in the absence of the cogeneration facility, 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), Sunlaw has also included as part of its petition:

1. Exhibits containing the basis for the certification 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's 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 Sunlaw 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 August 5, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85–18946 Filed 8–8–85; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–FC–85–09; OFP Case No. 67014–9273–21, 22, 23, 24, 25–22]

Powerplant and Industrial Fuel Use; Texas Utilities Electric Co.; Correction

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Correction to Order Granting to Texas Utilities Electric Company Exemption from Prohibitions of the Powerplant and Industrial fuel Use Act of 1978.

SUMMARY: The June 24, 1985 Federal Register (50 FR 26035) referred to "TUEC DeCordova" in the first sentence of the second paragraph of the summary. The order should read "TUEC Permian." This order can be found at FR Doc. 85–19165.

Issued in Washington, D.C., on August 5, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85–18947 Filed 8–8–85; 8:45 am]

BILLING CODE 6450–01–M

Final Consent Order; Amorient Petroleum Co., CA

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order beteen the Department of Energy (DOE) and Amorient Petroleum Company, California (Amorient) shall be made a final order of the DOE. The Consent Order resolves certain of Amorient's compliance with the federal petroleum price and allocation regulations for the period August 19, 1973 through January 27, 1981. Amorient will pay to the DOE the aggregate amount of $1,000,000 plus installment interest. The ERA intends to petition the Office of Hearings and Appeals (OHA) to establish procedures pursuant to 10 CFR Part 205, Subpart V for the distribution of the funds. Persons claiming to have been harmed by alleged overcharges will be able to present their claims for refunds in that administrative claims proceeding. The decision to make the Amorient Consent Order final as modified was made after a review of all written comments received.

The final Consent Order incorporates the following modifications:

(1) Inclusion of a record-keeping requirement that conforms to 10 CFR 210.1, ensuring the availability of data necessary to the completion of refund procedures, and

(2) Application of a fixed installment interest rate consisting of the rate applicable during the period when the modified Consent Order was executed. Other modifications were made to the provisions regarding the release of sensitive commercial and financial information and DOE's reservation of a right to seek remedies for newly discovered regulatory violations.

The Consent Order as modified is effective as a final order of the DOE on the date the company received written notice from the DOE.

The Consent Order as modified is effective as a final order of the DOE on the date the company received written notice from the DOE.

FOR FURTHER INFORMATION CONTACT: Meyer Magence, Office of Special Counsel (RG–13), Economic Regulatory Administration, 1000 Independence Avenue, SW, Washington, DC 20585 (202) 252–4945.

SUPPLEMENTARY INFORMATION:

I. Introduction

ERA issued a notice announcing a proposed consent order between DOE and Amorient which would resolve matters relating to certain of Amorient's compliance with the federal petroleum price and allocation regulations for the period August 19, 1973 through January 27, 1981. (50 FR 145, January 2, 1985). The proposed consent order requires

Amorient to pay the aggregate amount of $1,000,000 for the settlement of alleged overcharges. One-half of the payment is to be made within 30 days of the effective date of the Consent Order. The balance will be paid in quarterly installments, with interest, over the ensuing twenty-six months. The notice solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received three comments, which addressed the question of the ultimate disposition of the funds to be paid by Amorient pursuant to the settlement, but did not question the basis of the settlement or the adequacy of the settlement amount. Comments were received from the following: Attorney General of Texas, Governor's Energy Office, State of Florida, Arizona Public Service Company.

ERA intends to petition OHA requesting that OHA establish procedures pursuant to 10 CFR Part 205, Subpart V for the distribution of the funds. Comments received by ERA on the disposition of the settlement funds will be referred to OHA for consideration.

Since the comments received do not relate to the issue of whether the Consent Order should be modified, rejected or adopted as a final order, ERA has determined to proceed with the finalization of the Consent Order.

III. Modifications to the Consent Order

The ERA is seeking to standardize its Consent Orders as much as possible and has modified the Amorient Consent Order pursuant to that goal. A matter of particular concern to the DOE is the need for the firm to retain records for possible future use by the DOE in the disbursement of settlement monies.

Pursuant to the preamble to the ERA's recent revision of its record-keeping regulation, (50 FR 4957, 4960, February 5, 1985), firms with restitutionary payments subject to distribution must be required to maintain records necessary to permit appropriate distribution of these payments. Accordingly, ERA and Amorient have agreed to modify the proposed Consent Order.

Another modification concerns the installment interest rate. Pursuant to ERA's interest policy, published at 46 FR 21412, 21414 (April 10, 1981), the interest rate applicable to a Consent Order may be fixed as of the date of its execution. Since the modified Consent Order was executed July 1, 1985, and the appropriate interest rate for the period from July 1, 1985 to September 30, 1985 is 10.44%, the installment interest rate applicable to this Consent Order is fixed at 10.44%.

Because the above-mentioned modifications to the Consent Order do not affect the basic settlement amount or substantially alter the basis of the settlement, DOE has determined that the modifications do not require an opportunity to file additional comments.

IV. Decision

Pursuant to 10 CFR 205.199J, the Consent Order between Amorient and DOE, as modified, was made a final order of the DOE on July 8, 1985, the date the company received notice from the DOE.

Issued in Washington, DC, on July 22, 1985.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 85-18943 Filed 8-8-85; 8:45 am]

BILLING CODE 6450-01-M

Final Consent Order; Century Resources Development, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and Century Resource Development, Inc., (CRD) shall be made a final order of the DOE. The Consent Order resolves CRD's compliance with the federal petroleum price and allocation regulations concerning the resale of crude oil for the period October 1977 through January 27, 1981. CRD will pay to the DOE the aggregate amount of $1,500,000 plus installment interest. The ERA intends to petition the Office of Hearings and Appeals (OHA) to establish procedures pursuant to 10 CFR Part 205, Subpart V for the distribution of the funds. Persons claiming to have been harmed by alleged overcharges will be able to present their claims for refunds in an administrative claims proceeding. The decision to make the CRD Consent Order final as modified was made after a review of all written comments received.

The final Consent Order incorporates the following modifications:

(1) Inclusion of a recordkeeping requirement that conforms to 10 CFR § 210.1, ensuring the availability of data necessary to the completion of refund procedures;

(2) Application of a fixed installment interest rate applicable to the period when the modified Consent Order was executed; and,

(3) Alteration of due dates for payments to reflect the later date of the finalizaton of the Consent Order.

Other modifications were made to the provisions regarding the release of sensitive commercial and financial informaton and DOE's reservation of a right to seek remedies for newly discovered regulatory violations.

The Consent Order as modified is effective as a final order of the DOE on the date the document was executed.

FOR FURTHER INFORMATION CONTACT: Meyer Magence, Office of Special Counsel (RG-13), Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4945.

SUPPLEMENTARY INFORMATION:

I. Introduction

ERA issued a notice announcing a proposed consent order between DOE and CRD which would resolve matters relating to CRD's compliance with the federal petroleum price and allocation regulations pertinent to the resale of crude oil for the period October 1977 through January 27, 1981. (49 FR 49164, December 18, 1984). The proposed consent order requires CRD to pay the aggregate amount of $1,500,000 plus interest for the settlement of alleged overcharges, with payments to be completed by December 31, 1986. Within fourteen days of the effective date of the Consent Order, CRD shall pay $187,500. Payments of at least $187,500 are to be made July 31, 1985, September 30, 1985 and at the conclusion of subsequent calendar quarters through December 31, 1986.

The notice solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received two comments, which addressed the question of the ultimate disposition of the funds to be paid by CRD pursuant to the settlement, but did not question the basis of the settlement or the adequacy of the settlement amount. Comments were received from the following: Attorney General of Texas, Attorneys General of the States of Arkansas, Delaware, Iowa, Kansas, Louisiana, North Dakota, Rhode Island, and West Virginia.

ERA intends to petition OHA requesting that OHA establish procedures pursuant to 10 CFR Part 205,

Subpart V for the distribution of the funds. Comments received by ERA on the disposition of the settlement funds will be referred to OHA for consideration.

Since the comments received do not relate to the issue of whether the Consent Order should be modified, rejected or adopted as a final order, ERA has determined to proceed with the finalization of the Consent Order.

III. Modifications to the Consent Order

The ERA is seeking to standardize its Consent Orders as much as possible and has modified the CRD Consent Order pursuant to that goal. A matter of particular concern to the DOE is the need for the firm to retain records for possible future use by the DOE in the disbursement of settlement moneys.

Pursuant to the preamble to the ERA's recent revision of its regulation, 50 FR 4957, 4960 (February 5, 1985), firms with restitutionary payments subject to distribution must be required to maintain records to permit appropriate distribution of these payments. Accordingly, ERA and CRD have agreed to modify the proposed Consent Order.

Another modification concerns the installment interest rate. Pursuant to ERA's interest policy, published at 46 FR 21412, 21414 (April 10, 1981), the interest rate applicable to a Consent Order may be fixed as of the date of its execution. Since the modified Consent Order was executed July 5, 1985, and the appropriate interest rate for the period from July 1, 1985 to September 30, 1985 is 10.44%, the installment interest rate applicable to this Consent Order is fixed at 10.44%.

Because the above-mentioned modificatons to the Consent Order do not affect the basic settlement amount or substantially alter the basis of the settlement, DOE has determined that the modifications do not require an opportunity to file additional comments.

IV. Decision

Pursuant to 10 CFR 205.199J, the Consent Order between CRD and DOE, as modified, was made a final order of the DOE on July 5, 1985, the date the modified Consent Order was executed.

Issued in Washington, DC on July 22, 1985.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 85-18944 Filed 8-8-85; 8:45 am]

BILLING CODE 6450-01-M

Final Consent Order; Coastal Petroleum Refiners, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and Coastal Petroleum Refiners, Inc. (Coastal) shall be made a final order of the DOE. The Consent Order resolves Coastal's compliance with the federal petroleum price and allocation regulations for the resale of crude oil for the period September 1979 through January 27, 1981. Coastal will pay to the DOE the amount of $500,000. The ERA intends to petition the Office of Hearings and Appeals (OHA) to establish procedures pursuant to 10 CFR Part 205, Subpart V for the distribution of the funds. Persons claiming to have been harmed by alleged overcharges will be able to present their claims for refunds in that administrative claims proceeding. The decision to make the Coastal Consent Order final as modified was made after a review of written comments received.

The final Consent Order is modified by the inclusion of a recordkeeping requirement that conforms to 10 CFR 210.1, ensuring the availability of data necessary to the completion of refund procedures.

Other modifications were made to the provisions regrding the release of sensitive commercial and financial information and DOE's reservation of a right to seek remedies for newly discovered regulatory violations.

The Consent Order as modified is effective as a final order of the DOE on the date the document was executed.

FOR FURTHER INFORMATION CONTACT: Meyer Magence, Office of Special Counsel (RG-13), Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-4945.

SUPPLEMENTARY INFORMATION:

I. Introduction

ERA issued a notice announcing a proposed consent order between DOE and Coastal which would resolve matters relating to Coastal's compliance with the federal petroleum price and allocation regulations for the resale of crude oil for the period September 1979 through January 27, 1981. (49 FR 49165, December 18, 1984). The proposed consent order requires Coastal to pay the amount of $500,000 for the settlement of alleged overcharges. The notice solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received two comments, which addressed the question of the ultimate disposition of the funds to be paid by Coastal pursuant to the settlement, but did not question the basis of the settlement or the adequacy of the settlement amount. Comments were received from the following: Attorney General of Texas, Attorneys General for the States of Arkansas, Delaware, Iowa, Kansas, Louisiana, North Dakota, Rhode Island, and West Virginia.

ERA intends to petition OHA requesting that OHA establish procedures pursuant to 10 CFR Part 205, Subpart V for the distribution of the funds. Comments received by ERA on the disposition of the settlement funds will be referred to OHA for consideration.

Since the comments received do not relate to the issue of whether the Consent Order should be modified, rejected or adopted as a final order, ERA has determined to proceed with the finalization of the Consent Order.

III. Modifications to the Consent Order

The ERA is seeking to standardize its Consent Orders as much as possible and has modified the Coastal Consent Order pursuant to that goal. A matter of particular concern to the DOE is the need for the firm to retain records for possible future use by the DOE in the disbursement of settlement moneys.

Pursuant to the preamble to ERA's recent revision of its recordkeeping regulation (50 FR 4957, 4960 February 5, 1985), firms with restitutionary payments subject to distribution must be required to maintain records necessary to permit appropriate distribution of these payments. Accordingly, ERA and Coastal have agreed to modify the proposed Consent Order.

Because the above-mentioned modifications to the Consent Order do not affect the basic settlement amount or substantially alter the basis of the settlement, DOE has determined that the modifications do not require an opportunity to file additional comments.

IV. Decision

Pursuant to 10 CFR 205.199J, the Consent Order between Coastal and DOE, as modified, was made a final order of the DOE on July 5, 1985, the

date the modified Consent Order was executed.

Issued in Washington, D.C., on July 23, 1985.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 85-18945 Filed 8-8-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

PacifiCorp, d/b/a Pacific Power & Light Co.; Application

[Docket No. ES85-54-000]

July 30, 1985.

Take notice that on July 23, 1985, Pacific Power & Light Company (Pacific) filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, to issue on or before September 14, 1987 unsecured short-term promissory notes and to borrow from commercial banks not more than $25,000,000 in aggregate principal amount outstanding at any one time under renewable lines of credit.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before August 22, 1985. Protests will be considered by the Commission 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 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. 85-18922 Filed 8-8-85; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

August 7, 1985.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1980 Annual Report

Valuation Docket No. PV—1452-000
Chase Transportation Company, P.O. Box 2256, Wichita, Kansas 67201

On or before September 16, 1985, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 85-18923 Filed 8-8-85; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

August 7, 1985.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1983 Annual Report

Valuation Docket No. PV—1384-000
Minnesota Pipe Line Company, P.O. Box 2256, Wichita, Kansas 67201

On or before September 16, 1985, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 85-18924 Filed 8-8-85; 8:45 am]

BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

August 7, 1985.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

1983 Annual Reports

Valuation Docket No. PV—1464-000
Cochin Pipeline System—U.S. Dome Pipeline Corporation, 333 7th Avenue SW., Calgary, Alberta, Canada T2P 2H8

No. PV—1447-000
Dome Pipeline Corporation, Eastern Delivery System, 333 7th Avenue SW., Calgary, Alberta, Canada T2P 2H8

On or before September 16, 1985, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in these valuations may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in these proceedings.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h)

of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,

Administrative Officer, Oil Pipeline Board.

[FR Doc. 85-18925 Filed 8-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP83-126-000, TA83-2-22-000, and TA84-1-22-000]

Consolidated Gas Transmission Corp.; Meeting With Interested Parties Concerning Cutbacks

August 5, 1985.

Take notice that on August 14, 1985, at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, Consolidated Gas Transmission Corporation will meet with its customers, interested state commissions and agencies, and the Commission Staff concerning a possible cutback of gas purchases below minimum bill levels. Consolidated is holding the meeting pursuant to Article VI of the Stipulation and Agreement approved by the Commission in Docket Nos. RP83-126, TA83-2-22, and TA84-1-22, on September 17, 1984.[1]

All interested parties referenced above may attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18954 Filed 8-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4302-002]

Georgetown Divide Public Utility District; Surrender of 5 MW or less Exemption

August 6, 1985.

Take notice that Georgetown Divide Public Utility District (Georgetown), Exemptee for the Stumpy Meadows Hydroelectric Project No. 4302 has requested that its exemption be terminated. The exemption was issued on June 30, 1981, and the project would have been located at Georgetown's existing Stumpy Meadows Dam and Reservoir on Pilot Creek in El Dorado County, California. Construction of facilities, authorized under the exemption for Project No. 4302, has not commenced.

The Exemptee filed the request on June 17, 1985, and the exemption for Project No. 4302 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18955 Filed 8-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7004-034]

Pennzoil Co.; Twentieth Amendment to Application for Immediate Clarification or Abandonment Authorization

August 5, 1985.

Take notice that on July 25, 1985, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001, filed in Docket No. G-7004-034 an application for immediate clarification of Order dated November 24, 1980 in the above-referenced docket or abandonment authorization for as much gas as is required to allow sales of gas to eight new applicants for residential service in West Virginia in addition to those applicants specified in Pennzoil's original application filed on October 25, 1982. In filing ths Twentieth Amendment to its original application, Pennzoil incorporates herein and renews each of the requests for clarification or abandonment authorization set forth in that application. Service to these applicants and existing customers would be provided from gas supplies that would otherwise be sold to Consolidated Gas Supply Corporation (Consolidated), an interstate pipeline.

Pennzoil states that immediate action is necessary to protect the health, welfare and property of the applicants and customers in West Virginia who depend upon Pennzoil for their gas supply needs. Pennzoil also states that immediate action also is required because, by order dated October 21, 1982, the Public Service Commission of West Virginia directed Pennzoil "to show cause, if any it can, why it should not be found to be in violation of its duty . . . to provide adequate gas service to all applicants . . . and why it should not be required to provide service to domestic customers in West Virginia when requests are received for same.

Consolidated has indicated that it has no objection to the requested authorization.

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 petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before, August 12, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, .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 the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G-7004-006 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G-7004-034.

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. 85-18956 Filed 8-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-653-000, et al.]

Bangor Hydro-Electric Co., et al.; Electric Rate and Corporate Regulation Filings

August 5, 1985.

Take notice that the following filings have been made with the Commission:

1. Bangor Hydro-Electric

[Docket No. ER85-653-000]

Take notice that on July 29, 1983, Bangor Hydro-Electric Company (Bangor) tendered for filing a Sales Agreement (Agreement) made as of May 1, 1985 between Bangor and Central Maine Power (CMP) for the sale of system power by Bangor to CMP.

Bangor states that the Agreement provides for a capacity and energy sale of 10,000 kilowatts from Bangor's system to CMP. The Agreement provides that CMP pay for the capacity at the rate of $13.00 per kilowatt per year and for the actual energy costs.

Bangor requests an effective date of May 1, 1985, and therefore requests waiver of the Commission's notice requirement.

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[1] 28 FERC ¶61,408 (1984).

A copy of this filing was mailed to CMP.

Comment date: August 20, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Central Hudson Gas & Electric

[Docket No. ER85-648-000]

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson), on July 29, 1985, tendered for filing as a rate schedule an executed agreement dated June 11, 1985, between Central Hudson and the New York Power Authority (NYPA). The proposed rate schedule provides for firm and interruptible Electric Transmission Service for delivery of power and energy from NYPA to Orange and Rockland Utilities, Inc. (O&R) for distribution to Municipal Distribution Agencies (MDA's) located in O&R's service territory.

The rate schedule provides for a monthly transmission charge of $0.37 per kilowatt of demand actually scheduled for delivery at the points of interconnection between Central Hudson and O&R. For interruptible use of Central Hudson's transmission system for deliveries to O&R, NYPA shall pay Central Hudson at the rate of 0.51 mills per kilowatthour of interruptible energy delivered at points of interconnection.

Central Hudson states that a copy of its filing was served on NYPA.

Comment date: August 20, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. The Dayton Power and Light Company

[Docket No. ER85-645-000]

Take notice that on July 24, 1985, the Dayton Power and Light Company (DP&L) tendered for filing an executed Purchase and Resale Agreement (Agreement) between DP&L and the Village of New Bremen (New Bremen), Ohio.

The proposed Agreement allows New Bremen to purchase energy requirements from third parties who will use existing Interconnection Agreement Rate schedules to deliver the energy requirements and permit the proposed Agreement to become effective September 1, 1985.

Comment date: August 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Duke Power Company

[Docket No. ER85-644-000]

Take notice that Duke Power Company (Duke) on July 24, 1985 tendered for filing proposed changes in its electric resale Rate Schedule No. 10 presently on file with the Commission which is applicable to Municipalities and Public Utility Companies. Based on the 12 month test period ending December 31, 1986. Duke estimates that the proposed changes in resale base rates will increase annual revenues by approximately $11,700,000. Of this amount, the Company is proposing to implement the increase in two steps. The first step, or "interim" rates would increase rates by approximately $6,000,000. The second step, or "proposed" rates would provide additional revenues of $5,700,000 for a total increase of $11,700,000.

Duke states that the increase in wholesale rates is needed to compensate the Company for the increased cost of doing business and the impact of inflation and increasing regulatory requirements.

Copies of the filing were served upon all of Duke's jurisdictional Wholesale Customers, the North Carolina Utilities Commission, The Public Service Commission of South Carolina, and the Southeastern Power Administration.

Comment date: August 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Green Mountain Power Corporation

[Docket No. Er85-651-000]

Take notice that Green Mountain Power Corporation ("GMP") on July 29, 1985 tendered for filing as a rate schedule an executed agreement dated as of May 19, 1982, between GMP, Western Massachusetts Electric Co. and Connecticut Light & Power Co. (the N.U. companies). The proposed rate schedule provides for the sale of interruptible energy by GMP to the N.U. companies.

GMP states that a copy of the filing was served on the N.U. companies and the Vermont Public Service Board.

Comment date: August 20, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Gulf States Utilities Co.

[Docket No. Er85-538-002]

Take notice that on July 26, 1985, Gulf States Utilities Company ("Gulf States") tendered for filing six copies of a filing in compliance with the Commission's Order of July 23, 1985.

As required by the Order, Gulf States is refiling its full cost of service and rates to reflect exclusion of approximately $4.4 million of transmission facilities charges representing payments by Gulf States to Sam Rayburn Municipal Power Agency and Sam Rayburn G&T, Inc. These charges have been removed from Statement BK (Period II), page 22 of 48, line 13, and have been placed into line 10 of that page. Statements BK, BK 4, and BI 5 for Period II show a cost of service study, in which the remaining facilities charges are allocated to the wholesale jurisdiction. Gulf States has also reflected the change in transmission facilities charges in revised Statements AH, BK 1-2, and BK 2-2, submitted herewith.

Statement BL then provides the rate design for wholesale customers whose transmission rates are at issue, and the tariffs themselves appear in the compliance filing as revised exhibits to the testimony of C.L. Waggoner. The revenue effect of these rates—a reduction of approximately $739,000 as compared to the rates originally filed—is shown in a revised Statement BG.

Comment date: August 19, 1985, in accordance with Standard Paragraph H at the end of this notice.

7. New England Power Company

[Docket No. Er85-475-001]

Take notice that on July 26, 1985, New England Power Company tendered for filing, pursuant to the Commission's order of June 28, 1985, fourteen copies and an original of the direct testimony of Dr. Charles E. Olson as support for a fixed return on common equity of 15.55%.

Comment date: August 20, 1985, in accordance with Standard Paragraph H at the end of this notice.

8. New England Power Company

[Docket No. Er85-646-000]

Take notice that New England Power Company ("NEP") on July 26, 1985 tendered for filing a proposed change in its Service Agreement for Primary Service for Resale with the Narragansett Electric Company ("Narragansett"). The proposed change would increase the fixed credits allowed Narragansett on its purchased power billing by NEP in the amount of $2,007,172 annually based on the 12 month period ending December 31, 1986.

NEP requests an effective date of October 1, 1985. However, NEP requests that the amendment be suspended for no longer than three months to become effective January 1, 1986, in order to coincide with the effective date of its W-7 wholesale rate filing.

Copies of the filing were served upon Narragansett and the Rhode Island Public Utilities Commission.

Comment date: August 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. New England and Power Company

[Docket No. ER85-647-000]

The Federal Energy Regulatory Commission issues notice that on July 26, 1985, New England Power Company ("NEP") filed revised tariff sheets constituting a new rate W-7 revised tariff sheets which will increase jurisdictional revenues by approximately $74,200,000 on the basis of a 1986 test year. Although the filing has an effective date of October 1, 1985, NEP requested a three-month suspension. If suspended for three months as requested, NEP will begin to bill under the W-7 rate on January 1, 1986.

Comment date: August 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

10. Niagara Mohawk Power Corporation

[Docket No. ER85-642-000]

Take notice that Niagara Mohawk Power Corporation (Niagara), on July 24, 1985 tendered for filing as a rate schedule, an agreement between Niagara and Orange and Rockland Utilities Inc. (Orange and Rockland) dated May 15, 1985.

Niagara presently has on file an agreement with Orange and Rockland dated February 14, 1975, last amended by Letter dated October 1, 1984. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 89. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the transmission rate for transmitting FitzPatrick power and energy from the Power Authority of the State of New York to Orange and Rockland as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1985.

Copies of this filing were served upon the following:

Orange and Rockland Utilities Inc., One Blue Hill Plaza, Pearl River, NY 10965
Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY

Comment date: August 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER85-643-000]

Take notice that Niagara Mohawk Power Corporation (Niagara), on July 24, 1985 tendered for filing as a rate schedule, an agreement between Niagara and Rochester Gas and Electric Corporation (Rochester) dated May 15, 1985.

Niagara presently has on file an agreement with Rochester dated December 26, 1968. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FERC No. 58. This new agreement is being transmitted as a supplement to the existing agreement, and supersedes Supplement No. 5.

The December 26, 1968, agreement is for the use of Niagara's transmission facilities by Rochester for the purpose of connecting Rochester's Gina Nuclear Plant into the New York Cross-State transmission system. The May 15, 1985, agreement revises the rate to be paid by Rochester for the use of Niagara's facilities. Niagara requests the Commission to allow said agreement to become effective as of October 1, 1985.

Copies of the filing were served upon the following:

Rochester Gas and Electric Corporation, 85 East Avenue, Rochester, NY 14649
Public Service Commission, State of New York, Three Rockefeller State Plaza, Albany, NY

Comment date: August 19, 1985, in accordance with Standard Paragraph E at the end of this notice.

12. Philadelphia Electric Company

[Docket No. ER85-652-000]

Notice is hereby given on July 29, 1985 that effective on the 8th day of July 1985, Rate Schedule F.P.C. No. 44, effective date July 28, 1977 and filed with the Federal Power Commission by Philadelphia Electric Company, is to be cancelled.

Comment date: August 20, 1985, in accordance with Standard Paragraph E at the end of this notice.

13. The Potomac Edison Company

[Docket No. ER85-650-000]

Take notice that the Potomac Edison Company ("PE") on July 29, 1985, tendered for filing proposed changes in its FERC Electric Tariff and Revised Volume No. II. This filing would cancel, effective July 1, 1985, Schedules "WS-LV(M)" and "WS-HV(M)", Original Page Nos. 17-1, 17-1A, 17-1B, 17-2, 17-2A and 17-2B. The customers now served on those schedules, the City of Hagerstown and Towns of Thurmont and Williamsport, Maryland ("the Cities") would thence forward be served on current Schedules "WS-LV" and "WS-HV", which are now effective for service to PE's other wholesale for resale customers.

This filing is being made to implement a Settlement Agreement, included with the filing, reached by PE and the Cities in an antitrust suit filed in August 1983 in U.S. District Court for the District of Maryland. While the Cities will be billed on the Schedules "WS-LV" and "WS-HV" as currently effective and subject to change from time to time, some refunds may be necessary for specified periods, depending upon the relationship between the wholesale rates and certain of PE's Maryland retail rates in effect at the time.

Copies of the filing were served upon the Cities and upon the Maryland Public Service Commission.

Comment date: August 20, 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, N.E., 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.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18952 Filed 8-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9098-000, et al.]

Hydroelectric Applications (Bangor Hydro-Electric Co.,) et al.: Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with Federal Energy Regulatory Commission and are available for public inspection:

1 a. Type of Application: Preliminary Permit.

b. Project No.: P-9098-000.

c. Date Filed: April 8, 1985.

d. Applicant: Bangor Hydro-Electric Company.

e. Name of Project: Winn Project.

f. Location: On the Penobscot and Mattawamkeag Rivers in the Towns of Winn, Chester, Woodville, and Mattawamkeag, Counties of Penobscot and Mattawamkeag, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Robert S. Briggs, Vice President and General Counsel, Bangor Hydro-Electric Company, 33 State Street, Bangor, ME 04401.

i. Comment Date: October 3, 1985.

j. Description of Project: The proposed project would consist of: (1) A proposed 1,140-foot-long, 26-foot-high dam; (2) a reservoir having a surface area of 1,500 acres, a storage capacity of 18,000 acre-feet, and a normal water surface elevation of 197 feet USGS; (3) a proposed intake structure; (4) a proposed powerhouse containing generating units with a total installed capacity of 16 MW; (5) a proposed tailrace; (6) a proposed 10-mile-long, 115-kV transmission line; and (7) appurtenant facilities. The Applicant estimates the average annual generation would be 84,500 MWh.

k. Purpose of Project: All project energy would be used for sale to Applicant's customers.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $305,000. Applicant proposes to perform no ground-disturbing activities under its work plan.

2 a. Type of application: Amendment to License.

b. Project No.: 2149-018.

c. Date Filed: September 2, 1983.

d. Applicant: Public Utility District No. 1 of Douglas County.

e. Name of Project: Wells Hydroelectric.

f. Location: Columbia River, near Bridgeport, in Douglas and Okanogam Counties, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 779(a)-825(r).

h. Contact Person: Mr. Garfield R. Jeffers, Attorney at Law, 317 North Mission, P.O. Box 1888, Wenatchee, WA 98801.

i. Comment Date: September 9, 1985.

j. Description of Project: The Public Utility District No. 1 of Douglas County, Washington (PUD), Licensee for the Wells Hydroelectric Project, filed a Report on Recreational Resources resulting from an increase in the reservoir surface elevation from 779 to 781 feet msl. The Report was filed for approval pursuant to Article 51 of the Order amending License, issued on September 23, 1982. The Report includes a study to determine need for additional recreational development at the project. Based upon the study, the Licensee has concluded that no additional recreational development is needed at this time with the exception of initial development at Chief Joseph State Park (CJSP). The Licensee entered into an agreement with the Washington Parks Recreation Commission (WPRC) for minimal recreation development at the CJSP. The agreement between the Licensee and WPRC would provide funds for immediate improvement and will ensure additional funding over the remaining term of the license. An initial payment of $125,000 for the first five years has been made for improvements which would include adding or enlarging culverts, planting trees, irrigation of trees, and preparing a master plan for the CJSP.

k. This notice also consists of the following standard paragraphs: B and C.

3 a. Type of Application: Major License (Existing Dam).

b. Project No.: 2899-003.

c. Date Filed: July 27, 1984.

d. Applicant: Twin Falls Canal Company and North Side Canal Company.

e. Name of Project: Milner.

f. Location: On Snake River in Twin Falls, Cassia, Jerome and Minidoka Counties, Idaho near the town of Burley on lands managed by the U.S. Bureau of Reclamation.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: John Rosholt, Esquire, P.O. Box 1906, Twin Falls, ID 83303-1906.

i. Comment Date: October 4, 1985.

j. Description of Project: The proposed project would include an existing dam consisting of three embankments (north, middle, south) constructed with a trapezoidal shaped rockfill section at elevation 4,138 feet. The North embankment has a crest length of 480 feet and a 290-foot-long ungated spillway. The Middle embankment has a crest length of 404 feet and a gated spillway. The South embankment has a crest length of 462 feet. The Dam would be modified by: (1) Placing 15-foot-wide rockfill berms at the dam; (2) the existing gated spillway will be replaced with a new spillway having eleven 12-foot-high, 30-foot-wide radial gates. The project will also consist of: (1) An existing 1,100-acre reservoir with a gross storage capacity of 26,000 acre-feet at elevation 4,130.5 feet; (2) new stoplog slots replacing the existing headworks; (3) a 6,500-foot-long earth and riprap lined excavated rock canal modified to increase the canal capacity from 3,200 cfs to 7,000 cfs; (4) an existing bridge raised to elevation 4,137.5 feet and lengthened to 60 feet; (5) a new concrete wasteway, providing water passageway through the right canal embankment, having a 39-foot-long, 10.5-foot-high hydraulically operated bascule gate; (6) a new concrete control structure having six 12-foot-wide, 15-foot-high, manually operated radial gates and one 24-foot-long, 11-foot-high, hydraulically operated bascule gate; (7) a forebay having a maximum capacity of 4,000 cfs; (8) an intake structure at the end of the forebay consisting of steel trashracks and a 14-foot-wide, 17-foot-high cable operated fixed wheel; (9) a 17-foot-diameter, 385-foot-long steel penstock; (10) an 89-foot-long, 56-foot-wide, semi-outdoor reinforced concrete powerhouse containing a single generating unit with a rated capacity of 43,650 kW operating under a head of 151.6 feet; (11) a 170-foot-long tailrace; (12) a 2,300-foot-long access road; and (13) a 1.4-mile-long, 138-kV transmission line tying into the existing Milner substation. The average annual generation would be 142 GWh. The estimated cost of the project is 39,540,000 in 1984 dollars.

k. Purpose of Project: The proposed project would utilize flows presently passing through the Milner Dam spillway and surplus conveyance capacity of the Twin Falls Main Canal. Project power would be sold to Idaho Power Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

4 a. Type of Application: Transfer of License.

b. Project No.: 4914-002.

c. Date Filed: May 30, 1985.

d. Applicant: Philip Morris Industrial Inc., and Hammermill Paper Company.

e. Name of Project: Nicolet Paper Company Dam.

f. Location: Fox River, Brown Country, Wisconsin.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: John O'Sullivan, 1101 Vermont Avenue, NW., Washington, DC 20005.

i. Comment Date: September 9, 1985.

J. Description of Proposed Transfer: On December 31, 1984, a minor license was issued to Philip Morris Industrial Incorporated, for the continued operation and maintenance of the Nicolet Paper Company Dam Project No. 4914. It is proposed to transfer the license to Hammermill Paper Company. Applicants state that the transfer is necessary to facilitate the sale of the papermill complex, in which the project is located, by the present licensee to Hammermill Paper Company.

k. This notice also consists of the following standard paragraphs: B and C.

5 a. Type of Application: Major License.

b. Project No.: 5763–001.

c. Date Filed: August 31, 1984.

d. Applicant: Long Lake Energy Corporation.

e. Name of Project: North Branch.

f. Location: Black River in Jefferson County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Paul J. Elston, 122 East 42nd Street, Suite 1901, New York, NY 10168.

i. Comment Date: September 30, 1985.

J. Description of Project: The proposed project would consist of: (1) An existing 24-foot-high, 90-foot-long concrete dam owned by Niagara Mohawk Power Corporation (NMPC) with a crest elevation of 463 feet m.s.l.; (2) an existing reservoir with a surface area of 9-acres, and a storage capacity of 75 acre-feet; (3) a proposed powerhouse at the right abutment of the dam containing a generating unit with a rated capacity of 8,230 KW; (4) a proposed 35-foot-high, 50-foot-wide and 1,600-food-long tailrace; and (5) a proposed 1-mile-long transmission line tying into the existing NMPC System. The Applicant estimates a 27,300 MWh average annual energy production.

k. Purpose of Project: Energy produced at the project would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

6 a. Type of Application: License (5MW or Less).

b. Project No.: 6872–001.

c. Date Filed: October 30, 1984.

d. Applicant: City of Ithaca.

e. Name of Project: Sixty Foot Dam.

f. Location: Six Mile Creek in Tompkins County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John C. Gutenberger, Mayor, City of Ithaca, City Hall, 108 East Green Street, Ithaca, NY 14850.

i. Comment Date: September 30, 1985.

J. Description of Project: The proposed project would consist of: (1) An existing 70-foot-high, 200-foot-long concrete dam owned by the City of Ithaca and has a crest elevation of 705 feet msl; (2) an existing reservoir with a surface area of 47 acres and a storage capacity of 800 acre-feet; (3) a new 14-foot-high, 13-foot-wide, 6-foot-long intake structure; (4) an existing 6-foot-diameter, 47-foot-long outlet pipe; (5) a new 4-foot-diameter, 142-foot-long penstock; (6) a new powerhouse containing a generating unit with a rated capacity of 400-kW; (7) a new 1,160-foot-long transmission line tying into the existing New York State Electric & Gas Company System; and (8) appurtenant facilities. The Applicant estimates a 1,400,000 kWh average annual energy production. The license application was filed pursuant to a preliminary permit.

K. Purpose of Project: Power generated would be sold to New York State Electric and Gas Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

7 a. Type of Application: Exemption (5MW or Less).

b. Project No.: 8192–000.

c. Date Filed: March 21, 1984.

d. Applicant: BMB Enterprises, Inc.

e. Name of Project: Granite Creek Hydro Project.

f. Location: On Granite Creek in Juab County, Utah.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Mr. Mark R. Hutchings, 968 East 5700 South, Salt Lake City, UT 84121.

i. Comment Date: September 9, 1985.

j. Competing Application: Project No. 8597, Date Filed: Sept. 12, 1984.

k. Description of Project: The proposed project would be located on lands administered by the U.S. Bureau of Land Management (BLM) and would consist of: (1) An existing concrete panel dam, about 42 feet long and 4 feet high, located about 15 feet upstream of another concrete panel dam, each having negligible impoundment; (2) an existing pipeline intake structure with a new trashrack and sediment sluiceway; (3) a new pipeline penstock, 14 inches in diameter and 22,900 feet long; (4) a new powerhouse to contain a turbine-generator unit rated at 500 kW; (5) a tailrace discharging into an existing irrigation system; (6) a new transmission line, abut 4,750 feet long, connecting to an existing Mt. Wheeler Power, Inc. line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 1,953,000 kWh.

l. Purpose of Project: Project energy would be sold to Mt. Wheeler Power, Inc.

m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

n. Proposed Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

8 a. Type of Application: License (5 MW or Less).

b. Project No.: 8492–002

c. Date Filed: April 29, 1985.

d. Applicant: Prodek, Inc.

e. Name of Project: McGee Dam Water Power Project.

f. Location: On the McGee Creek in Atoka County, Oklahoma.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Flake H. Wells III, Vice President, Prodek, Inc., P.O. Box 12608, El Paso, Texas 79912.

i. Comment Date: September 30, 1985.

j. Description of Project: The Applicant would utilize a dam and lands under the administration of the Bureau of Reclamation (BR). The dam is currently under construction and is scheduled to be completed in 1986. The proposed project would consist of: (1) A proposed 14-inch-diameter, 340-foot-long ductile iron penstock which would be used to convey water to the powerhouse. The penstock would be connected to the BR's existing steel by-pass pipe, which is designed to transport water to the municipal and industrial intake structure; (2) a proposed powerhouse containing one generating unit rated at 150 kW; (3) a proposed 30-inch-diameter, 85-foot-long reinforced concrete tailwater conduit that would discharge the water into McGee Creek east of the existing stilling basin; (4) a proposed 190-foot-long, 200-kVA transmission line; and (5) appurtenant facilities.

The estimated average annual energy output for the project is 73,000 kWh.

k. Purpose of Project: Energy produced at the project would be sold to the McGee Creek Authority.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

9 a. Type of Application: Exemption (5MW or less).
b. Project No.:8597–000.
c. Date Filed: September 12, 1984.
d. Applicant: George Douglass.
e. Name of Project: Granite Creek Hydro Project.
f. Location: On Granite Creek in Juab County, Utah.
g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, (16 U.S.C. 2705 and 2708 *as amended*).
h. Contact Person: Mr. George Douglass, Deep Creek Mountains Ranch, Callao Star Route, Box 380, Wendover, UT 84083.
i. Comment Date: September 9, 1985.
j. Competing Application: Project No. 8192, Date Filed: March 21, 1984.
k. Description of Project: The proposed project would be located on lands administered by the U.S. Bureau of Land Management (BLM) and would consist of: (1) An existing concrete panel dam, about 35 feet long and 5.5 feet high, located about 15 feet downstream of another concrete panel dam, each having negligible impoundment; (2) a new pipeline intake structure with trashrack, fish screen, and sediment sluiceway; (3) a new pipeline penstock, 12 inches in diameter and about 9,434 feet long; (4) a new powerhouse to contain a turbine-generator unit rated at 125 kW; (5) a tailrace discharging into an existing irrigation system; (6) a new tansmission line connecting to a nearby Mt. Wheeler Power, Inc. line; and (7) appurtenant facilities. The Applicant estimates that the average annual energy output would be 495,397 kWh.
l. Purpose of Project: Project energy would be sold to Mt. Wheeler Power, Inc.
m. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.
n. Proposed Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.
a. Type of Application: 5 MW Exemption.
b. Project No.: 8746–002.
c. Date Filed: April 15, 1985.
d. Applicant: George E. Dennis.
e. Name of Project: Fairfield Mill Hydro Power.
f. Location: On Garrison Fork Creek in Bedford County, Tennessee.
g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended).*
h. Contact Person: Mr. George E. Dennis, Fairfield Mill Hydro Power, Route 1, Box 31, Wartrace, Tennessee 37183.
i. Comment Date: September 13, 1985.
j. Description of Project: The proposed project would consist of: (1) An existing concrete dam 130 feet long and 10 feet high; (2) existing flume, trash racks, slide gates and one turbine (located in the flume) which will be refurbished; (3) a new metal shelter powerhouse structure, about 9 feet by 16 feet, to be located over the flume structure and to house one new generator unit to be connected to the existing flume turbine and a second new turbine/generator. Each generator will have a rating of 20 kW for a total installed capacity of 40 kW; (4) an impoundment with a water surface area of 26,000 square feet at normal maximum water surface elevation if 830 feet, m.s.l.; (5) about 250 feet of new transmission line at 13.2-kV; and (6) appurtenant facilities. The Applicant estimates that the average annual energy would be 150,000 kWh.
k. Purpose of Project: The Applicant anticipates that project energy will be sold to Duck River Electric Corporation.
l. This notice also consists of the following standard paragraphs: A3, A9, B, C & D3a.
m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.
11 a. Type of Application: Preliminary Permit.
b. Project No.: 9019–000.
c. Date Filed: March 14, 1985.
d. Applicant: MGH Power Company.
e. Name of Project: Angels Creek.
f. Location: On Angels Creek in Calaveras County, California.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).
h. Contact Person: Mr. David DeMera, P.O. Box 628, Murphys, CA 95247.
i. Comment Date: October 4, 1985.
j. Description of Project: The proposed project would consist of: (1) A 3-foot-high, 20-foot-long diversion dam at elevation 2,095 feet; (2) a 24-inch-diameter, 5,000-foot-long penstock; (3) a powerhouse with a total installed capacity of 300 kW; (4) a tailrace at elevation 2,015 feet; and (5) a 2,700-foot-long, 12.5-kV transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line.
k. Purpose of Project: A preliminary permit, if issued, does not authorize construction. Applicant has requested a 36-month permit to conduct feasibility studies and prepare a license application at a cost of $15,000. No new roads would be constructed to conduct these studies.
The estimated 2 million kWh generated annually by the project would be sold to PG&E.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.
12 a.Type of Application: Preliminary Permit.
b. Project No.: 9119–000.
c. Date Filed: April 22, 1985.
d. Applicant: Elektra Kings River, Inc.
e. Name of Project: Elektra/Consolidated Canal.
f. Location: On Consolidated Canal in Fresno County, California.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Mr. D. Dixon Collins, Elektra Kings River, Inc., 744 San Antonio Road, Palo Alto, CA 94303.
i. Comment Date: September 30, 1985.
j. Description of Project: The proposed project would consist of: (1) An existing 8-foot-high, 100-foot-long diversion weir at elevation 435 feet on the Consolidated Canal owned and operated by Consolidated Irrigation District; (2) three radial gates, each 26 feet wide; (3) a powerhouse with a total installed capacity of 2,500 kW; (4) a 12.3-kV, 21,500-foot-long transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line; and (5) appurtenant facilities.
k. Purpose of Project: A preliminary permit if issued, does not authorize construction. Applicant has requested a 24-month permit to conduct feasibility studies and prepare a license application at a cost of $80,000. No new roads would be constructed to conduct these studies.
The estimated 4 million kWh generated annually by the project would be sold to PG&E.
l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.
13 a. Type of Application: Preliminary Permit.
b. Project No. P–9130–000.
c. Date Filed: April 25, 1985.
d. Applicant: Fort Collins Associates.
e. Name of Project: Fort Collins.
f. Location: On Cache la Poudre River, at Horsetooth Dam, near Fort Collins, in Larimer County, Colorado.
g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).
h. Contact Person: Fort Collins Associates, c/o Louis Rosenman, Esq., 1350 New York Avenue, NW, Suite 600, Washington, DC. 20005.
i. Comment Date: September 30, 1985.

j. Description of Project: The proposed project would utilize the existing outlet works at the U.S. Bureau of Reclamation's 130-foot-high, 790-foot-long Horsetooth Dam and would consist of: (1) An existing 1,000-foot-long penstock; (2) a powerhouse containing a single Francis turbine-generator unit with an installed capacity of 2.3 MW and producing an estimated average annual generation of 17.9 GWh; (3) a tailrace discharging to the Cache la Poudre River; and (4) a 6,000-foot-long primary transmission line to interconnect the project to an existing 44-kV Public Service Company of Colorado (PSC) line. Applicant intends to sell the project power to PSC.

A preliminary permit, if issued, does not authorize construction. Applicant seeks insurance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $125,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

14 a. Type of Application: Preliminary Permit.

b. Project No.: 9233–000.

c. Date Filed: May 28, 1985.

d. Applicant: Tina Jean Associates.

e. Name of Project: Crooked Creek Dam Project.

f. Location: On the Crooked Creek near the Town of Kittaning, Armstrong County, Pennsylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Thomas Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: September 30, 1985.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Crooked Creek Dam and Reservoir and would consist of: (1) A proposed 1,640-foot-long, 10-foot-diameter steel penstock; (2) and existing powerhouse containing 4 new generating units having a total installed capacity of 16,900 kW; (3) an existing tailrace; (4) a proposed 1-mile-long, 69 kV transmission line; and (5) appurtenant facilities. The Applicant estimates the average annual generation would be 31.7 GWh.

k. Purpose of Project: All project power generated would be sold to the Towns of Kittaning and Butler.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $125,000.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9242–000.

c. Date Filed: May 28, 1985.

d. Applicant: Old Station Power Company.

e. Name of Project: Rock Creek.

f. Location: On Rock Creek in Shasta County, California, within Shasta National Forest.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Louis J. Simpson, 1001 Fourth Street, Suite 2, Eureka, CA 95501.

i. Comment Date: September 30, 1985.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 90-foot-long diversion dam at elevation 3,269 feet; (2) a 54-inch-diameter, 500-foot-long penstock; (3) a powerhouse with a total installed capacity of 3300 kW; and (4) a 12-kV, 1-mile-long transmission line connecting with an existing Pacific Gas and Electric Company (PG&E) transmission line.

k. Purpose of Project: A preliminary permit if issued, does not authorize construction. Applicant has requested an 18-month permit to conduct feasibility studies and prepare a license application at a cost of $25,000. No new roads would be constructed to conduct these studies. The estimated 10.1 million kWh generated annually by the project would be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

16 a. Type of Application: Preliminary Permit.

b. Project No: 9290–000.

c. Date Filed: June 10, 1985.

d. Applicant: Northern Colorado Water Conservancy District (NCWCD).

e. Name of Project: Cache la Poudre Water and Power.

f. Location: On Cache la Poudre River, near Fort Collins, in Larimer County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Darrell D. Zimbelman, Assistant Manager, NCWCD, P.O. Box 679, 1250 North Wilson Avenue, Loveland, CO 80539, (303) 667–2437.

i. Comment Date: September 9, 1985.

j. Description of Project: The proposed pumped storage portion of the project would consist of: (1) Grey Mountain Dam, a proposed 400-foot-high, 1,330-foot-long concrete gravity dam, located across the mainstem Cache la Poudre River, approximately 2 miles downstream from its confluence with the North Fork, impounding, (2) Cache la Poudre Afterbay, a proposed reservoir with a total storage capacity of 155,000 acre-feet and a surface area of 1,100 acres at a normal maximum water surface elevation of 5,600 feet msl; (3) Cache la Poudre Forebay, a proposed reservoir with a total storage capacity of 53,000 acre-feet and a surface area of 212 acres at a normal maximum water surface elevation of 7,040 feet msl, impounded by, (4) Cache la Poudre Dam, a proposed 370-foot-high, 4,000-foot-long rockfilled or concrete gravity dam; and (5) two dikes, one 140-foot-high and 1,000-foot-long and the other 370-foot-high and 2,000-foot-long all located at Greyrock Meadow; (6) three, approximately 3,650-foot-long high-head conduits originating in the upper intake of the Forebay, bifurcating into two steel-lined penstocks, each leading to, (7) one of six 350 MW Francis turbine-generator units located within an underground powerhouse with a total installed capacity of 2,100 MW and producing an estimated average annual generation of 3,570 GWh at a hydraulic head of 1,465 feet; and (8) related transmission facilities.

The proposed conventional portion of the project would consist of: (1) Glade Reservoir, with a total storage capacity of 320,000 acre-feet and a surface area of 2,500 acres at a normal maximum surface elevation of 5,600 feet msl, created by, (2) the proposed 340-foot-high, 4,750-foot-long Glade Dam, and (3) by a proposed 30-foot-high, 650-foot-long dyke, all located in the dry Hook and Moore Glade Valley. The reservoir would be filled from the Cache la Poudre River via flows diverted into the U.S. Bureau of Reclamation's North Poudre Supply Canal; (4) a powerhouse located in the vicinity of the dam's outlet works with a total installed capacity of 1 MW; and (5) related transmission facilities. Discharged water would be returned to the Cache la Poudre River.

The proposed project would be located on Roosevelt National Forest, State of Colorado, and privately owned

lands. The Cache la Poudre River has been studied by the U.S. Forest Service pursuant to the Wild and Scenic Rivers Act. Applicant intends to sell the project power to Energy Resources Development Associates, Inc.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $5 million.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

17 a. Type of Application: Major License (over 5MW)—Existing Dam.

b. Project No.: 2971–002.

c. Date Filed: June 28, 1984.

d. Applicant: Allegheny Electric Cooperative, Inc.

e. Name of Project: Montgomery Lock and Dam.

f. Location: Ohio River in Beaver County, Pennylvania.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William F. Matson, President, Allegheny Electric Cooperative, Inc., P.O. Box 1266, Harrisburg, PA. 17108–1266.

i. Comment Date: October 7, 1985.

j. Description of Project: The proposed project would consist of: (1) A new 250-foot-wide, 400-foot-long intake channel at the existing Corps of Engineers Montgomery Lock and Dam; (2) a new powerhouse containing a generating unit with a rated capacity of 20,000-kW; (3) a new 2.8-mile-long transmission line tying into the existing Duquesne Light Company System; and (4) appurtenant facilities. The Applicant estimates a 125 million kWh average annual energy production.

k. Purpose of Project: Power would be used by the Applicant.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

18 a. Type of Application: Minor License.

b. Project No: 3795–002.

c. Date Filed: December 10, 1984.

d. Applicant: Thermalito and Table Mountain Irrigation Districts.

e. Name of Project: Concow Hydroelectric Project.

f. Location: On Concow Creek in Butte County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James O. Schmidt, Manager, Themalito Irrigation District, 410 Grand Avenue, Oroville, CA 95965.

i. Comment Date: October 7, 1985.

j. Description of Project: The proposed project would consist of: (1) The Applicant's existing 97-foot-high, 340-foot-long concrete Concow Dam with a 140-foot-long spillway with crest elevation of 2,002 feet; (2) the Applicant's existing Concow Reservoir with a total storage capacity of 8,200 acre-feet; (3) the Applicant's existing 8-foot-high, 50-foot/long diversion dam, approximately 500 feet downstream of the Concow Dam; (4) an existing 4-foot-deep, 10-foot-wide and 9,200-foot-long ditch to be rehabilitated; (5) a 30-inch-diameter, 2100-foot-long penstock; (6) a powerhouse to contain a single generating unit with a rated capacity of 990 kW operating under a head of 535 feet; and (7) a 3,000-foot-long, 12-kV transmission line will connect the project with an existing Pacific Gas and Electric Company's (PG&E) line east of the powerhouse.

k. Purpose of Project: The project's estimated annual generation of 7 million kWh will be sold to PG&E.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

19 a. Type of Application: Amendment of License Application.

b. Project No.: 5350–002.

c. Date Filed: April 18, 1985.

d. Applicant: Tehama Power Authority.

e. Name of Project: South Fork Battle Creek Hydro Project.

f. Location: On South Fork Battle Creek, near town of Mineral, Tehama County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Mary Peachman, Secretary, Tehama Power Authority, P.O. Box 250, Red Bluff, CA 96080.

i. Comment Date: September 16, 1985.

j. Description of Project: An amendment of license application to change the applicant, from the Tehama County Flood Control and Water Conservation District, to the Tehama Power Authority, for the South Fork Battle Creek Hydro Project No. 5350, has been filed pursuant to Section 4.35 of the Commission's regulations. The project description remains that provided in the public notice issued October 29, 1984, for Project No. 5350–001.

k. This notice also consists of the following standard paragraphs: B and C.

20 a. Type of Application: Amendment of License.

b. Project No.: 7161–002.

c. Date Filed: March 4, 1985.

d. Applicant: Douglas County, Oregon Water Resources Survey.

e. Name of Project: Galesville.

f. Location: On Cow Creek in Douglas County, Oregon near the town of Glendale, on lands administered by Bureau of Land Management.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John Youngquist, Project Administrator, Douglas County Water Resources Survey, Justice Building, Roseburg, OR 97470.

i. Comment Date: September 16, 1985.

j. Description of Project: The proposed amendment would consist of the installation of: (1) 4.16–kV generator leads; (2) a 4.16/12.47–kV three-phase transformer; and (3) a 440-foot-long, 12.47–kV transmission line extending from the proposed tower at the dam switchyard to an existing Pacific Power and Light Company line.

k. Purpose of Project: The proposed transmission line will convey power generated at the Galesville Project to the existing Pacific Power and Light company line.

l. This notice also consists of the following standard paragraphs: B and C.

21 a. Type of Application: Preliminary Permit.

b. Project No: 8832–000.

c. Date Filed: December 26, 1984.

d. Applicant: Enco Development Corporation.

e. Name of Project: Bear Creek Power.

f. Location: On Bear Creek, a tributary of the Yellowstone River, within the Gallatin National Forest lands, near Gardiner, in Park County, Montana.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C., 791(a)–825(r).

h. Contact Person: Mr. Kenneth R. Koch, Enco Development Corporation, P.O. Box 5663, Bellingham, Washington 98227.

i. Comment Date: October 7, 1985.

j. Description of Project: The project would consist of: (1) An existing concrete diversion structure at elevation 6,320 feet; (2) an existing 10,400-foot-long open conveyance ditch; (3) a proposed 3,250-foot-long, 18-inch-diameter steel penstock; (4) a proposed powerhouse containing a single generating unit with an installed capacity of 400 kW; and (5) a 2-mile-long, 50-kV transmission line connecting to an existing Montana Power Company transmittion line. The Applicant estimates an annual energy production of 2.5 million kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $75,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of project: The project power would be sold to Montana Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

22 a. Type of Application: Conduit Exemption.

b. Project No: 9261–000.

c. Date Filed: June 3, 1985.

d. Applicant: Energy Partners.

e. Name of Project: San Luis Obispo Hydroelectric Project.

f. Location: On the City of San Luis Obispo's (City) conduit water supply system which gets its water from Santa Margarita, a natural pond, in San Luis Obispo County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John J. Huetter, Jr., ESD Corp., Box 307, Topanga, CA 90290; and Mr. Peter H. Kruse, 1900 Ave. of the Stars, Suite 2625, Los Angeles, CA 90067.

i. Comment Date: September 10, 1985.

j. Description of Project: The proposed project would be located at the end of two 18-inch-diameter conduits, discharging water into a forebay, approximately 300 feet away from the City's water treatment plant. It would consist of a single generating unit with a rated capacity of 130 kW to operate under a head of 110 feet. A 600-foot-long transmission line will connect the project with an existing Pacific Gas and Electric Company's 12.5-kV transmission line east of the powerhouse.

k. Purpose of Project: The project's estimated 653,000 kWh of annual generation will be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C & D3b.

23 a. Type of application: Preliminary Permit.

b. Project No.: 9308–000.

c. Date Filed: July 2, 1985.

d. Applicant: Caddoa Hydro Associates.

e. Name of Project: John Martin Dam.

f. Location: John Martin Dam, on the Arkansas River, near Hasty, in Bent County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Caddoa Hydro Associates, c/o Louis Rosenman, Esquire, 1350 New York Avenue, #600, Washington, DC 20005, (202) 783–2100.

i. Comment Date: October 7, 1985.

j. Description of Project: The proposed project would utilize the outlet works at the existing U.S. Army Corps of Engineers' John Martin Dam and would consist of: (1) A 60-inch-diameter 525-foot-long penstock; (2) a powerhouse containing a single turbine-generator unit with a rated capacity of 1,380 kW and producing an estimated average annual generation of 5.5 GWh; (3) a tailrace; and (4) a 5,100-foot-long, 64-kV transmission line. Project power would be sold to Arkansas River Power Authority.

A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under the permit would be $125,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a develoment application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the intial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to

intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Comission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Presevation Act, the National Environmental Policy Act, Pub. L No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coorination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 6, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-18953 Filed 8-8-85; 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 approximately $30,255,000 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Mobil Oil Corporation, a major integrated refiner marketing crude oil and refined petroleum products throughout the United States.

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-0508.

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 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 Mobil Oil Corporation, which settled possible violations of DOE price controls in the firm's sales of refined petroleum products to its customers during the period January 1, 1973 through January 27, 1981 and sales

of crude oil during the period June 1, 1979 through January 27, 1981.

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 Mobil Oil Corporation pursuant to the consent order. The DOE has tentatively established procedures under which purchasers of Mobil 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. 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: July 30, 1985.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Mobile Oil Corporation.

Date of Filing: August 30, 1984.

Case Number: HEF-0508.

On August 20, 1984, the Economic Regulatory Administration (ERA) filed with the Office of Hearings and Appeals (OHA) a Petition for the Implementation of Special Refund Procedures to distribute the proceeds of an April 19, 1984 consent order between the DOE and Mobil Oil Corporation (Mobil). In its Petition, ERA requests that OHA formulate and implement special procedures to make refunds in order to remedy the effects of the alleged regulatory violations that were settled in the Mobil consent order.

I. Background

Mobil is a major integrated refiner which produced and sold crude oil and a complete slate of petroleum products during the period of federal price controls. It was therefore subject to the Mandatory Petroleum Price and Allocation Regulations set forth at 6 CFR Part 150, and 10 CFR Parts 210, 211, and 212. During the controls period ERA conducted an extensive audit of Mobil's operations and, as a result of that audit, contended in the course of a number of judicial and administrative proceedings that Mobil had violated applicable DOE price and allocation regulations in its sales of crude oil and petroleum products during the audit period. On April 19, 1984, ERA signed a consent order with Mobil that, with the exception of certain enumerated issues, settled all issues regarding the firm's regulated refined product operations during the period January 1, 1973 through January 27, 1981, and its regulated crude oil operations during the period June 1, 1979 through January 27, 1981 (hereinafter referred to as the consent order or settlement period). In that consent order, Mobil agreed to deposit $27 million into an escrow account for subsequent distribution by DOE. In exchange for Mobil's performance under the consent order, ERA agreed not to challenge Mobil's compliance with the specified DOE regulations, except for the "excepted issues" enumerated in the consent order.[1] The Mobil consent order specifically provided that "[e]xecution of this Consent Order constitutes neither an admission by Mobil nor a finding by DOE of any violation by Mobil of any statute or regulation." Consent Order, ¶ 506, 49 FR 17,928 (April 25, 1984). The amount of escrowed funds currently held in an interest-bearing account with the United States Treasury had grown to $30,255,359.89, as of June 30, 1985.

The Mobil consent order provided that the Office of Special Counsel (OSC) of ERA would petition OHA to implement special refund procedures pursuant to 10 CFR Part 205, Subpart V, to distribute the escrowed funds. Consent Order, ¶ 404, 49 FR 17,926 (April 25, 1984). On August 20, 1984, ERA filed the present Petition for the Implementation of Special Refund Procedures concerning the Mobil settlement fund. In that Petition, ERA stated that it was unable either to readily identify those persons who should receive refunds or to ascertain the refund amounts that those persons should receive. The purpose of this determination is to set forth tentative procedures for the distribution of the Mobil refund moneys to persons who were injured by Mobil's alleged regulatory infractions. As in other similar proceedings, distribution of the Mobil refunds should take place in two stages. The first stage will provide for refunds to identifiable purchasers who were injured by Mobil's pricing and allocation practices during the period January 1, 1973 through January 27, 1981. If any funds remain after meritorious claims are paid in the first stage, a second stage for purposes of indirect restitution may be necessary. We will not, however, propose second-stage procedures at this time. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981).

II. Jurisdiction and Authority to Fashion Refund Procedures

The DOE procedural regulations at 10 CFR Part 205, Subpart V, provide that OHA may, upon petition by ERA, formulate and implement special procedures by which refunds may be made to injured persons in those situations where the DOE is unable to identify readily persons entitled to refunds or to ascertain readily the amounts that such persons should receive. *See* 10 CFR 205.280 *et seq.* ERA's August 20, 1984 Petition states that ERA has concluded that those circumstances exist in the case of the Mobil escrow account. We concur with that determination and conclude that we should assume jurisdiction over the Mobil settlement fund.

III. Proposed Refund Procedures

The Subpart V refund process may be used by the DOE to identify and compensate persons for injuries incurred as a result of actual or alleged violations of the DOE regulatory program. *See* 44 FR 8562 (1979) ("The new subpart provides a general framework pursuant to which the DOE Office of Hearings and Appeals may order refunds to be made to *injured* persons from funds remitted by regulated firms . . .")

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[1] An earlier consent order between Mobil and the DOE resolved all issues concerning Mobil's compliance with DOE crude oil regulations during the period September 1, 1973 through May 31, 1979. *See* Consent Order, ¶ 305, 49 FR 17920, 17,926 (April 25, 1984).

The issues exempted from the second consent order relate generally to:

(a) issues or claims concerning the subject matter before the courts in:

(i) Mobil Oil Corp. v. DOE, No. 81-CV-340 (N.D.N.Y.);

(ii) In re the DOE Stripper Well Litigation, MDL No. 378 (D. Kan.); and

(iii) Exxon v. DOE and 341 Tract Unit of the Citronelle Field, No. 81-25 (D. Del.);

(b) entitlement obligations that may be modified or imposed in the future;

(c) possible violations of DOE regulations by Mobil regarding crude oil resale transactions; and

(d) possible violations of DOE crude oil regulations by General Crude Oil Company during the period before it became affiliated with Mobil.

See Consent Order, ¶ 501, 49 FR 17,926-27 (April 25, 1984).

(emphasis added). Accordingly, the analysis of refund claims must focus on the question of whether firms were injured as a result of allegedly unlawful regulatory practices, rather than on whether they were "overcharged" in a technical sense. *See Denny Klepper Oil Co.* v. *Dep't of Energy*, 598 F. Supp. 527 (D.D.C. 1984). Nevertheless, restitution is inherently an inexact process and approximations of injury are generally the best that can be accomplished. Relevant case law, the Subpart V regulations and the DOE decisions in this area recognize the difficulties inherent in deciding what would have happened had overcharges to occurred. *See In re Stripper Well Exemption Litigation*, 578 F. Supp. 586 (D. Kan. 1983). As a result, since the inception of the special refund program, OHA has used a variety of approaches to achieve proper restitution of petroleum overcharge funds, depending upon the particular circumstances of each case. Thus, for example, in cases involving petroleum products resellers where the audit record is well developed and includes a list of alleged overcharge victims and the overcharge amounts each party allegedly incurred, we have relied heavily upon the audit information to make preliminary determinations of injury. *See, e.g., Bob's Oil Co.*, 12 DOE ¶ 85,024 (1984), *J.A.L. Oil Co., Inc.*, 12 DOE ¶ 85,138 (1984). In contrast, where the consent order firm was a small reseller and little information concerning the alleged violations underlying a consent order was available, we have adopted more flexible procedures. *See, e.g., Thornton Oil Co.*, 12 DOE ¶ 85,112 (1984).

In cases involving large refiners, a more complex and sophisticated approach is warranted. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*).[2] In the present case, in order to develop refund procedures, we have surveyed publicly available information, information in the Mobil audit files, and proprietary data collected by the Energy Information Administration (EIA).[3] Our examination of the audit records and the consent order revealed that the auditors had identified no significant issues concerning Mobil's compliance with the DOE regulations applicable to sales of crude oil.[4] As a result, we anticipate that most, if not all, potential claimants for refunds in this proceeding will be purchasers of refined products from Mobil.

The record indicates that there are numerous potential refund applicants. For example, evidence in the record indicates that in 1974 alone Mobil was marketing motor gasoline through 22,386 retail outlets, the great majority of which were franchised operations. "Branded Retail Outlets in the United States," NPN [National Petroleum News] Factbook, 1975, 50–53; 1976, 50–53; 1977, 54–59; 1978, 60–65; 1979, 64–69; 1980, 50–55; 1981, 50–55. This figure does not inlcude motor gasoline purchasers at other levels of distribution, such as wholesalers, and purchasers of other Mobil products. Consequently, the total number of potential claimants is presumed to be considerably higher.

It is extremely difficult to trace the effects of Mobil's alleged violations to particular customers because of many factors, including the large number of purchasers, the much larger number of individual transactions which are relevant to that analysis, and the complex interplay between various aspects of the DOE pricing regulations over an extended period of time. For example, the fact that a refiner's accounting for particular transactions, e.g., motor gasoline sales, may not have been in conformity with the DOE regulations does not necessarily mean that overcharges to particular customers occurred, since the firm may have had adequate banks of unrecovered cost increases to cover its overcompensation. Nevertheless, our experience with petroleum products marketing combined with economic analysis of the data regarding Mobil prices at various levels yields useful information about where injury most likely occurred.

A. General Presumptions

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 intend to adopt in this case will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. These presumptions are founded upon our experience in prior Subpart V proceedings and upon specific information concerning Mobil's regulated operations during the settlement period.

Our experience with Subpart V proceedings indicates that the likely claimants in this proceeding, when more fully identified, will fall into two categories: (1) Refiners and resellers (including retailers) of Mobil refined products and (2) firms, individuals, or organizations that were consumers (end-users) of refined products purchased from Mobil.[5] The products purchased by these claimants were purchased either directly from Mobil or from other firms in a chain of distribution leading back to Mobil.

We will first adopt the presumption that the maximum refund available to a particular applicant shall be that proportion of the total consent order fund equal to the volume of Mobil purchases made by that applicant divided by all sales of refined products by Mobil during the relevant period. Under this presumption, called the "volumetric presumption," the effects of Mobil's alleged violations are presumed to have been spread evenly over all of

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[2] In Amoco, the number of potential claimants exceeded 23,000. Amoco, 10 DOE at 88,226 n.17. Over 12,000 refund applications were eventually filed.

[3] Most of the information in the Mobil audit files consists of (i) confidential, proprietary data, (ii) inter-agency memoranda containing recommendations and preliminary findings concerning the Mobil audit, and (iii) investigatory material gathered during the course of ERA's enforcement investigation. These documents are likely to be exempt from disclosure under Exemptions 4, 5 and 7 of the Freedom of Information Act, 5 U.S.C. 552, and any exempt material referred to herein will be protected from disclosure and deleted from the public copy of this determination. In addition, the Mobil-specific data obtained from EIA is covered by a disclosure agreement that limits third-party access to the information to firms that enter into a protective order. *See* January 28, 1985 Disclosure Agreement between EIA and OHA. This information will also be deleted from publicly released copies of the present proposed decision.

[4] ERA indicates that a small portion of the alleged overcharges might be attributable to alleged crude oil tier violations during the period June 1, 1979 through January 27, 1981. *See* 49 FR 17924 (April 25, 1984). Recently we found that it is impossible to trace to the ultimate victims the effects of overcharges resulting from crude oil tier violations during the period of the Crude Oil Entitlements Program. 10 CFR 211.67. Report of the Office of Hearings and Appeals, In re: the Department of Energy Stripper Well Exemption Litigation, MDL No. 378 (D. Kan. filed June 19, 1985). In response to this report, the DOE issued a policy statement recommending that no further proceedings will be implemented to provide direct restitution to crude oil purchasers. 50 FR 27400 (July 2, 1985). That policy will be applied in this Subpart V special refund proceeding. *See also* 50 FR 27402 (July 2, 1985).

[5] The following presumptions apply only to applicants filing claims based on purchases of refined products.

the controlled petroleum products marketed by the firm during the consent order period. *See, e.g., Amoco* at 88,198. In the absence of better information, this assumption is sound because the DOE price regulations generally required refiners to account for their increased costs on a firm-wide basis in determining their prices. *See generally* 10 CFR Part 212, Subpart E.[6] We estimate that Mobil's sales of refined products that were subject to price and allocation controls during the settlement period totalled approximately 69,724,646,000 gallons.[7] When divided into the portion of the current Mobil escrow account attributable to refined products—$29,140,298.60—this yields a per-gallon refund of $0.000418.[8] As in previous cases, we will establish a minimum refund amount of $15.00 for 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 (1982).

In addition to the volumetric presumption of injury, we will adopt a rebuttable presumption that any refiner, reseller or retailer who made only spot purchases from Mobil did not suffer an injury and thus should not receive a refund for those purchases. 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 at 85,386–97 (1981) (hereinafter cited as *Vickers*). We believe the same rationale holds true in the present case. Accordingly, a spot purchaser that files a claim should submit additional evidence to establish that it was unable to recover the increased prices it paid for Mobil products. *See Amoco* at 88,200.

An additional class of Mobil customers that will be presumed not to have been injured by the firm's regulatory practices is consignee agents. A consignee establishes its prices based on Mobil's wholesale price plus a fixed fee. That type of arrangement insured that a consignee did not absorb any alleged overcharges. We therefore propose to adopt a rebuttable presumption that claims submitted by consignees should not be approved. However, this presumption will be rebuttable because in unusual circumstances a consignee may be able to establish injury—e.g., by demonstrating that its sales volumes, and its corresponding commission revenues, declined due to alleged uncompetitiveness of Mobil's prices. *See Amoco* at 88,200.

The volumetric presumption of injury will not be applied to claims based on alleged violations of the allocation regulations. Refunds for allocation claims—those based upon Mobil's alleged failure to furnish product that it was obliged to supply to the claimant under the DOE allocation regulations, 10 C.F.R. Part 211—have in past cases been approved on the basis of monetary damages (if any) caused by the failure to deliver product, in contrast to the *pro rata* volumetric refund share usually given in the case of an alleged price violation. *See, e.g., Tenneco Oil Co./ Research Fuels, Inc.*, 10 DOE ¶ 85,012 (1982). An allocation claimant should have been aware of the alleged violation at the time it occurred, and should have taken some contemporaneous action to mitigate the injury. Consequently, we propose to presume that any allocation claimant who did not contemporaneously complain of Mobil's alleged allocation violation, by filing a formal complaint with either the DOE or a state or federal court, was not injured. *See Tenneco* at 85,210. In addition, an allocation claimant will be required to submit sufficient information to demonstrate that its claim is credible, including the best available evidence of the injury that was sustained by the claimant. *Id.* at 85,206. *See, Tenneco Oil Co./Kern Oil & Refining Co.*, 10 DOE ¶ 85,003 at 88,008–09 (1982), *aff'd sub nom. Kern Oil & Refining Co. v. DOE*, Fed. Energy Guidelines, Case Decisions 1981–1984, ¶ 26,497, Dkt. No. CV83–0096–RG (C.D. Cal. December 1, 1983). The burden of establishing eligibility for a refund based on an allocation-type claim will rest on the claimant, and any applications received by OHA will be adjudicated on a case-by-case basis.

As in previous cases, we will adopt a presumption of injury for small claims filed by resellers of Mobil products other than motor gasoline. *See, e.g., J.A.L. Oil Co.*, 12 DOE ¶ 85,138 (1984). The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Mobil 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, considerable expense can be entailed by 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 that took place many years ago. This procedure is generally time-consuming and expensive, and in the case of small claims, the cost (to the firm) of gathering this factual information, and the cost (to OHA) of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore operate to deprive injured parties of the opportunity to obtain a refund. The use of presumptions is also desirable from an administrative standpoint, because it allows OHA to process a large number of routine refund claims quickly and to employ its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Mobil and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some impact on the alleged overcharges, at least intially. The presumption eliminates the need for a claimant to submit and for OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the small claims presumption that we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984) we noted that describing the threshold in terms of a dollar amount rather than a

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[6] Nevertheless, the impact of Mobil's pricing practices on an individual purchaser could have been greater, and we will allow purchasers to file refund applications based on a claim that the applicant suffered disproportionate injury from Mobil's alleged overcharges. *See, e.g.*, Standard Oil Co. (Indiana)/Army and Air Force Exchange Service, 12 DOE ¶ 85,015 (1984). Consequently, the volumetric presumption will be rebuttable, as will all of the presumptions that we will adopt. *See Amoco* at 88,199.

We also recognize that ERA has stated that any actual overcharges most likely occurred in six specific months prior to 1975. *See* 49 Fed. Reg. 17,924 (April 25, 1984). Nevertheless, because the consent order covers the entire period of controls, we have decided not to limit claims to purchases in the period identified by ERA.

[7] This total was calculated based upon refined product sales figures provided by Mobil for the total period and verified in part by EIA figures for the limited period for which EIA maintains such statistics.

[8] This figure is provided in order to facilitate estimation of refunds by claimants. The actual *pro rata* share of interest will increase over time and will be computed and added to each refund at the time of payment.

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 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 to the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In this case, we believe that the establishment of a presumption of injury for all claims of $5,000, exclusive of interest, is reasonable. *See Texas Oil & Gas Corp.; Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984), and cases cited therein.

As in past cases, we will also adopt a presumption that regulated industries (such as public utilities) and agricultural cooperatives absorbed the alleged Mobil overcharges. These types of applicants will not have to submit any further evidence of injury in order to qualify for the full amount of volumetric refund based on purchase volumes that were used by themselves or sold to members. Any overcharges suffered by such firms would have been channeled to their customers by the regulatory bodies or agreements that control the prices they may charge. Similarly, any refunds which they receive would automatically be passed through to their customers. Consequently, we will permit an entity of this type to receive a full volumetric refund, provided that it includes in its refund application a full explanation of the manner in which refunds will be passed through to its customers. *See Tenneco* at 85,203.

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers who purchased Mobil products other than motor gasoline, and 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 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 Mobil petroleum products other than motor gasoline need only document their purchase volumes from Mobil to make a sufficient showing that they were injured by the alleged overcharges.

B. Product-Specific Presumptions

1. Motor Gasoline

Motor gasoline sales accounted for over 70 percent of the volumes covered by the Mobil consent order. Only a small portion of these sales were made through Mobil-operated retail outlets; most of the motor gasoline sold by Mobil therefore passed through at least one intermediate distributor before it was sold to its ultimate consumer. Consequently, simplified procedures would be useful concerning the amount of injury absorbed by each level of the distribution chain. This would obviate the need for individual claimants to file detailed historical data concerning their pricing practices during the consent order period, as well as the need for OHA to conduct a case-by-case analysis of each firm's level of absorption. *See, e.g., Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982).

Mobil was the fourth, fifth or sixth largest seller of petroleum products during its consent order period. "Major Oil Companies—Refined Products Sales," *International Petroleum Encyclopedia*, 1982 at 424 and 1983 at 402. Due to its comparatively large share of the motor gasoline market at all levels of distribution, we would expect Mobil, like Amoco, to mirror the national average price levels for this market. Based on data provided by EIA, Mobil's prices in fact corresponded with the national averages to a very high degree. Consequently, the *Amoco* presumptions for motor gasoline customers, which were based upon publicly reported national average price data, should be relevant in this proceeding.

Our information concerning Mobil's motor gasoline prices was obtained from forms that Mobil filed with EIA during the period July 1974 through January 1981.[9] We have determined that the analysis of this data yields the most reliable information for evaluation of the impact of Mobil's alleged overcharges on its motor gasoline customers. It shows when profit margins declined at the various levels of the distribution system for Mobil motor gasoline during the consent order period. Although the Mobil-specific pricing data are protected from disclosure to the public,[10] they are similar in raw form to the national average prices, which are publicly reported. Accordingly we can analyze the publicly available data and rely upon them in developing presumptions of injury at the various levels of distribution of Mobil motor gasoline.

OHA has already analyzed the national average price data for the 53 months running from July 1975 through December 1979 in *Amoco*. This same time period is covered in the present Mobil consent order. In our previous analysis, we noted that motor gasoline marketers at the different levels of distribution did not always raise their prices at the same time and by the same amount as refiners raised their prices:

> Based on our observation of the change in profit margins realized at each level of distribution, we concluded that as Amoco's refinery prices increase, a portion of that increase was absorbed at the wholesale level, another portion was absorbed at the retail level, and the remaining portion of the increase was absorbed by ultimate consumers.

Amoco, 10 DOE at 88,206. After considering the presumptions of injury we established in our proposed *Amoco* decision and order—which were based generally on percentages equal to the number of months of the 53 months of observation in which each level of distribution incurred decreased profit margins—and the comments and suggestions regarding these proposed presumptions offered by the reviewing public, we determined that wholesalers were injured in 18 months, or 34 percent of the time, while retailers were injured in 21 months, or 40 percent of the time. Consumers experienced the remainder of the alleged overcharges, or 26 percent of the per gallon amount. *Id.* at 88,212. An applicant for refund that chose to accept the presumption of injury pertinent to its level of distribution would be required to provide only the volume of its purchases. That figure would be multiplied by the presumption percentage to determine the number of gallons on which the applicant was presumed to have been injured and therefore on which the applicant's refund would be based. *Id.* at 88,222.

[9] This information was required to be filed on a monthly basis on Forms FEA–P302–M–1, Petroleum Industry Monthly Report for Product Prices, and EIA–460, Monthly Petroleum Product Price Report. As in *Amoco*, we are necessarily assuming that market conditions during these 67 months are representative of the market conditions which prevailed throughout the entire consent order period.

[10] *See* note 3 *supra*.

We propose to adopt the same methodology for motor gasoline presumptions in this refund proceeding. The Mobil consent order period also includes the months of January 1980 through January 1981. Accordingly we have analyzed the national average price data for these last 13 months of the period and utilized the findings in *Amoco* for the earlier months. The resulting presumptions of injury are as follows:

Non-commission wholesalers	34
Retailers	42
Direct retailer-supplied consumers	58
Other retailer-supplied consumers	24
Jobber-supplied consumers	66
Direct-supplied consumers	100

It is extremely unlikely that individual motorists made sufficient motor gasoline purchases to warrant a refund at or above the $15.00 minimum level. A motorist generally would have had to purchase 149,521 gallons during the 95-month period March 6, 1973 through January 27, 1981[11] to qualify for the minimum $15.00 refund.[12] According to information published by EIA, the average motorist consumed only 5,475 gallons per car during the same period. Even if all of that motor gasoline was purchased from Mobil, a refund based on that volume would fall substantially below the $15.00 minimum. Consequently, motorists will in all probability not be able to qualify for a refund.

These presumptions are rebuttable, like all of the presumptions we use in Subpart V proceedings, so that claimants may offer additional evidence of injury that could form the basis for the approval of larger refunds. Firms that did not purchase Mobil-branded product should explain the basis for their belief that the product which they purchased was Mobile motor gasoline. A claimant filing a non-presumption refund application will be obliged to provide, in addition to a schedule of its purchase volumes, information to establish that it absorbed the alleged overcharges and was thereby injured. To make this showing, each reseller or retailer will be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recoup the alleged overcharges by increasing its prices. *See Vickers* at 85,397. In addition, a non-presumption claimant will have to demonstrate that, at the time it purchased motor gasoline from Mobil, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. *See Amoco* at 88,223.[13]

2. Middle Distillates

We have reviewed the possibility of product presumptions for middle distillates. Unlike motor gasoline, middle distillates are customarily sold at only two levels of distribution, wholesale and retail. We experienced considerable difficulties in trying to gather reliable information about the marketing of these products sufficient for us to propose level-of-distribution presumptions for middle distillates. Consequently, after stating what information is currently available for middle distillates, we will invite comments on whether level-of-distribution presumptions for middle distillates are appropriate and, if so, proposed analyses of specific data which might lead to formulation of reliable presumptions of injury for these products. Commentors should focus on the question of whether Mobil's distribution system for middle distillates is so complex that level-of-distribution presumptions, such as those proposed for motor gasoline claims, are needed.

Middle distillates, which include heating oil and diesel fuel, were subject to price controls for only a portion of the Mobil settlement period—from March 6, 1973 through June 30, 1976. Since EIA did not begin its systematic collection of price data until July 1975,[14] it was able to provide us with Mobil and national average middle distillate price information for only one year of the Mobil consent order period, the period July 1975 through June 1976, or 12 months out of the 40 relevant months. Consequently, we have reservations about whether this data could form a sufficient basis for the adoption of level-of-distribution presumptions for this product.

Upon closer examination, we found further problems with the middle distillate data. During the one year for which we have EIA data, Mobil's reported retail middle distillate prices paralleled the national average for approximately half the period and diverged greatly from it for the rest of the period. Mobil's wholesale middle distillate prices varied significantly from the national average for the same period. Without an explanation for this unexpected behavior, we cannot confidently use this data to propose level-of-distribution presumptions for middle distillate resellers and consumers. Without the aid of presumptions concerning the amount of injury that was absorbed at each level of distribution, claimants who were resellers of middle distillates will therefore be obliged either to submit detailed information concerning their product acquisition practices during the consent order period, in order to demonstrate that they experienced a competitive disadvantage from purchasing Mobil middle distillates, *see, e.g., Panhandle Eastern Pipeline Co./ Missouri Self Service Gas Co.*, 11 DOE ¶ 85,102 (1983), or to limit their claims to a threshold amount, *see, e.g., Tenneco.*

We solicit any compilations or studies of Mobil middle distillate prices that are documented sufficiently to provide reliable bases for analyses of the impacts of Mobil's price changes during the consent order period. Such information need not cover the entire consent order period, but it should be sufficiently long to enable us to extrapolate confidently over the rest of the consent order period. Commentators may also wish to propose analyses of the data which we have obtained that would support level-of-distribution presumptions of injury for these products. However, given the data presently available to us, we cannot propose any simplified methods employing presumptions for the distribution of middle distillate refunds similar to the level-of-distribution presumptions we propose to utilize for motor gasoline-based claims. Accordingly, firms and individuals filing refund applications based upon their purchases of middle distillates will be required to demonstrate the amount of injury that they absorbed, unless the volumes of their claims fall below the small claims threshold described above.

3. Other Refined Products

Refined products other than motor gasoline and middle distillates made up

[11] Although the consent order covers the period January 1, 1973 through January 27, 1981, federal regulations mandating price and allocation controls did not affect Mobile until March 6, 1973.

[12] We arrived at this figure by dividing $15.00 by the per-gallon refund of $.000418, then dividing that result by the 24% presumption of injury. Even a consumer who purchased directly from Mobile would have had to purchase 35,885 gallons to qualify for a $15.00 refund.

[13] For example, a refund applicant could provide its purchase and selling prices during the settlement period, so that we could identify and approve refunds for each month in which the firm's profit margin fell significantly. *See, e.g.*, Standard Oil Co. (Indiana)/Lou's All Service, Inc., 12 DOE ¶85,061 (1984); Standard Oil Co. (Indiana)/East Side Truck Stop, 11 DOE ¶85,141 (1983).

[14] See discussion at III.B.1, Motor Gasoline, *supra*

about 15 percent of Mobil's product sales during the consent order period. We were unable to locate enough reliable information about Mobil's and other refiners' marketing practices for these refined products to allow us to formulate appropriate level-of-distribution presumptions for them. Firms filing refund applications based upon their purchases of these products will therefore be required to demonstrate the amount of injury which they absorbed, unless the volumes of their claims fall below the small claims threshold described above.

C. Summary of Refund Procedures

In order to receive a refund, an applicant that bases its refund claim on its purchases of Mobil refined petroleum products will be required to submit a schedule of monthly purchases of covered products from Mobil for the period March 6, 1973 through January 27, 1981.[15] If the products were not purchased directly from Mobil, the claimant will be required to include a statement setting forth its reasons for believing the product originated with the firm. *See, e.g., Standard Oil Co. (Indiana)/Union Camp Corp.*, 11 DOE ¶ 85,007 (1983). In addition, a refiner, reseller or retailer of refined petroleum products who is not basing its claim on one of the presumptions discussed above will be obliged to establish that it absorbed the alleged overcharges and was thereby injured. To make this showing, each refiner, reseller or retailer will 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 (1982) at 88,125. In addition, it will have to demonstrate that, at the time it purchased covered products from Mobil market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In the alternative, a firm limiting its claim to the $5,000 presumption of injury level will be required only to provide sufficient evidence of Mobil product purchases to qualify for that refund amount.

We solicit comments on all aspects of the foregoing Proposed Decision from interested individuals and organizations. All comments must be filed within 30 days of publication of this Proposed Decision in the **Federal Register.**

It is Therefore Ordered That:

The refund amount remitted by Mobil Oil Corporation pursuant to the consent order executed on April 19, 1984, will be distributed in accordance with the foregoing Decision.

[FR Doc. 85-19002 Filed 8-8-85; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Cases Filed; Week of July 5 through July 12, 1985

During the week of July 5 through July 12, 1985, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. Submissions inadvertently omitted from earlier lists have also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE actions sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

Dated: July 31, 1985.

Richard T. Tedrow,

Acting Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of July 5, 1985 through July 12, 1985]

Date	Name and location of applicant	Case No.	Type of submission
July 5, 1985	Ted R. Adkins, Longview, TX	HRZ-0259	Interlocutory order. If granted: Ted R. Adkins would be dismissed as a party to the Proposed Remedial Order issued to T&M Petroleum Corp. (case No. HRO-0101).
Do	T&M Petroleum Corp., Longview, TX	HRZ-0260	Interlocutory order. If granted: The Proposed Remedial Order issued to T&M Petroleum Corp. (case No. HRO-0101) would be modified regarding the allegations of violations of 10 CFR 212.183(c), 210.62(c), and 205.202.
Do	Mockabee's Oil Co., Upper Marlboro, MD	HRA-0011	Appeal of a modified remedial order. If granted: The April 10, 1985 Modified Remedial Order issued to Mockabee's Oil Co., by the Economic Regulatory Administration would be rescinded.
Do	Texaco, Inc., Washington, DC	HRX-0124	Supplemental order. If granted: The July 2, 1985 Decision and Order issued to Texaco, Inc. (case No. HRH-0035) would be modified to establish a date for the evidentiary hearing.
Do	Department of the Interior, Washington, DC	HEE-0159	Exception to the certification rules. If granted: The Department of the Interior would receive a retroactive exception from certain certification requirements applicable to first sellers of crude oil as set forth in 10 CFR Part 212, with respect to its sales of onshore crude oil to the Howell Corp.

REFUND APPLICATIONS RECEIVED

[Week of July 5 through July 12, 1985]

Date received	Name of refund proceeding/ name of refund applicant	Case Number
3/20/85	Hendel's/Pawcatuck Chevron	RF79-21
7/5/85	Kansas Nebraska/Empire Gas Corp.	RF113-6
7/5/85	Arapaho/Empire Gas Corp	RF119-3
7/5/85	Eagle/Empire Gas Corp	RF121-3
7/5/85	Ropet/Empire Gas Corp	RF142-2
7/8/85	Aminoil/Amcast Industrial Corp	RF139-34

REFUND APPLICATIONS RECEIVED—Continued

[Week of July 5 through July 12, 1985]

Date received	Name of refund proceeding/ name of refund applicant	Case Number
7/8/85	Aminoil/Wilhelm Bottled Gas	RF139-33
7/8/85	Aminoil/William Bonnell Co	RF139-32
7/8/85	Aminoil/Briceton propane	RF139-30
7/8/85	Aminoil/Christian County Gas Co.	RF139-37
7/8/85	Aminoil/Lilyblad Petroleum	RF139-36

REFUND APPLICATIONS RECEIVED—Continued

[Week of July 5 through July 12, 1985]

Date received	Name of refund proceeding/ name of refund applicant	Case Number
7/8/85	Aminoil/National Southwire Aluminum	RF139-35
7/8/85	Aminoil/A.P Propane Gas Service	RF139-31
7/8/85	Cosby/Winall Oil Co	RF170-2
7/8/85	Receive Orders/Chevron	171-1
7/9/85	Aminoil/Knick Road Crop	RF139-38

[15] *See* note 11 *supra*. Procedures for claims based on purchases of crude oil are not proposed at this time. *See* note 4 *supra*.

REFUND APPLICATIONS RECEIVED—Continued

[Week of July 5 through July 12, 1985]

Date received	Name of refund proceeding/ name of refund applicant	Case Number
7/10/85	Aminoil/Otts's Gas Company, Inc.	RF138-39
7/10/85	Wallace & Wallace/David Rubin-RF69-4.	
7/11/85	Receive Orders/Louisiana Land & Exploration Co.	RF171-2
7/11/85	Cosby/Five Point-U-Serve, Inc	RF170-4
7/11/85	Cosby/Yucca Valley Liquor Store.	RF170-3
7/11/85	Bayou State/Ida/Ralph Watson Oil Co.	RF117-14
7/11/85	Aminoil/Bootheel LG Gas Co	RF139-21
7/11/85	Warren Holding/Duguett Service Station, Inc.	RF169-4
7/12/85	National Helium/Wisconsin	RQ3-214
7/12/85	Palo Pinto/Wisconsin	RQ5-215
7/12/85	Vickers/Wisconsin	RQ1-216
7/12/85	Amoco/Wisconsin	RQ21-217
7/12/85	Union Texas/Hubbard Oil et al	RF140-22 through FR140-26

[FR Doc. 85-19005 Filed 8-8-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of July 15 Through July 19, 1985

During the week of July 15 through July 19, 1985, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

APPEAL

Gene Dannen, 7/17/85, HFA-0298

Gene Dannen filed an Appeal from a determination by the Freedom of Information Officer of the DOE Albuquerque Operations Office denying a request for a fee waiver in connection with a Request for Information which Dannen had filed pursuant to the freedom of information Act. In considering the Appeal, the DOE found that Dannen had no proven his ability to properly disseminate the documents, and that publication of the material would result in commercial gain to Dannen. Accordingly, the Appeal was denied.

Requests for Exception

Budny Fuel Oil Company, 7/17/85, HEE-0135

Budny Fuel Oil Company filed an Application for Exception seeking relief from the Form EIA-821 reporting requirement. In considering the request, the DOE found that Budny had not demonstrated that it was unduly burdened by the requirement, or that the burden on it outweighed the public interest in obtaining information on petroleum markets. Accordingly, exception relief was denied.

People's Oil & Gas Co., Eastridge Oil Co., Topeka Gas & Fuel, Inc., Jade Petroleum Co., Echols Oil Co. Inc., 7/17/85, HEE-0113, HEE-0117, HEE-0128, HEE-0131, HEE-0139

People's Oil & Gas Co. and four other firms filed Applications for Exception from the Energy Information Adminsitration reporting requirements in which the firms sought to be relieved of the requirement to submit Form EIA-782B, entitled "Reseller/Retailers' Monthly Petroleum Product Sales Report." In considering the requests, the DOE found that the firms had failed to demonstrate that they were excessively burdened by the reporting requirement. Accordingly, exception relief was denied.

Russell Daniel Oil Company, Inc., 7/17/85, HEE-0137

Russell Daniel Oil Company, Inc. filed an Application for Exception from the Energy Information Administration reporting requirements in which the firm sought to be relieved of the requirement to submit Form EIA-821, entitled "Annual Fuel Oil and Kerosene Sales Report." In considering the request, the DOE found that the firm had failed to show it was excessively burdened by the reporting requirement. Accordingly, exception relief was denied.

Motion for Discovery

Exxon Company, U.S.A. 7/19/85, HRD-0034, HRH-0034

Exxon Company, U.S.A., filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with a Statement of Objections to a Proposed Remedial Order issued to the firm by the Economic Regulatory Administration on October 13, 1981. In the discovery motion, Exxon sought to compel ERA to answer numerous interrogatories and produce documents identified by the interrogatories. Discovery was denied because many of the interrogatories had been previously answered by the ERA in a civil lawsuit or were moot as a result of the Temporary Emergency Court of Appeals' decision in *Mobil Oil v. DOE*, 728 F.2d 1477 (1974), and because Exxon did not adequately support its request for contemporaneous construction discovery or administrative record discovery. Exxon's request for evidentiary hearing was denied because the firm did not specify any genuine issue that could be resolved by an evidentiary hearing.

Supplemental Order

Illinois Gasoline Dealers Association, 7/16/85, HFX-0120

On July 17, 1985, the Office of Hearings and Appeals (OHA) issued a supplemental order to the Illinois Gasoline Dealers Association (IGDA). In *Illinois Gasoline Dealers Association*, 12 DOE ¶82,533 (1984), the OHA questioned whether the IGDA had acted improperly during the Amoco refund proceeding. Based on the comments which the IGDA submitted in response to the first decision, the OHA concluded that the IGDA knowingly submitted inaccurate and misleading information to the OHA. In order to maintain the public interest in orderly and equitable refund proceedings before the Department of Energy, the OHA determined that sanctions should be taken against the IGDA. Pursuant to 10 CFR 205.3(b)(i), the IGDA's privilege of participating in proceedings before the OHA will be denied for not less than one year. Before regaining its privilege, the IGDA must demonstrate that it has taken action to prevent the submission of misleading information to the OHA in future proceedings.

Implementation of Special Refund Procedures

Champlain Oil Company, Cibro Gasoline Corporation, 7/19/85, HEF-0048, HEF-0049

The DOE issued a Decision and Order which establishes procedures for the distribution of funds totalling $144,730.81 obtained as a result of Consent Orders entered into between the DOE and Champlain Oil Company and Cibro Gasoline Corporation. The Decision set forth refund application procedures for customers who purchased motor gasoline from either Champlain or Cibro during the respective consent order periods, November 1, 1973 through June 30, 1974 (Champlain) and June 6, 1979 through December 30, 1979 (Cibro). Specific information regarding the data to be included in refund applications is discussed in the Decision.

Refund Applications

Gulf Oil Corporation/ Bud Erwin's Service Station et al., 7/19/85, RF40-2 et al.

The DOE issued a Decision and Order granting refunds from the Gulf Oil Corporation escrow fund to 50 retailers who purchased refined petroleum products directly from Gulf. The refunds to these firms total $83,696, representing $73,992 in principal and $9,704 in interest. All of the refund applicants had demonstrated that they would not have been required to reduce selling prices to their customers by the amount of refund they received. The Decision further stated that if Gulf is required to pay additional interest, each applicant will receive an additional, pro rata, refund.

Gulf Oil Corporation/ Dee's Automotive Service et al., 7/19/85, RF40-00199 et al.

The DOE issued a Decision and Order concerning 49 Applications for Refund filed by retailers of Gulf motor gasoline. All of the claimants applied for refunds based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). In accordance with these procedures, each applicant demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed. The applicants also indicated that they had purchased motor gasoline directly from Gulf. After examining the evidence and supporting documentation, the DOE concluded that the applicants should receive refunds of the full volumetric amount. The refunds granted in this decision total $86,619.

Gulf Oil Corporation/ Shorty Stout Gulf, 7/16/85, RF40-00565

The DOE issued a Decision and Order concerning an Application for Refund filed by Shorty Stout Gulf, a retailer of Gulf motor gasoline. The claimant applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). In accordance with those procedures, the applicant demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed.

The applicant also indicated that it had purchased motor gasoline directly from Gulf. After examining the evidence and supporting documentation submitted by the applicant, the DOE concluded that Shorty Stout should receive $888 ($785 principal + $103 interest) based upon the total volume of its Gulf purchases.

The Parade Company/ Morgan Products, Inc., 7/18/85, RF74-1

Morgan Products, Inc. filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with The Parade Company. The DOE determined that Morgan paid above-market average costs during numerous months of the Parade consent order period and, using a three-step competitive disadvantage methodology, the DOE calculated a range of Morgan's competitive disadvantage. A refund of $125,360 was found to equitably compensate Morgan for the harm it suffered as a result of Parade's alleged overcharges. In addition, the firm received accrued interest of $20,977 which brought the total refund granted in this proceeding to $146,337.

Standard Oil Co. (Indiana)/Maryland et al., 7/17/85, RQ21-205 et al.

The Office of Hearings and Appeals issued a Decision and Order which approved Maryland's and Iowa's proposed refund plans and denied Kentucky's proposed plan for use of Amoco second-stage refunds. Maryland stated that it will use its remaining share of the Amoco refund ($213,000) to supplement the funding of four previously approved programs—vanpool, traffic signalization and coordination, and low-income weatherization. Iowa stated that it will use a portion of the $260,341 remaining in its Amoco refund to supplement its solar energy conservation bank program for low and moderate income households. The OHA also granted Iowa's request to modify its approved Amoco programs to increase the funding for its community-based transportation assistance program and to decrease funding for its low-income weatherization program. The OHA denied Kentucky's proposal to use its remaining share ($60,112) of the Amoco funds to purchase high performance state police vehicles for law enforcement purposes.

Texas Gas Exploration/the Coastal Corporation, 7/19/85, RF44-2

The Coastal Corporation filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Texas Gas Exploration. The firm claimed a refund on the basis of its purchase of 1,559,788 gallons of natural gasoline from TGE during the consent order period. The DOE determined that Coastal's claim was below the presumption of injury level of $5,000. The DOE therefore granted coastal a refund of $2,452.92 plus accrued interest of $939.15 or a total refund of $3,392.07.

Union Texas Petroleum Corp./Hubbard Oil Corp. et al., 7/17/85, RF140-22 et al.

On July 17, 1985, the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Decision and Order approving five Applications for Refund filed in a Union Texas Petroleum Corporation (UTP) special refund proceeding (Case No. HEF-0009). All of the applicants were resellers of UTP petroleum products who elected to apply under the small claims and volumetric presumptions established in *Union Texas Petroleum Corp.*, 12 DOE ¶ 85,166 (1985).

The July 17 Decision modified in part an earlier Decision issued in the UTP refund proceeding. *Union Texas Petroleum Corp./ Enterprise Products Co., et al.* 13 DOE ¶ ——— (July 3, 1985). In that Decision, the DOE had approved the refund applications of 17 resellers of UTP petroleum products, including those submitted by the 5 applicants in the present proceeding. Subsequent to issuance of that Decision, the DOE learned that the purchase volumes contained in the 5 relevant applications were incorrect. Accordingly, the DOE withheld payment to the 5 applicants and issued the present Decision approving refunds computed on the basis of corrected purchase volumes.

The refunds approved in this Decision and Order total $8,069.

Dismissal

The following submission was dismissed:

Name and Case No.

Lee Graham—HFA-0299

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: August 2, 1985.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

[FR Doc. 85-19003 Filed 8-8-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of July 8 Through July 12, 1985

During the week of July 8 through July 12, 1985, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Request for Exception

Transcontinental Oil Corp., 7/11/85, HEE-0114

Transcontinental Oil Corporation filed an Application for Exception in which the firm sought relief from the requirement that it file Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves," with the Energy Information Administration. In considering the request, the DOE found that partial exception relief was appropriate because of the firm's pending bankruptcy and lack of personnel. Accordingly, exception relief was granted in part for the 1984 Report Year.

Interlocutory Orders

Economic Regulatory Administration, 7/11/85, HRZ-0247

The Economic Regulatory Administration filed a Motion to Join Mr. C. Michael McQueen as a party respondent in a pending Proposed Remedial Order proceeding involving Questor Petroleum Corporation. In considering the Motion, the Office of Hearings and Appeals determined that there was good cause to join Mr. McQueen since he was alleged to be responsible for over half of the alleged regulatory violation. Consequently, the ERA's Motion was granted, and Mr. McQueen was made a party respondent.

Karen Sue Royce, 7/10/85, HRZ-0245

On February 6, 1984, Karen Sue Royce filed a motion to dismiss a Proposed Remedial Order (PRO) issued to her as well as to Intercoastal Operating Company, I.O.C. Production, Inc., and five other individuals. Royce had acquired a working interest in the producing areas subject to the PRO through a divorce decree and property settlement agreement. She argued that the PRO should be dismissed as to her because she acquired her interest after the alleged violations occurred, and because debts arising from the producing area are the responsibility of her former husband under the property settlement agreement. The Office of Hearings and Appeals (OHA) held that the PRO was not properly issued to Royce, and that striking her name as a respondent would contribute to the efficient resolution of the case. The OHA noted that the PRO was also issued to the operator of the producing areas, as well as the persons who allegedly controlled the operation of the producing areas, and that the PRO did not adequately show why it was also necessary to include Royce. Accordingly, the Motion was granted.

Supplemental Orders

Oasis Corporation, Lucky Stores, Inc., 7/9/85, HEX-0123, HER-0104, HER-0105, HEZ-0257, HEZ-0258

On April 26, 1985, Oasis Petroleum Corporation (Oasis) filed a supplemental witness list in accordance with the terms of a Decision and Order issued on April 18, 1985, *Oasis Petroleum Corporation*, 12 DOE ¶ 82,506 (1985). On that same date, Oasis also filed two Motions for Reconsideration and a Request for the Issuance of Subpoenas. On May 1, 1985, Lucky Stores, Inc. (Lucky) filed a Request for the Issuance of Subpoenas. All of the above-referenced motions and requests pertain to two Petitions for Special Redress that are currently pending before the Office of Hearings and Appeals (OHA) involving Oasis, Lucky and Research Fuels, Inc. In considering the motions and requests described above, OHA determined that the

supplemental witness list submission filed by Oasis be granted in part, that the Motion for Reconsideration which pertains to a February 12, 1985 Supplemental Order be denied, that the Motions for Reconsideration which pertains to the April 18, 1985 Decision and Order be dismissed, that the Request for the Issuance of Subpoenas filed by Oasis be granted and that the Request for the Issuance of Subpoenas filed by Lucky be granted.

Texaco Inc., 7/10/85, HRX-0124

The Office of Hearings and Appeals issued an order supplementing a Decision and Order issued on July 2, 1985, in *Texaco Inc./ Economic Regulatory Administration*, 13 DOE ¶ ———, Nos. HRD-0282, HRH-0035, HRZ-0256 (July 2, 1985). The supplemental order established dates for the evidentiary hearing granted in the July 2, 1985 order.

Implementation of Special Refund Procedures

St. James Resources Corporation, Kingston Oil Supply, 7/11/85, HEF-0100, HEF-0109

The DOE issued a Decision and Order implementing a plan for the distribution of $228,335.71 and $546.00 received as a result of consent orders which the DOE entered into with St. James Resources Corporation and Kingston Oil Supply, respectively, plus interest which has accrued on these amounts. The DOE determined that a portion of the St. James settlement fund should be distributed to 63 customers who purchased petroleum products from St. James during the May 1, 1974 through June 30, 1976 consent order period. The DOE determined that the entire Kingston settlement fund should be distributed to one customer who purchased petroleum products from Kingston during the November 1, 1973 through December 31, 1974 consent order period. In both cases, the customers were identified by DOE audits, and will be allotted refunds (after each files an application for refund) based on presumptions of injury which have been employed in prior similar proceedings. Applications for refunds filed by other firms will also be considered. Any such claims will be analyzed and, if successful, may necessitate the adjustment of refunds to identified purchasers.

Refund Applications

Arkla Chemical Corp./A. Tennenbaum Co., et al., 7/12/85, RF153-1 et al.

The DOE issued a Decision and Order concerning Applications for Refund filed by customers of Arkla Chemical Company. The applicants purchased the products directly from Arkla, and applied for refunds in accordance with the Arkla special refund procedures. *Arkla Chemical Company*, 13 DOE ¶ 85,043 (1985). All of the applicants applied for refunds of less than the threshold level of $5,000, and therefore were presumed to have been injured by Arkla's pricing practices. After examinig the claims and supporting information submitted by the applicants, the DOE approved refunds totalling $9,850 including interest.

Gary Energy Corporation/Action Gas, Inc., 7/9/85, RF47-12

Action Gas, Inc. filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Gary Energy Corporation. The firm claimed a refund on the basis of its purchase of 63,946 gallons of propane from Gary during the consent order period. The DOE determined that Action Gas' claim was below the presumption of injury level of $5,000. The DOE therefore granted Action Gas a refund of $689.02 plus accrued interest of $67.95 for a total refund of $756.97.

Gary Energy Corporation/Bob's Gas & Chemical Company, 7/9/85, RF47-11

Bob's Gas & Chemical Company filed an Application for Refund in which the firm sought a portion of the refund obtained by the DOE through a consent order entered into with Gary Energy Corporation. The firm claimed a refund on the basis of its purchase of 146,350 gallons of propane from Gary during the consent order period. The DOE determined that Bob's claim was below the presumption of injury level of $5,000. The DOE therefore granted Bob's a refund of $1,576.92 plus accrued interest of $155.55 for a total refund of $1,732.47.

Gary Energy Corporation/Independent Gas Company, 7/11/85, RF47-14

Independent Gas Company filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Gary Energy Corporation. The firm claimed a refund on the basis of its purchase of 18,065 gallons of propane from Gary during the consent order period. The DOE determined that Independent's claim was below the presumption of injury level of $5,000. The DOE therefore granted Independent a refund of $194.65 plus accrued interest of $19.18 for a total refund of $213.38.

Standard Oil Co. (Indiana)/Jax Kar Wash, Inc., 7/10/85, RF21-8894, RF21-8895, RF21-8896, RF21-12393

Jax Kar Wash, Inc. filed four Applications for Refund pursuant to the procedures set forth in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*). Three applications, for motor gasoline purchases at three of Jax's retail outlets, were approved under the presumption method, *see Amoco*, 10 DOE at 88,198-199 *and* 88,222. The fourth application alleged that Amoco violated the normal business practices rule, 10 CFR 210.62, when it discontinued for a time a lease-leaseback contract whereby Jax obtained a one-cent-per-gallon discount on its motor gasoline purchases. The DOE determined that Jax satisfactorily established that Amoco's actions may have violated the normal business practices rule and, further, that Jax likely absorbed the resulting price increases. Accordingly, Jax was granted a refund of $13,675, plus interest, for ths claim, in addition to $2,086, plus interest, for its presumption claims.

Waller Petroleum Company/Wooten Oil Company, 7/10/85, RF78-0009

The Department of Energy issued a Decision and Order concerning an Application for Refund filed by Wooten Oil Company, a reseller of No. 2 oil purchased from Waller Petroleum Co. In its application, Wooten requested a refund for a larger share of the consent order fund than that for which it was eligible under the volumetric refund method. The firm conceded that it had not maintained cost banks and that it had made only one spot purchase from Waller. The DOE determined that Wooten was not entitled to a refund calculated in a manner differing from the volumetric methodology. Furthermore, the DOE concluded that while Wooten had experienced a competitive disadvantage as a result of its purchases from Waller, the firm had not demonstrated that it was unable to recover this loss in the months following the consent order period. Wooten therefore was only eligible for the $5,000 refund under the presumption of injury for small claims. Finally, the DOE determined that Wooten should receive this refund despite its status as a spot purchaser. Accordingly, the firm received a refund of $5,000 principal plus $3,991 accrued interest.

Dismissals

The following submissions were dismissed:

Name and Case No.

Bob Ross, Inc.—RF83-28
Hall's Oil Co.—RF83-50
Herb's Oil Co.—RF83-29
Rollins Truck Leasing—HEE-0130
Sikeston General Oil Co.—RF83-30
Storey Oil Company, Inc.—HRR-0103

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: August 2, 1985.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

[FR Doc. 85-19004 Filed 8-8-85; 8:45 am]

BILLING CODE 6450-01-M

Objection To Proposed Remedial Order Filed; Period of June 3 Through July 19, 1985

During the period of June 3 through July 19, 1985, the notice of objection to the proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may

participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: August 1, 1985.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Total Petroleum, Inc., Denver, Colorado, HRO-0295, Crude Oil

On July 16, 1985, Total Petroleum, Inc., P.O. Box 500, Denver, Colorado 80201 filed a Notice of Objection to a Proposed Remedial Order which the Economic Regulatory Administration (ERA) of the DOE issued to the firm on April 25, 1985. In the PRO the ERA found that during September 1977 to May 1979, Total violated DOE regulations in connection with its participation in the Domestic Crude Oil Allocation (Entitlements) Program. The PRO charges that Total entered into certain processing agreements with a small refiner solely for the purpose of decreasing its crude oil runs to stills, thus increasing its small refiner bias benefits under the Entitlements Program. According to the PRO the violation resulted in $907,976.00 of overcharges.

[FR Doc. 85-19006 Filed 8-8-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $203,975.29 (plus accrued interest) obtained as the result of Consent Orders which the DOE entered into with the following parties: Bayside Fuel Oil Depot Corporation of Brooklyn, New York, Butler Petroleum Corporation of Butler, Pennsylvania, Central Oil Company of Raynham, Massachusetts, and Lawrence H. Glover of Patchogue, New York. The funds will be available to customers who purchased refined petroleum products from these firms during the relevant consent order period.

DATE AND ADDRESS: Applications for refund of a portion of one of the consent order funds must be postmarked within 90 days of publication of this notice in the **Federal Register** and should be addressed to either Bayside Consent Order Proceeding (Case No. HEF-0035), Butler Consent Order Proceeding (Case No. HEF-0046), Central Consent Order Proceeding (Case No. HEF-0047), or Glover Consent Order Proceeding (Case No. HEF-0081), Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications should conspicuously display a reference to the appropriate case number.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to Consent Orders entered into by the DOE and the following parties: Bayside Fuel Oil Depot Corporation (Bayside) of Brooklyn, New York, Butler Petroleum Corporation (Butler) of Butler, Pennsylvania, Central Oil Company (Central) of Raynham, Massachusetts, and Lawrence H. Glover (Glover) of Patchogue, New York (hereinafter referred to as the consent order firms). These Consent Orders settled possible pricing and allocation violations with respect to the consent order firms' sales of refined petroleum products during the following consent order periods: November 1, 1973 through April 30, 1974 for Bayside; October 1, 1973 through September 16, 1979 for Butler November 1, 1973 through October 3, 1974 for Central; and November 1, 1973 through February 28, 1976 for Glover. Under the terms of the Consent Orders, the following sums were remitted to the DOE: $63,559.33 by Bayside, $17,834.01 by Butler, $41,099.34 by Central (who is continuing to make payments to the DOE to total the consent order amount of $54,799.12) and $67,782.83 by Glover. These amounts are being held in separate interest-bearing escrow accounts pending determination of their proper distribution.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the four consent order funds. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on August 30, 1984. 49 FR 34403 (August 30, 1984).

As the Decision and Order indicates, applications for refunds from the consent order funds may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the *Federal Register*.

Applications will be accepted from customers who purchased refined petroleum products from a consent order firm during the relevant consent order period. The specific information required in an application for refund is set forth in Section IV of the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: August 1, 1985.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Names of Firms: Bayside Fuel Oil Depot Corporation, Butler Petroleum Corporation, Central Oil Company, and Lawrence H. Glover.

Date of Filings: October 13, 1983.

Case Numbers: HEF-0035, HEF-0046, HEF-0047, and HEF-0081.

August 1, 1985.

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed Petitions for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) on October 13, 1983. The petitions request that the OHA formulate and implement procedures for the distribution of funds received pursuant to Consent Orders entered into by the DOE and the following parties: Bayside Fuel Oil Depot Corporation (Bayside) of Brooklyn, New York, Butler Petroleum Corporation (Butler) of Butler, Pennsylvania, Central Oil Company (Central) of Raynham, Masschusetts, and Lawrence H. Glover (Glover) of Patchogue, New York [1] (hereinafter collectively referred to as the consent order firms).

[1] The DOE entered into the Glover Consent Order with Lawrence H. Glover and three other individuals: Ruth H. Glover, Terry Malcom, and Berna Eich.

I. Background

Each of the consent order firms is a "reseller-retailer" of "refined petroleum products" as those terms were defined in 10 CFR 212.31. ERA audits of the consent order firms revealed possible violations of the Mandatory Petroleum Price Regulations. Subsequently, each of these firms entered into a separate Consent Order with the DOE in order to settle its disputes with the DOE concerning certain sales of refined petroleum products. Each Consent Order refers to the ERA allegations of overcharges, but notes that no findings of violation were made. In addition, each Consent Order states that the consent order firm does admit that it committed any such violations.

Pursuant to these Consent Orders, the firms agreed to pay the DOE specified amounts in settlement of their potential liability for alleged overchanges in sales of refined petroleum products to their respective customs during the consent order periods. The firms' payments are currently being held by the DOE in separate interest-bearing escrow accounts pending distribution by the DOE. The names and locations of the firms, the settlement amounts, the products covered by the Consent Orders, and the dates of the consent order periods are set forth in Appendix A to this Decision and Order.

On August 23, 1984, we issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order funds. 49 FR 34403 (August 30, 1984). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of the alleged overchanges made by one of the consent order firms during the relevant consent order period.[2]

A copy of the PD&O was published in the **Federal Register** on August 30, 1984, and comments were solicited regarding the proposed refund procedures. In addition, a copy of the PD&O was sent to those purchasers whose names and addresses we obtained from the ERA audit files. Those firms, as well as firms for whom we do not have addresses, are listed in Appendices B–1 through B–4 to this Decision and Order. Comments were filed on behalf of Bayside Fuel Oil Corporation (BFOC) (an affiliate of Bayside) and the States of New Mexico, North Carolina, Arkansas, Delaware, Kansas, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia. Most of the States' comments, however, discuss the distribution of any residual funds that might remain after refunds have been made to first stage claimants. The purpose of this Decision and Order is limited to establishing procedures to be used for filing and processing claims in the first stage of the present refund proceedings. This Decision sets forth the information that a purchaser of refined petroleum products from one of th consent order firms should submit in order to establish eligibility for a portion of the consent order funds. The formulation of procedures for the final disposition of any remaining funds will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Therefore, it would be premature for us to address at this time the issues raised by the States concerning the disposition of any funds remaining after all the meritorious first stage claims have been paid.[3]

II. Jurisdiction

The procedural regulations of the DOE set forth general guidelines by which the Office of Hearings and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. It is DOE policy to use the Subpart V process to distribute such funds. For a more detailed discussion of Subpart V and the authority of the Office of Hearings and Appeals to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981 (hereinafter cited as *Vickers*). As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the four consent orde funds. We will therefore grant the ERA's petitions and assume jurisdiction over these funds.

III. Determination of Injury and Refund Amounts

In the PD&O, we proposed that reseller and retailer claimants (including refiners acting as resellers) be required to demonstrate that they did not pass on to their customers the alleged price increases implemented by the consent order firms. *See, e.g., Vickers*. We have received no objections to this proposal. Accordingly, in order to quality for a refund, resellers of a consent order firm's refined petroleum products must demonstrate that, during the consent order period, market conditions would not permit them to increase their prices to pass through the additional costs associated with the alleged overcharges. In addition, resellers will be required to show that they maintained a "bank" of unrecovered costs in order to demonstrate that they did not subsequently recover these costs by increasing their prices.[4] As we noted in the PD&O, however, the maintenance of a bank does not automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982); *Vickers Energy Corp./Standard Oil Co. (Indiana)*, 10 DOE ¶ 85,036 (1982); *Vickers Energy Corp./Koch Industries, Inc.*, 10 DOE ¶ 85,038 (1982).

The only comments we received regarding the injury showing required of resellers and retailers were filed by BFOC, a firm which is closely related to Bayside. According to the ERA audit file, the shareholders and officers of both firms are identical (except that Victor Allegretti is President of BFOC and Vice President of Bayside while Alfred Allegretti is President of Bayside and Vice President of BFOC). The audit records further indicate that BFOC purchased all of its inventory from Bayside. In its comments regarding the showing of injury required, BFOC states that retailers and resellers should be eligible for refunds if they show that they have already made refunds to their customers for the alleged overcharges, "whether such refunds were made

[2] With regard to the Glover Consent Order, the record indicates that Glover had four classes of purchasers during the consent order period: wholesale customs (those who resold the propane they bought from Glover), residential metered customes (individual end-users whose purchases were gauged using a meter), cylinder customers (end-uses who purchased 100 lb. cylinders of propane from Glover), and bulk customers (end-uses who made bulk purchases from Glover). However, the Glover Consent Order applies only to the firm's sales to its bulk customer class of purchaser. Therefore only customers within that class will be eligible for a refund from the Glover consent order fund.

[3] It is not clear, however, that the States of New Mexico, North Carolina, Arkansas, Kansas, Iowa, Louisiana, North Dakota, and Rhode Island have a direct interest in this proceeding, since none of the sales involved were made in these States.

[4] A small portion of the motor gasoline sales covered by the Butler Consent Order occurred subsequent to the amendment of the retailer price rule that eliminated the banking provision for retailers. *See* 10 CFR 212.93(a)(2). 44 FR 42542 (July 19, 1979) (effective July 15, 1979). Accordingly, retailers will not b e required to submit bank information concerning any purchases of gasoline they may have made from Butler after July 15, 1979.

pursuant to orders of the Department of Energy or otherwise." *See* Request by Bayside Fuel Oil Corporation For Adjustment In Proposed Refund Mechanism, September 26, 1984.

While BFOC's comments are expressed in general terms, it is obvious that they are meant to apply only to its own specific situation regarding the Bayside consent order fund.[5] Apparently, BFOC intends to claim that it refunded the Bayside overcharges to its customers and should be eligible for a portion of the consent order fund. We do not agree with this proposition. In view of the close affiliation of BFOC and Bayside, it would be inappropriate to grant a refund to BFOC even if the firm made payments to its customers, because the refund would effectively inure to Bayside. *See Aztex Energy Co.*, 12 DOE ¶ 85,116 at 88,359 n.2 (1984) (affiliates not eligible for refunds); *cf. Holly Energy, Inc.*, 12 DOE ¶ 83,036 (1985). Since BFOC and Bayside have common ownership and management, they should be viewed as one firm for purposes of this refund proceeding. If Bayside wished to recieve credit for any refunds it or BFOC may have made to their customers, the proper place to raise such a claim was in the negotiations which led to the Bayside Consent Order. It would be contrary to the restitutionary purposes of this proceeding for us to consider such a claim in this special refund proceeding. *See Citronelle-Mobile Gathering, Inc. v. Edwards*, 669 F.2d 717 (Temp. Emer. Ct. App.) *cert. denied*, 459 U.S. 877 (1982). We therefore reject BFOC's comments regarding the showing of injury required of resellers and retailers.

The PD&O also proposed certain presumptions which have been used in many prior refund cases. First, the PD&O made a presumption that the alleged overcharges were dispersed equally in all gallons of refined petroleum products sold by the consent order firms during the relevant consent order period. This presumption is also referred to as a volumetric refund amount. We have not received any comments objecting to the volumetric presumption, and therefore we will adopt it in this proceeding. Second, the PD&O proposed a presumption of injury with respect to small claims. As discussed below, we will also adopt this presumption in the proceeding.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> In establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refund 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 that were set forth in the PD&O, and are being adopted here, permit claimants to participate in the refund process without incurring disproportionate expenses, and enable the OHA to consider refund applications in the most efficient way possible in view of the limited resources available.

The volmetric refund presumption assumes that alleged overcharges were spread equally over all gallons of products 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.

In the PD&O, we stated that the information available in the ERA files pertaining to the audits of the four consent order firms is insufficient to base refunds on the amount each individual applicant was allegedly overcharged. The ERA audit files identify a number of customers who purchased refined petroleum products directly from each consent order firm during the consent order periods, but do not set forth any specific alleged overcharge amounts for these customers. Accordingly, we will use the volumetric method to allocate the consent order funds.[6] The volumetric refund amounts, determined by dividing each consent order fund by the estimated total volume of refined petroleum products sold by the consent order firm during the relevant consent order period, are set forth in Appendix A.[7] In each case, a successful applicant will recieve a volumetric refund amount for each gallon of gasoline which it purchased from the consent order firm. The interest which has accrued on the money in each escrow account will be added to the refund of each successful applicant in proportion to the size of its refund.

We will also establish a small claims presumption as proposed in the PD&O. We have received comments from the State of North Carolina objecting to the use of such a presumption for reseller claimants in the present proceeding. Specifically, North Carolina objects to the statement in the PD&O that a small claims presumption is necessary to insure administrative efficiency and reasonable cost to the claimant, stating that "it is incongruous to believe that resellers would retain the necessary records of purchases—and yet not retain records of their sales and associated prices." *See* Comments Filed by North Carolina, September 10, 1984, at 2.

After careful consideration, we find this argument to be unpersuasive. As we pointed out in the PD&O, the presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Consent Orders is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). First, there may be considerable expense involved in gathering the 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. As we noted in the PD&O, this procedure is generally time-consuming and expensive and in the

[5] To the extent BFOC's comments are intended to have relevance to any other potential claimants, it suffices to say that it is extremely unlikely that any reseller that is unaffiliated with one of the consent order firms would have made refunds to its customers to compensate them for *its supplier's* alleged overcharges prior to the receipt of an equivalent refund from that supplier. (It is highly unlikely that such a reseller would even have known the nature and extent of its supplier's alleged overcharges.)

[6] We recognize, however, that the impact of a firm's pricing practices on an individual purchaser could have been greater, and any purchaser will therefore be allowed to file a refund application based on a claim that it suffered a disproportionate injury as a result of the pricing practices of one of the consent order firms during the relevant audit period. A refund application for an amount greater than the amount calculated using the volumetric presumption must document the disproportionate impact of the alleged overcharges. *See, e.g., Amtel, Inc.*, 12 DOE ¶ 85,073 at 88,233–34 (1984).

[7] The Consent Orders entered into with Bayside, Butler, and Glover required the firms to remit to the DOE $51,727, $13,500, and $45,042.09, respectively. As a result of interest which accrued on these amounts prior to payment, however, these firms have paid to the DOE $63,559.33, $17,834.01, and $87,782.83, respectively. The volumetric factors for Bayside, Butler, and Clover have been calculated using these latter figures. In addition, because of the available ERA audit files provide only partial sales volume data regarding the motor gasoline sold by Butler and Bayside during the relevant consent order period, we have extrapolated sales volume figures for these two firms from the available audit data.

The Central Consent Order required Central to remit $54,799.12 to the DOE in four yearly installments from October 1, 1979 through October 1, 1982. As of June 30, 1985, however, Central had paid only $41,099.34. If Central does not remit the remainder of the consent order monies before the processing of refund applications in this proceeding, the volumetric refund amount used for calculating refunds to Central's customers will have be reduced proportionately.

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. In the present case, many (and in Bayside's case, all) of the relevant transactions took place over 11 years ago, and we recognize that obtaining even purchase records may be difficult for some of the claimants. We reject North Carolina's unsubstantiated assertion that small claimants who have purchase records from 11 years ago would necessarily also have the type of data required to show that they did not pass through the price increases implemented by the consent order firms. The type of data required to make a detailed showing of cost absorption, including data showing banks of unrecouped costs, is much more difficult to extract or derive from a firm's accounting records than are purchase volume figures that are readily available from copies of invoices the firm may have retained. Therefore, as we stated in the PD&O, we are convinced that failure to allow this type of simplified application procedure for small claims could deprive injured parties of the opportunity to obtain a refund.

Second, as we stated in the PD&O, the use of this presumption is desirable from an administrative standpoint, because it allows the OHA to process a large number of refund claims quickly and to use its limited resources more efficiently. As of July 5, 1985, the Office of Hearings and Appeals was evaluating approximately 3,700 applications for first-stage refunds in over 170 proceedings. In addition, there were approximately 150 pending refund proceedings in which applications for refund will be accepted in the near future. In order to process expeditiously this case load, it is essential to use a small claims presumption like that proposed in the PD&O.

Finally, as we noted in the PD&O, it is clear that claimants seeking smaller refunds in this proceeding did purchase covered products from one of the consent order firms and were in the chain of distribution where the alleged overcharges occurred. Therefore, they bore some of the impact of the alleged overcharges, at least initially. The use of a small claims presumption eliminates the need for a claimant to submit, and the OHA to analyze, detailed proof of what happened downstream of that initial impact. We have therefore determined that reseller and retailer applicants in this proceeding should be eligible to receive refunds based on a presumption of injury for small claims.

Under the presumption we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases at or below a threshold level.[8] The PD&O expressed the threshold in terms of a ceiling on purchases from the consent order firm. 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 therefore will adopt the same approach 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 the present case, we believe that the establishment of a presumption of injury for all claims of $5,000 or less is reasonable.[9] *See id.; Marion Corp.*, 12 DOE ¶ 85,014 (1984).

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers, including businesses that are unrelated to the petroleum industry, were injured by the alleged overcharges settled in the Consent Orders. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and thus 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*, 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 refined petroleum products purchased from one of the consent order firms need only document their purchase volumes from the firm to make a sufficient showing that they were injured by the alleged overcharges.[10]

We shall also adopt our proposal to establish a minimum amount of $15 for refund claims. We have found through our experience in prior refund cases that the cost of processing claims in which refunds are sought for amounts less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b).

IV. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the four consent order funds. Accordingly, we shall now accept applications for refunds from customers who purchased refined petroleum products from the consent order firms during the relevant consent order periods.[11]

In order to receive a refund, each claimant will be required to report the monthly volume of refined petroleum products purchased from one of the consent order firms for which it is claiming a refund. It must also state how

[8] Resellers who made only spot purchases from the consent order firms will be presumed to have suffered no injury. They will therefore be ineligible for any refund, even a refund at or below the threshold level. 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.

Vickers, 8 DOE at 85,396–07. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,200 (1982). The same rationale holds true in the present case. Accordingly, in order to overcome the rebuttable presumption that they were not injured, in addition to the proof of injury required of those resellers claiming more than the threshold amount, any reseller claimant who was a spot purchaser must submit additional evidence to establish that it was unable to exercise considerable discretion as to where and when it made the purchase(s) on which its refund claim is based.

[9] As in prior refund cases, resellers whose potential refund exceeds the threshold amount may elect to apply for a refund based on the threshold amount.

[10] The Bayside Consent Order required Bayside to refund $618 directly to one of its end-user customers, the Environmental Protection Agency of New York City (EPA/NYC). This sum represents a pro rata portion of the amount Bayside allegedly overcharged EPA/NYC during the period November 1, 1973 through March 12, 1974, according to a Notice of Probable Violation issued to Bayside on February 6, 1979. In light of this direct refund by Bayside, we proposed in the PD&O that EPA/NYC be ineligible for a further refund based on its purchases during that period. We have received no comments on this proposal, and therefore will adopt it in this proceeding. EPA/NYC may be eligible, however, for a refund based on any purchases it made from Bayside during the remainder of the consent order period, March 13, 1974 through April 30, 1974.

[11] At this time we are unable to determine valid addresses for many of the potential claimants in these proceedings. We will therefore request the consent order firms' assistance in locating the firms set forth in the Appendices. In addition, we intend to publicize these proceedings in local newspapers in the areas where the consent order firms conducted business.

it used the refined petroleum products, i.e., whether it was a reseller or an ultimate consumer. Retailers and resellers who request refunds in excess of the $5,000 threshold amount must submit evidence to establish that they did not pass on the alleged overcharges to their customers. In addition, each applicant must state whether there has been a change in ownership of the firm since the relevant audit period and must provide the names and addresses of any other owners. If there has been a change in ownership, the applicant should either state the reasons why the refund should be paid to the applicant rather than the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Applicants should also report any past or present involvement as a party in DOE enforcement proceedings. If these proceedings have been terminated, the applicant should furnish a copy of the final Order issued in the matter and indicate the status of any remedial action required by the Order. If the proceeding is ongoing, the applicant should briefly describe the proceeding and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its refund application is pending. *See* 10 CFR 205.9(d).

All applications must be filed in duplicate and must be received within 90 days after publication of this Decision and Order in the **Federal Register**. Each application must be in writing, signed by the applicant, and specify that it pertains to either the Bayside Consent Order Fund (Case No. HEF–0035), the Butler Consent Order Fund (Case No. HEF–0046), the Central Consent Order Fund (Case No. HEF–0047), or the Glover Consent Order Fund (Case No. HEF–0081). A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals. Any applicant who believes that its application contains confidential information must so indicate and submit two additional copies of its application from which the information that the applicant claims is confidential has been deleted. Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name and telephone number of a person who may be contacted by this Office for additional information concerning the application. All applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

It Is Therefore Ordered That:

(1) Applications for refunds from the funds remitted to the Department of Energy by the consent order firms listed in Appendix A to this Decision and Order may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: August 1, 1985.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

APPENDIX A

Name of firm	Consent order period	Consent order amount [1]	Products covered	Volumetric amount
Bayside Fuel Oil Depot Corporation, 510 Sackett Street, Brooklyn, NY 11231.	Nov. 1, 1973 to Apr. 30, 1974	$63,559.33	No. 2 Heating Oil	$0.001696
Butler Petroleum Corporation, 105 Homewood Drive, Butler, PA 16001.	Oct. 1, 1973 to Sept. 16, 1979	17,834.01	Motor Gasoline	$0.0003756
Central Oil Co., 728 Broadway Street, Raynham, MA 02767	Nov. 1, 1973 to Oct. 3, 1974	54,799.12	Motor Gasoline	$0.01734
Lawrence H. Glover, 675 Medford Road, Patchogue, NY 11772	Nov. 1, 1973 to Feb. 28, 1976	67,782.83	No. 2 Heating Oil	$0.02698
			Propane (Retail Bulk Class)	

[1] See Footnote [1]

Appendix B–1

Customers Identified in the Bayside Audit File

AR Fuel [1]
Bandolene Fuel [1]
Bayside Fuel Oil Corporation [2]
Blue Diamond
Cameo Coal Fuel [1]
Carrier Fuel
City of New York Environmental Protection Agency
Empire State
Greater Fuel Corp.
Heatfast Fuel Oil
LaForgia Fuel [1]
S.J. Minerva
Osher & Reiss
Radish Bros. [1]
V. Savino
Sco Fuel [1]
Trojan Fuel Oil
Troy Fuel

Appendix B–2

Customers Identified in the Butler Audit File

Addresses Known

Peter Busi
Greater Pittsburgh Service Corp.
Rodney Lipsomb
Oxygen Emergency Supply Co.

Addresses Unknown

Anderson Car Wash
Anderson Service
Anderson's Texaco
Leroy Andrews
Anke Excavating
Ariaco
Arts Country Store
Tom Barger
Beale's
J.M. Beatty
George Beck's
Begger
Jim Benton
Best Tire
Beverage Management
Bill's Tire
Bi-Rite Oil Company
Brayman Construction Co.
Buchler Trucking
Randy Burr
Peter Busi
Butler Vulcanizing
Calvin Texaco
Roger Cameron
John Campbell
E. Carben
Carneis
Castle Rubber
Cirilla's
Clinton Oil
Dean Cooper
Wade Cooper
Edwards
Elias
R. Elliott
Fardily Tire Sales
Fawley's

[1] Copies of the PD&O were sent to these firms but were returned to this Office unclaimed. Although we will therefore not send copies of the final Decision and Order to these firms, they are still eligible to apply for a refund in this proceeding.

[2] As discussed in the Decision and Order, Bayside Fuel Oil Corporation is ineligible to receive a refund.

Fisher
Five Points
Flanders
Garzoney Texaco
Group Service Station
Paul Haas
Hammond Garage
Hartman Oil
Helfrich
Henning
Herits
Bill Hesidence
Highland Paving
Chuck Holben
Homewood Garage
Hummel's
Hunter's Tire Sales
Irwin's Rustproofing
J&D Texaco
Jenkins Car Wash
Jernis Airsound
Joe's Texaco
Jean Kaiser
Kissick
Edward Kudlac
Klug
Kyle's
Bill Coring
Corner's
Crarajis
Crevar Brother
F. Crimchen
Croup's Texaco
D&S Oil
Darrow Marina
Dave's Marina
William Davis
Dibello Service
Tom Dixon
Debra Manuel
Lou Magnatta
Mark Lines
Martin Tire
M. Mastows
Melin & Son
Mike's & Sons
Moran Carpets
Morgan's East
Morgan's North
Morgan's West
M. Mostowy
Muddy Creek Twp.
Northway Car Wash
Novak's
Osborne Builders
P. Olfe
David Pollick
Presto Texaco
Stewart Bee
Sam Price
Prior's Truck Stop
Edward Rapur
Jerry Rice's Service
Rikal's
C.H. Riley
C.L. Risch
Risch Store
Riverside Car Wash
Rod's Texaco
Roger's Texaco
Ruffer
L. Saaliner
Sacchan
Laasky
Lambert's Texaco
Don Lenning
Logan Farm
M&S Backhow
Mike Mastoway
McClarin
L. McGinnis
McKissick
McNeilly Car Wash
Fred Mackey
Macko Texaco
K. McKossick
Main Street Texaco
Schubert's
Mel Schwartz
Seaham
Sechen Limestone
Seven-Eleven ±115
Seven-Eleven ±128
Seven-Eleven Indiana
Seven-Eleven Neville Island
George Shockey
Skander Tire
Carl Smith
Larry Smith
Neil Snyder
Soldshetter
Leroy Spalinger
Stewart Bee
Star Glo Car Wash
Sutton's Gas-O-Mat
Neil Szcyski
Thomas
Dave Trapina
Wexford Tire Company
Twin Willows
V.W. Williams
Voelker
Vurko
Zanella's
Zapp's
Zapsick
Zassick
Zekler

Appendix B–3

Customers Identified in the Central Audit File

Airport Service Station
Albert's Service Station
L.G. Balafour Co.
Belmiro Barros
Belben's Service Station
Berkley Common Garage
Bernard's Service Station [1]
Biss Lumber Co., Inc.
Bridgewater Motor Sales, Inc.
Caffee Farm
Cataloni's Service Station
A.L. Cedergren [1]
Chickering's Sunnyside Station
Cobb's General Store
Coffee Service, Inc (C&F Foods) [1]
Crosby's Service Station
Arthur DeMattos
Easton County Club, Inc.
John M. Evangelho
Fagerberg's Garage
John Fernandes
Ferriera Farms
Ben Flint
G & B Welding
Antone Gomes
Hallock's Puritan Market
O.H. Hansen
Harodite Company
Ralph S. Hayward
Kenneth Horton
Hotz Brothers Mink Farm
William Houghton
Instron Corporation
J.&R. Farm, Inc.
Jackson Brothers
Winner's Circle
Kris Getty
A.C. Lawton
Linton's Variety
Marion Lumber Co.
O.J. Moitoza
Howard D. Moquin
C.M. Munroe [1]
Murphy's Garage
Nemasket Bottling [1]
Norton Center Garage
Norton Golf Course
Antone Oliveira
Roy C. Oman
Orsine's Garage
Poquoy Brook Country Club
Joseph Quintal
Robertson Homes, Inc.
Rock Village Store
Ruggiero's Service Station
E. Sabalewski
Scott's Service Station
Segransett Country Club
Arthur M. Sharp
Simond's Garage [1]
South Main Street Variety
Souza Brothers
Stanley's Motor Sales
Merle Stetson
S&S Lumber Company
Super Tire
Arthur Turner [1]
Ventura Grain Co., Inc.
Westville Garage
Wiksten Brothers Dairy
Willow Tree Poultry Farm
Russell W. Wilson

[1] Copies of the PD&O were sent to these firms but were returned to this Office unclaimed. Although we will therefore not send copies of the final Decision and Order to these firms, they are still eligible to apply for a refund in this proceeding.

Appendix B–4

Customers Identified in the Glover Audit File

Joseph Biscay
Robert Brandt
Grady Brooks [1]
Silas Coleman [1]
George Dorsett [1]
Albert Evans
D. Miller Simmons [1]
N. Stevenson [1]
Mozell Walker [1]
James Wilson [1]

[FR Doc. 85–19000 Filed 8–8–85; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from a fund of $1,800,000 obtained from Oneok, Inc., formerly Oklahoma Natural Gas, Inc., in settlement of enforcement proceedings brought by DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund must be postmarked by November 7, 1985, should conspicuously display a reference to case number HEF–0571, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as a result of a consent order between Oneok, Inc., and the DOE. The consent orders settled certain disputes between DOE and Oneok concerning possible violations of DOE price regulations with respect to the firm's sales of covered natural gas liquids and natural gas liquid products during the period August 1973 through January 1981.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be postmarked by November 7, 1985, and should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 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, DC 20585.

Dated: August 2, 1985.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Oneok, Inc.
Date of Filing: March 11, 1985.
Case Number: HEF–0571.

August 2, 1985

Under the procedural regulations of the Department of Energy (DOE), the Ecomonic Regulatory Administation (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement a specially-designed process to distribute funds obtained at the resolution of an enforcement proceeding in order to remedy the effects of alleged or acutal violations of DOE regulations. 10 CFR Part 205, Subpart V. Pursuant to the provisions of Subpart V, on March 11, 1985, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order that it entered into with Oneok, Inc. (Oneok).

On May 28, 1985, we issued a Proposed Decision and Order tentatively setting forth procedures to distribute refunds to parties who were injured by Oneok's alleged violations. In the proposed decision we described a two-stage process for the distribution of the funds made available by the Oneok consent order. In the first stage, we would refund money to identifiable purchasers of covered products who were likely injured by pricing practices during the period August 19, 1973 through January 27, 1981. This decision describes the information that a purchaser of Oneok covered products should submit in order to demonstrate eligibility to receive a portion of the consent order funds. After meritorious claims are paid in the first stage, funds may remaining and 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). Several state governments filed comments on the proposed decision in this case, arguing generally that the funds remaining after completion of the first stage refund procedure should be distributed to the states. We will consider these comments at a later date.

I. Jurisdiction

We have considered ERA's Petition for the Implementation of Special Refund Procedures and determined that its is appropriate to establish such a proceeding with respect to the Oneok consent order fund. In our proposed decision and in other recent decisions, we have discussed at length our jurisdiction and authority to fashion special refund procedures. *See, e.g., Office of Enforcement, Economic Regulatory Administation: In re Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,553 (1982). We have received no comments challenging our jurisdiction in this case. We will therefore grant ERA's petition and assume jurisdiction over the distribution of the Oneok consent order funds.

II. Background

Oneok, formerly Oklahoma Natural Gas, owned controlling interests in five gas processing plants in the State of Oklahoma through its subsidiary Oneok Exploration Company (formerly ONG Exploration).[1] A DOE audit of Oneok's records revealed possible regulatory violations with respect to the firm's pricing of natural gas liquids (NGL's) and natural gas liquid products (NGLP's) during the period August 19, 1973 through December 1981 (hereinafter the consent order period). In order to settle all claims and disputes between Oneok and the DOE regarding the firm's compliance with DOE regulations during the period August 19, 1973 through

[1] Copies of the PD&O were sent to these firms but were returned to this Office unclaimed. Although we will therefore not send copies of the final Decision and Order to these firms, they are still eligible to apply for a refund in this proceeding.

[1] The five plants are located in Cimarron, El Reno, Garvin, Watonga, and Woodward, Oklahoma. Oneok also owned interests in, but did not operate or control, five other gas plants in Oklahoma. Sales from these plants are not subject to this refund proceeding. Oneok also sold large quantities of natural gas during the consent order period. Because natural gas was not subject to regulation by the DOE or its predecessors, these sales are also not subject to this proceeding.

January 27, 1981, Oneok and the DOE entered into a consent order on October 4, 1984. Under the terms of the consent order, Oneok agreed to remit $1,800,000 to the DOE. That sum is being held in an interest-bearing escrow account established with the United States Treasury pending a determination of their proper distribution, and as of June 30, 1985, the Oneok escrow account held $1,992,990 including interest. This Decision concerns the distribution of the funds in the escrow account, plus accrued interest.

III. Refunds to Purchasers

The Oneok settlement fund shall be distributed to claimants who can demonstrate that they have been adversely affected by Oneok's alleged violations in sales of NGL's or NGLP's during the consent order period. The NGL's or NGLP's purchased by these claimants were purchased either directly from Oneok or from other firms in a chain of distribution leading back to Oenok. In order to receive a refund, each claimant will be required to submit a schedule of its monthly purchases of Oneok covered products for the period August 1973 to January 1981. If the product was not purchased directly from Oneok the claimant must include a statement setting forth its reasons for believing that the product originated with Oneok. In addition, a reseller or retailer that files a claim generally will be required to establish that it absorbed the alleged overcharges and was thereby injured. To make this showing, a reseller or retailer claimant will be required to show initially 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) (herinafter cited as *Ada*). in addition, it will have to demonstrate that it was injured by the alleged overcharges. *Id.*

As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overchanges were dispersed equally in all sales of products made by Oneok during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we 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 the impact of the alleged overcharge on it was greater than the pro rata amount determined by the volumetric presumption. *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 Oneok 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 factural information regarding the impact of alleged overchanges 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 factural information, and the cost (to the OHA) of analyzing it, may be many times greater than the expected refund amount. Failure to allow simplified application procedures for small claims would not be cost effective and could 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 refund claims quickly, and use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Oneok and were in the chain of distribution where the alleged overchanges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially. The presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of that initial impact.

Under the presumptions we are adopting, a refiner, reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. In this case, in view of the volumetric refund amount, the length of time covered by the consent order, and the products involved, we believe that the establishment of a presumption of injury for all claims of $5,000 is reasonable.[2] *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein.

In addition to the presumptions we are adopting, we are making a finding that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM*

[2] Any claimant whose potential refund exceeds the threshold amount may elect to appy for a refund based on the threshold level.

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 Oneok petroleum products need only document their purchases volumes from Oneok to make a sufficient showing that they were injured by the alleged overchanges.

We note that if a refiner, reseller or retailer made only spot purchases from Oneok, 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.

Vickers at 85,396–97. We believe the same rationale holds true in the present case. Accordingly, a spot purchaser that files a claim should submit specific and detailed evidence to establish that it was unable to recover the increased prices it paid for Oneok 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 $.006863 per gallon, exclusive of interest.[3] As of June 30, 1985 accumulated interest increased the per gallon refund amount to $.007599 per gallon.

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).

IV. Applications for Refund

After having considered all the comments received concerning the first stage proceedings tentatively adopted in our May 14, 1985 proposed decision, we have concluded that applications for refund should now be accepted from parties who purchased Oneok NGL's and NGLP's. An application must be in writing, signed by the applicant, and specify that it pertains to the Oneok Refund Proceeding, Case Number HEF–0571.

An applicant should indicate from whom the NGL's or NGLP's were purchased and, if the applicant is not a direct purchaser from Oneok, it should also indicate the basis for its belief that the NGL's or NGLP's originated from Oneok. Each applicant should report its volume of purchases by month for the period of time for which it is claiming it was injured by the alleged overcharges. Each applicant should specify which NGLP it purchased, from which gas plant the product originated, and how it used the Oneok product, including whether it was a reseller or ultimate consumer.[4]

If the applicant is a refiner, reseller, or retailer applying for a refund of greater than $5,000, it should state whether it maintained banks of unrecouped product cost increases from the date of the alleged violation through January 27, 1981. An applicant who did maintain banks should furnish the OHA with a schedule of its cumulative banks calculated on a quarterly basis from November 1973 through January 27, 1981. The applicant should also submit evidence to establish that it did not pass on the alleged injury to its customers. For example, a firm may submit market surveys or information about changes in its profit margins or sales volume to show that price increases to recover alleged overcharges were infeasible. The applicant may also submit evidence of the prices it paid for products it purchased, and a comparison of those prices to the prevailing market prices in the same region.

All applicants should report any past or present involvement as parties in DOE enforcement actions. If these actions have terminated, the applicant should furnish a copy of a final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status while its application for refund is being considered. *See* 10 CFR 205.9(d).

Each application must also include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001. In addition, the applicant should furnish us with the name, position title, and telephone number of a person who may be contacted by the OHA for additional information concerning the application.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, Washington, D.C. Any applicant that believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

All applications should be sent to: Oneok Special Refund Proceedings, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585. Applications for refund of a portion of the Oneok consent order funds must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register.** *See* 10 CFR 205.286. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284.

V. 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.

It is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by Oneok, Inc. pursuant to the consent order executed on October 4, 1984 may now be filed.

(2) All applications must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: August 2, 1985.

Thomas O. Mann,

Acting Director, Office of Hearings and Appeals.

[FR Doc. 85–19001 Filed 8–8–85; 8:45 am]

BILLING CODE 6450–01–M

[3] According to the information available to us from audit files, Oneok sold 262,272,842 gallons of regulated NGL's or NGLP's during the consent order period. $1,800,000 divided by 262,272,842 = $.006863 per gallon.

[4] Refiners who use NGLP's as raw materials in refining motor gasoline are considered to be resellers. Public utilities and farmer cooperatives are considered to be end-users.

Western Area Power Administration

Proposed Power Rate Adjustment; Pick-Sloan Missouri Basin Program

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of proposed power rate adjustment for maintenance service—Pick-Sloan Missouri Basin Program.

SUMMARY: In accordance with sound business principles, Western Area Power Administration (Western) proposes to increase the existing rate for maintenance service in the Eastern Division of the Pick-Sloan Missouri Basin Program (P–SMBP). It is proposed that the existing 12 mills/kWh flat rate be changed to a two-tier rate as follows:

1. 14.0 mills/kWh for guaranteed availability of 1 week or less.
2. 16.0 mills/kWh for guaranteed availability of longer than 1 week, but not exceeding 5 weeks.

DATES: A public information and a public comment forum will both be held at Sioux Falls, South Dakota, at the City Centre Holiday Inn on September 25, 1985. The public information forum, during which Western representatives will discuss the proposed increase and answer questions, will commence at 1 p.m. Immediately following the public information forum, a public comment forum will be held. Persons planning to speak at the public comment forum should send their names and organization affiliation to the address noted below by September 24, 1985, so that a speaker list can be prepared. Other persons will also be allowed to comment as time permits.

The consultation and comment period will begin with the publication of this notice in the **Federal Register** and will end 90 days thereafter. Written comments are due by November 10, 1985.

ADDRESS: Written comments, as well as requests for further information, may be submitted to the following address throughout the entire consultation and comment period: Mr. James D. Davies, Area Manager, Billings Area Office, Western Area Power Administration, P.O. Box EGY, Billings, MT 59101, Telephone: (406) 657–6532.

SUPPLEMENTARY INFORMATION: Fuel costs in Western's Billings Area Office Marketing Area have escalated to the point where the existing rate for maintenance service is so comparatively low that it results in a loss of revenue to Western. Coal-fired generating capacity in the Mid-Continent Area Power Pool, where the Eastern Division marketing area is located, is approximately 19,000 MW. Approximately 9,100 MW have production costs that are less than 16 mills/kWh. These are the units supplying a significant portion of the load in this area and are the ones that need maintenance service. Therefore, 16 mills/kWh is a reasonable competitive price for sales extending longer than 1 week, but not exceeding 5 weeks. Fourteen mills/kWh is a competitive price for sales of 1 week or less. The alternative to Western's maintenance service is for a utility to purchase from other area units, most of which have higher cost. Because of this, the proposed rate will still offer a substantial savings to the purchaser and will allow Western to enhance revenues.

Maintenance service sales during low-load periods are desirable in order to keep Western's hydrounits at, or above, minimum loadings. The two-tier rate recognizes the difference in value of the service when committed for different periods of time. Enhanced Western revenues will help to delay future firm power rate increases, and thus tend to benefit all P–SMBP preference customers rather than passing on the total savings derived from this service to those few who have generation and can take advantage of the 12.0 mill/kWh maintenance service rate currently in effect.

Power rates for the P–SMBP are established pursuant to the Department of Energy Organization Act of August 4, 1977 (42 U.S.C. 7101, et seq.); the Reclamation Act of 1902 (43 U.S.C. 372, et seq.), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(c)); the Flood Control Act of 1944; and the acts specifically applicable to the project system involved.

A new Delegation Order No. 0204–108 was issued on December 14, 1983 (48 FR 55664, December 14, 1983). The order contains several provisions including delegating to the Administrator, on a nonexclusive basis, the authority to develop and place in effect on a final basis power and transmission rates for short-term sales.

Rate adjustments for P–SMBP are conducted consistent with procedural rules applicable to Western. Procedures for public participation in rate adjustments for power marketed by Western may be found in Title 10, Code of Federal Regulations, Part 903.

After public discussion and due consideration of public comments, a final decision on the proposed rate will be made by the Administrator of Western pursuant to authority delegated to the Administrator in Delegation Order No. 0204–108. An explanation responding to the major comments, criticisms, and alternatives offered during the comment period shall accompany the final decision.

Environmental Compliance

Western will conduct an analysis of the proposed rate increase pursuant to the National Environmental Policy Act of 1969 and Department of Energy Regulations published in the **Federal Register** on March 28, 1980 (45 FR 20694–20701), as amended on January 6, 1983 (48 FR 685–686) and on February 25, 1985 (50 FR 7629–7630).

Regulatory Flexibility Analysis

Pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601, et seq.) each agency, when required by 5 U.S.C. 553 to publish a proposed rule, is further required to prepare and make available for public comment, an initial regulatory flexibility analysis to describe the impact of the proposed rule on small entities. In this instance, the rate adjustment for P–SMBP relates to nonregulatory services provided by Western at a particular rate. Under 5 U.S.C. 601(2), rates of services or particular applicability are not considered "rules" within the meaning of the Act. Since the rate for P–SMBP power is of limited applicability, and is being set in accordance with specific regulations and legislation under particular circumstances, Western believes that no flexibility analysis is required.

Determination Under Executive Order 12291

The Department of Energy has determined that this is not a major rule because it does not meet the criteria of section 1(b) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Western has an exemption from sections 3, 4, and 7 of Executive Order 12291.

Issued at Washington, D.C., on August 2, 1985.

Ronald K. Greehalgh,

Assistant Administrator for Washington Liaison.

[FR Doc. 85–18948 Filed 8–8–85; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–51582; FRL–2875–1]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-five PMNs and provides a summary of each.

DATES: Close of Review Period:

P 85–1217, 85–1218, 85–1219, 85–1220 and 85–1221—October 16, 1985.

P 85–1222, 85–1223, 85–1224, 85–1225, 85–1226, 85–1227, 85–1228, 85–1229, 85–1230, 85–1231, 85–1232, 85–1233, 85–1234, 85–1235, 85–1236, 85–1237, 85–1238, 85–1239, and 85–1240—October 19, 1985.

P 85–1241, 85–1242, 85–1243, 85–1244, 85–1245, and 85–1246—October 20, 1985.

P 85–1247 and 85–1248—October 21, 1985.

P 85–1249, 85–1250 and 85–1251—October 22, 1985.

Written comments by:

P 85–1217, 85–1218, 85–1219, 85–1220, and 85–1221—September 16, 1985.

P 85–1222, 85–1223, 85–1224, 85–1225, 85–1226, 85–1227, 85–1228, 85–1229, 85–1230, 85–1231, 85–1232, 85–1233, 85–1234, 85–1235, 85–1236, 85–1237, 85–1238, 85–1239, and 85–1240—September 19, 1985.

P 85–1241, 85–1242, 85–1243, 85–1244, 85–1245, and 85–1246—September 20, 1985.

P 85–1247, and 85–1248—September 21, 1985.

P 85–1249, 85–1250, and 85–1251—September 22, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS–51582]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E–201, 401 M Street SW., Washington, DC 20460, (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Room E–611, 401 M Street SW., Washington, DC 20460 (202–382–3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

P 85–1217

Manufacturer. Confidential.

Chemical. (G) Poly(phenoxyalkylene) phosphate.

Use/Production. (G) Industrial specialty polymer. Prod. range: 1,000–10,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 21 workers, up to 8 hrs/da, up to 220 da/yr.

Environmental Release/Disposal. 0.1 to 16 kg/batch released to land. Disposal by incineration and landfill.

P 85–1218

Manufacturer. National Starch and Chemical Corporation.

Chemical. (G) Acrylate copolymer.

Use/Production. (S) Commercial plasticizer and water reducer for cement mortars and concrete. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

P 85–1219

Importer. Confidential

Chemical. Further clarification needed before information can be released to the public files.

Use/Import. (S) Industrial and commercial complexing agent for removal of heavy metals from water and wastewaters. Import range: 220,000–330,000 kg/yr.

Toxicity Data. TLM 48 hr (Goldfish): 2,500 parts per million (ppm); TLM 24 hr (Killifish): 40.7 ppm; TLM 48 hr (Killifish): 20.6 ppm; Human fetal fibrablast cell culture test: 500 mg/m2; Water rice test: Normal.

Exposure. Processing and use: dermal, a total of 13 workers, up to 4 hrs/da, up to 90 da/yr.

Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85–1220

Manufacturer. Ferro Corporation.

Chemical. (G) Chlorinated fatty acids, polyoxyalkylene esters.

Use/Production. (S) Industrial lubricity and extreme pressure additive for water-based metalworking coolants and lubricants. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential.

P 85–1221

Importer. Ricoh Corporation.

Chemical. (G) Styrene acrylic polymer.

Use/Import. (S) For copier toner, electrically charged and developed for image transfer, then applied onto the surface of paper as image registration after fusing. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Use: dermal, a total of 1 worker, 1 minute of time.

Environmental Release/Disposal. Confidential. Disposal by refuse.

P 85–1222

Importer. Confidential.

Chemical. (G) Polyether.

Use/Import. (S) Base fluid for synthetic lubricants. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 85–1223

Manufacture. Confidential.

Chemical. (G) Aliphatic amine adduct with epoxy resin.

Use/Production. (S) A cross-linking agent for epoxies used for potting and encapsulation of electrical components and adhesive formulation. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 8 hrs/da.

Environmental Release/Disposal. Release to land. Disposal by Resource Conservation and Recovery Act (RCRA) procedures.

P 85–1224

Manufacture. Confidential.

Chemical. (S) Polymer of N (alpha, alpha-dimethyl, metaisopropenyl benzyl), poly(oxy-1,2-ethanediyl), alpha-(nonyl phenyl), carbamate, methacrylic acid, ethyl acrylate.

Use/Production. (S) Used as a rheology aid in paints. Prod. range: 126,000–436,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 6 workers, up to 2 hrs/da, up to 55 da/yr.

Environmental Release/Disposal. Minimal release to air. Disposal by biological treatment lagoons and licensed landfill.

P 85–1225

Manufacture. CasChem, Inc.

Chemical. Modified castor oil polymer.

Use/Production. (S) Industrial and commercial polyol for urethane coatings,

elastomers, and for non-urethane coatings. Prod. range: Confidential.

Toxicity Data. Acute oral: 50.0 mg/kg; Acute dermal: 200 mg/kg; Irritation: Skin—Non-corrosive; Inhalation: 2.2 mg/L.

Exposure. Manufacture: a total of 10 workers.

Environmental Release/Disposal. Confidential.

P 85–1226

Manufacture. Confidential.

Chemical. (G) Polyether polyurethane polymer.

Use/Production. (G) Paint additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 85–1227

Manufacture. Confidential.

Chemical. (G) Polyether polyurethane polymer.

Use/Production. (G) Paint additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release. Confidential.

P 85–1228

Importer. Confidential.

Chemical. (S) 2-Naphthylazo 2'-uriedo, 4'-[3"-chloro 5"-(p-ethyl sulfonyl sulfuric ester potassium salt—phenylamino)-S-triazinylamino phenyl] 3,6,8—trisulfonic acid potassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release. Disposal in accordance with local regulations.

P 85–1229

Importer. Confidential.

Chemical. (S) 2-(3',5'-dichloro-S-triazinylamino)-4-amino 5-(p-ethyl sulfonyl sulfuric ester-potassium salt-benzeneazo)-benzene sulfonic acid-potassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release. Disposal in accordance with local regulations.

P 85–1230

Importer. Confidential.

Chemical. (S) 1-[3'-chloro-5'-(p-ethyl-sulfonyl-sulfuric acid ester—potassium salt-phenyl-amino)-S-triazinylamino]-5-[1"-ethyl-2-" hydroxy-3"azo-4" methyl-5"-carbamido-6" pyridonyl]-2,4-benzene-disulfonic acid—potassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release. Disposal in accordance with local regulations.

P 85–1231

Importer. Confidential.

Chemical. (S) 1(P-sulfo phenyl potassium salt)-3-carboxy acid potassium salt -4-[3' 3"-chloro-5"-(P-ethyl sulfonyl sulfuric ester potassium salt-phenylamino)-S-triazinylamino -6'-sulfonic acid potassium salt phenyl azo-]-5-pyrazolone.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release. Disposal in accordance with local regulations.

P 85–1232

Importer. Confidential.

Chemical. (S) 1-hydroxy-2-[4'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-8-[3" (4" '-ethylsulfonyl sulfuric acid ester potassium salt phenylamino)-5"chloro-S-triazinylamino]naphthalene-3-6-disulfonic acid dipotassium salt.

Use Import. (S) Reactive dye for textile. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

P 85–1233

Importer. Confidential.

Chemical. (S) 1-hydroxy-2-]2'-sulfonic acid potassium salt phenylazo)-8-[5>-chloro-3"-(4"-ethnyl sulfonyl sulfuric acid ester potassium salt phenylamino)-S-traizinylamino)]naphthalene-3,6-disulfonic acid dipotassium salt.

Use Import. (S) Reactive dye for textile. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

P 85–1234

Importer. Confidential.

Chemical. (S) 1-[3'-chloro 5'-(p-ethyl sulfonyl sulfuric ester sodium salt-phenylamino)-S-traizinylamino]-7-[2" Naphthyl-azo-1"-sulfonic acid sodium salt]-8-naphthol 3,6 disulfonic acid sodium salt.

Use Import. (S) Reactive dye for textile. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

P 85–1235

Importer. Confidential.

Chemical. (S) 1-hydroxy-2-[1', 5'-disulfonic acid dipotassium salt-2'-naphthyl-azo)-8-[3"-(4"-ethyl sulfonyl sulfuric acid ester potassium salt phenylamino)-5"-chloro-S-traizinylamino] naphthalene-3,6-disulfonic acid dipotassium salt.

Use Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

P 85–1236

Importer. Confidential.

Chemical. (S) [4- 1"-hydroxy 8"amino 7"(4 ' ' ' ethyl sulfonyl sulfuric acid ester potassium salt benzeneazo) 3",6" disulfonic acid dipotassium salt, 2" naphthylazo 4'(4" "-hydroxy-benzeneazo)] stilbene 2,2' disulfonic acid-dipotassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release. Disposal in accordance with local regulations.

P 85–1237

Importer. Confidential.

Chemical. (S) Copper complex of [Naphthalene 1-hydroxy 2-(5'-ethylsulfonyl sulfuric acid ester potassium salt 2'-methoxy benzeneazo) 6-(" hydroxy 8" acetylamino 3",6" disulfonic acid dipotassium salt 2' '-naphthylazo)3-sulfonic acid potassium salt].

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release. Disposal in accordance with local regulations.

P 85–1238

Importer. Confidential.

Chemical. (S) 4-[1"-hydroxy-8"-amino-7"-(4" ethyl sulfonyl sulfuric acid ester potassium salt benzeneazo) 3",6" disulfonic acid dipotassium salt 2' '-naphthylazo]4'[1" "-hydroxy 8" "(3' ' ' ' 5' ' ' ' '-dichloro-S-traizinylamino) 3" " 6" " disulfonic acid dipotassium salt 2" " naphthylazo] stilbene, 2-2 disulfonic acid-dipotassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release. Disposal in accordance with local regulations.

P 85-1239

Manufacturer. Sylvachem Corporation.
Chemical. Further clarification needed before information can be released to the public files.
Use/Production. (G) Co-reactant to be used in an open non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 25 workers, up to 3 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. ½ to 1 lb released to land. Disposal by approved landfill.

P 85-1240

Manufacturer. Sylvachem Corporation.
Chemical. Further clarification needed before information can be released to the public files.
Use/Production. (G) Co-reactant to be used in an open non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 25 workers, up to 3 hrs/da, up to 30 da/yr.
Environmental Release/Disposal. ½ to 1 lb released to land. Disposal by approved landfill.

P 85-1241

Manufacturer. Confidential.
Chemical. (G) Vinyl ether/anhydride copolymer.
Use/Production. (G) Consumptive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1242

Manufacturer. Confidential.
Chemical. (G) Ether higher alkyl ester copolymer.
Use/Production. (G) Oil additive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1243

Manufacturer. Sherex Chemical Company, Inc.
Chemical. (S) 1-propanaminium, 2-hydroxy-N,N-dimethyl-N-octyl-3-sulfo-, hydroxide, inner salt.
Use/Production. (S) Surfactant in industrial cleaners and commercial textile processing. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Not a primary irritant, Eye—Moderate.
Exposure. Manufacture: dermal, a total of 94 workers, up to 8 hrs/da, up to 25 da/yr.
Environmental Release/Disposal. 10 kg/batch released to water. Disposal by POTW.

P 85-1244

Manufacturer. Confidential.
Chemical. (G) Functional aromatic aliphatic polyether polyol.
Use/Production. (G) Open use industrial paint product. Prod. range: 1,000,000-5,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 77 workers, up to 8 hrs/da, up to 250 da/yr.
Environmental Release/Disposal. 6 to 140 kg/batch released to land. Disposal by incineration and approved landfill.

P 85-1245

Manufacturer. QO Chemicals, Inc.
Chemical. (S) *para*-Hydroxy benzene sulfonic acid, copper (II) salt.
Use/Production. (S) Industrial latent activator for foundry sand binder. Prod. range: 10,000-100,000 kg/yr.
Toxicity Data. Acute oral: 1,000 mg/kg: Irritation: Skin—Mild, Eye—Strongly irritating; Ames test: No mutagenic activity.
Exposure. Confidential.
Environmental Release/Disposal. 0.1 kg/batch released to water. Disposal by POTW.

P 85-1246

Manufacturer. Confidential.
Chemical. (G) Methacrylated liquid rubber.
Use/Production. (G) Open non-dispersive use—adhesive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1247

Manufacturer. H. B. Fuller Company.
Chemical. (G) Ethylene, vinyl acetate, methacrylic acid, hydroxy substituted hydrocarbon copolymer.
Use/Production. (S) Industrial adhesive and coating. Prod. range: 20,000-1,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, total of 80 workers, up to 2 hrs/da, up to 25 da/yr.
Environmental Release/Disposal. 15 kg/da to 50 kg/batch released to land. Disposal by licensed landfill.

P 85-1248

Manufacturer. Ethyl Corporation.
Chemical. (G) Aryloxycyclophosphazene.
Use/Production. (G) Polymeric foam compound processing aid. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

P 85-1249

Importer. Confidential.
Chemical. (G) Tetrafunctional silane.
Use/Import. (G) Intermediate. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1250

Importer. Confidential.
Chemical. (G) Organo tin.
Use/Import. (G) Intermediate. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-1251

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic polymer.
Use/Production. (G) Resin for non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 63 workers, up to 3 hrs/da, up to 50 da/yr.
Environmental Release/Disposal. ~2.5 kg/batch released to land with ~0.3 to ~1.5 kg/da of process. Disposal by contract hazardous waste.

Dated: July 29, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-18492 Filed 8-8-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59201; FRL-2874-8]

Certain Chemicals Test Marketing Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the

Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for an exemption, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: August 26, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-59201]" and the specific TME number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E-201, 401 M Street SW., Washington, DC 20460 (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Contral Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

T 85-60

Close of Review Period. September 1, 1985.

Manufacturer. Confidential.

Chemical. (G) Substituted phenoxy alkyl acid ester.

Use/Production. (G) Destructive use intermediate. Prod. range: 2,700 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal, a total of 8 workers, up to 1.0 hrs/da.

Environmental Release/Disposal. ~0.5 kg/batch to process samples. Disposal by incineration and Resource Conservation and Recovery Act (RCRA) approved site.

T 85-61

Close of Review Period. September 5, 1985.

Manufacturer. Monsanto Company.

Chemical. (G) Polymer of modified polyolefin and modified elastomer.

Use/Production. (G) Reactive polymeric polymer additive destructive use. Prod. range: Confidential.

Toxicity Data. Acute oral: LC50 96 hr: Greater 1,000 mg/1 (rainbow trout), Greater 1,000 mg/1 (48.hr) (daphina magna).

Exposure. Manufacture and use: dermal and inhalation, a total of 14 workers, up to 8 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Release to water. Disposal by publicly owned treatment works (POTW), and landfill.

Dated: July 29, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-18489 Filed 8-8-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-53073, FRL-2874-9]

Premanufacture Notices; Monthly Status Report for April 1985

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for April 1985.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53073]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E-201, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-613, 401 M Street SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during April; (b) PMNs received previously and still under review at the end of April; (c) PMNs for which the notice review period has ended during April; (d) chemical substances for which EPA has received a notice of commencement to manufacture during April and (e) PMNs for which the review period has been suspended. Therefore, the April 1985 PMN Status Report is being published.

Dated: July 25, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

I. 197 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-725	Generic name: Polymer of alkyl methacrylates, substituted alkyl methacrylates and styrene	50FR 14439 (4-12-85)	June 29, 1985
P 85-726	Generic name: Alicyclic carboxylic acid	50FR 14439 (4-12-85)	Do.
P 85-727	Generic name: Calcium inpac	50FR 14439 (4-12-85)	Do.
P 85-728	Generic name: Modified trisphenol novolac	50FR 14439 (4-12-85) (14440)	Do.
P 85-729	Generic name: Acrylate, methacrylate, polymer styrene	50FR 14439 (4-12-85) (14440)	Do.
P 85-730	Generic name: Substituted phosphate ester	50FR 14439 (4-12-85) (14440)	Do.
P 85-731	Generic name: Neutralized acrylic polymer	50FR 14439 (4-12-85) (14440)	Do.
P 85-732	Generic name: Halogenated aromatic substituted alkane	50FR 14439 (4-12-85) (14440)	Do.
P 85-733	Generic name: Halogenated aromatic polyner	50FR 14439 (4-12-85) (14440)	Do.
P 85-734	Generic name: Halogenated aromatic alkane	50FR 14439 (4-12-85) (14440)	Do.
P 85-735	Generic name: Substituted pyridine disazo dye	50FR 14439 (4-12-85) (14440)	Do.
P 85-736	Generic name: Modified rosin, calcium-zinc salt	50FR 14439 (4-12-85) (14440)	Do.
P 85-737	Generic name: Copolymer of polyfluoro-alkyl substituted methacrylate and polysubutituted methacrylate	50FR 14439 (4-12-85) (14440)	Do.
P 85-738	Generic name: Alkyl resin	50FR 14439 (4-12-85) (14440)	Do.
P 85-739	Generic name: Phenol-substituted alkane	50FR 14439 (4-12-85) (14440)	Do.

I. 197 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-740	Generic name: Polymer of acrylates, substituted acrylamide and dimethyl diallyl ammonium chloride	50FR 14439 (4-12-85) (14441)	Do.
P 85-741	Generic name: Acrylic acid—acrylamido-sulfonic acid copolymer including phosphino groups	50FR 14439 (4-12-85) (14441)	Do.
P 85-742	Generic name: Alkyl polyoxyalkylene phosphate esters	50FR 14439 (4-12-85) (14441)	July 1, 1985.
P 85-743	Generic name: Isocyanato oxazolidenyl isocyanurate	50FR 14439 (4-12-85) (14441)	Aug. 7, 1985.
P 85-744	4-N-tetradecyl 4'-(2-methylbutyl)phenyl-benzoate	50FR 14439 (4-12-85) (14441)	July 1, 1985.
P 85-745	4-n-Hexyloxyphenyl 4-(2-methylbutyl) biphenyl 4'-carboxylate	50FR 14439 (4-12-85) (14441)	Do.
P 85-746	4-(2-methylbutyl) phenyl 4-(2-methyl butyl)biphenyl 4'-carboxylate	50FR 14439 (4-12-85) (14441)	Do.
P 85-747	4-Cyanophenyl-4-(2'-methylbutyl) biphenyl 4'-carboxylate	50 FR 14439 (14441) (4-12-85)	Do.
P 85-748	4-n-octyloxyl 4'-(2-methylbutyl)-phenyl-benzoate	50 FR 14439 (14441) (4-12-85)	Do.
P 85-749	4-n-Hexyloxy 4'-(2-methylbutyl)-phenyl-benzoate	50 FR 14439 (14441) (4-12-85)	Do.
P 85-750	4-n-decyloxyl 4'-(2-methylbutyl)-phenyl benzoate	50 FR 14439 (14441) (4-12-85)	Do.
P 85-751	4-n-dodecyloxy 4'-(2-methylbutyl)-phenyl benzoate	50 FR 14439 (14441) (4-12-85)	Do.
P 85-752	4(2-methylbutyl)-phenyl 4'-n-octylbiphenyl carboxylate	50 FR 14439 (14441) (4-12-85)	Do.
P 85-753	4-n-propyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 14439 (14442) (4-12-85)	Do.
P 85-754	4-n-Pentyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 14439 (14442) (4-12-85)	Do.
P 85-754	4(2-methylbutyl)-phenyl 4'-n-heptylbiphenyl carboxylate	50 FR 14439 (14442) (4-12-85)	Do.
P 85-756	4-n-heptyl 4'-(2-methylbutyl)-phenyl benzoate	50 FR 14439 (14442) (4-12-85)	Do.
P 85-757	4-N-nonyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 14439 (14442) (4-12-85)	Do.
P 85-758	4-(2-Methylbiutyl) 4'-pentylbiphenyl carboxylate	50 FR 14439 (14442) (4-12-85)	Do.
P 85-759	Generic name: Reaction product of triglycidyl ether of substituted tri-(hydroxyphenyl) methane and substituted phenol	50 FR 14439 (14442) (4-12-85)	July 2, 1985.
P 85-760	Generic name: Acrylate, methacrylate, styrene polymer	50 FR 14439 (14442) (4-12-85)	Do.
P 85-761	Generic name: Diphenylmethane diisocyanate-terminated polyol polyurethane prepolymer	50 FR 14439 (14442) (4-12-85)	Do.
P 85-762	Generic name: Bis(disubstituted anthra-quinone) heterocycle	50 FR 15629 (4-19-85)	July 3, 1985.
P 85-763	Generic name: Polycarboxylic and poly-heterocyclic compound with anthraquinone and carbazole substructures	50 FR 15629 (4-19-85)	Do.
P 85-764	Generic name: 4-(Trans-4-n-alkycyclo-hexeyl)-n-alkylbenzene	50 FR 15629 (15630) (4-19-85)	Do.
P 85-765	Generic name: 4-N-alkoxyphenyl-4-trans-n-pentyt cyclohexyl carboxylate	50 FR 15629 (15630) (4-19-85)	Do.
P 85-766	Generic name: 4-(Trans-4-n-alkylcyclo-hexyl)-4'-Trans-4-n-alkyl'cyclohetyl biphenyl	50 FR 15629 (15630) (4-19-85)	Do.
P 85-767	Generic name: 4-n-Alkoxyphenyl-trans-4-n-alkycyclohexyl carboxylate	50 FR 15629 (15630) (4-19-85)	Do.
P 85-768	Generic name: Trans-5-n-alkyl-2-[4-cyano-biphenyl]-1, 3-dioxane	50 FR 15629 (15630) (4-19-85)	Do.
P 85-769	Generic name: Trans-5-n-alkyl-2-[4-cyano-biphenyl]-1, 3-dioxane	50 FR 15629 (15630) (4-19-85)	Do.
P 85-770	Generic name: 4-n-alkoxyphenyl-trans-4-n-alkylcyclohexyl carboxylate	50 FR 15629 (15630) (4-19-85)	Do.
P 85-771	Generic name: 4-n-alkoxyphenyl-4-trans n-alkyl cyclohexyl carboxylate	50 FR 15629 (15630) (4-19-85)	Do.
P 85-772	Generic name: 4-n-alkyl-4" (4-trans-n-alkyl") cyclohexyl biphenyl	50 FR 15629 (15630) (4-19-85)	Do.
P 85-773	Generic name: 4-(Trans-4-n-alkylcyclo-hexyl)-n-alkoxybenzene	50 FR 15629 (15630) (4-19-85)	Do.
P 85-774	Generic name: 4-(Trans-4-N-alkylcyclo-hexyl)-n-alkyl' benzene	50 FR 15629 (15630) (4-19-85)	Do.
P 85-775	Generic name: 5-n-alkyl-2-[4-n-alkoxyl-phenyl]-1,3-pyrimidine	50 FR 15629 (15630) (4-19-85)	Do.
P 85-776	Generic name: 5-n-alkyl-2-[4-n-alkoxyl-phenyl]-1,3-pyrimidine	50 FR 15629 (15631) (4-19-85)	Do.
P 85-777	Generic name: Trans-5-n-alkyl-2-[4-cyano-biphenyl]-1,3-dioxine	50 FR 15629 (15631) (4-19-85)	Do.
P 85-778	Generic name: 5-n-alkyl-2-[4-n-alkoxy-phenyl]-1,3-pyrimidine	50 FR 15629 (15631) (4-19-85)	Do.
P 85-779	Generic name: 5-n-alkyl-2-[4-n-alkoxy phenyl]-1,3-pyrimidine	50 FR 15629 (15631) (4-19-85)	Do.
P 85-780	Generic name: Condensed aminomethylated tannins	50 FR 15629 (15631) (4-19-85)	July 7, 1980.
P 85-781	Generic name: Substituted polyglycol	50 FR 15629 (15631) (4-19-85)	Do.
P 85-782	Generic name: Substituted polyglycol	50 FR 15629 (15631) (4-19-85)	Do.
P 85-783	Generic name: Adduct of chlorinated olefin/polydiene	50 FR 15629 (15631) (4-19-85)	Do.
P 85-784	Generic name: Substituted polyglycol	50 FR 15629 (15631) (4-19-85)	Do.
P 85-785	Generic name: Copolyacrylate	50 FR 15629 (15631) (4-19-85)	Do.
P 85-786	Generic name: Fatty dibasic acids, amides from polyoxyalkylene amines	50 FR 15629 (1563) (4-19-85)	July 8, 1985.
P 85-787	Generic name: Substituted acylimidazoli-dene	50 FR 15629 (15631) (4-19-85)	Do.
P 85-788	Generic name: Substituted benzoate ester of polyphenylone oxide	50 FR 15629 (15631) (4-19-85)	Do.
P 85-789	Generic name: Polyester polydiacylurea resin	50 FR 15629 (15632) (4-19-85)	Do.
P 85-790	Generic name: Polyester polydiacylurea resin	50 FR 15629 (15632) (4-19-85)	Do.
P 85-791	Generic name: Haloborane—aromatic phosphate complex	50 FR 15629 (15632) (4-19-85)	Do.
P85-792	Generic name: Substituted indole	50 FR 15629 (15632) (4-19-85)	Do.
P 85-793	Generic name: Carboxyphenylcarbonylindole	50 FR 15629 (15632) (4-19-85)	Do.
P 85-7	Generic name: Carboxyphenylcarbonylindole	50 FR 15629 (15632) (4-19-85)	Do.
P 85-795	Generic name: Isobenzofuranone	50 FR 15629 (15632) (4-19-85)	Do.
P 85-796	Generic name: Isobenzofuranone	50 FR 15629 (15632) (4-19-85)	Do.
P 85-797	Generic name: Diamino-polydimethylsiloxane	50 FR 15629 (15632) (4-19-85)	July 9, 1980.
P 85-798	Generic name: Polyimide siloxane	50 FR 15629 (15632) (4-17-85)	Do.
P 85-799	Generic name: Modified polyacrylate polymer	50 FR 15629 (15632) (4-19-85)	Do.
P 85-800	Generic name: Sodium salt of polycarboxylic acid	50 FR 1 541 (4-26-5)	July 10, 1985.
P 85-801	Generic name: Adduct of polymeric 4, 4'-phenylmethane diisocyanate and hydroxyester of terephthalic aciad	50 FR 16541 (4-26-85)	Do.
P 85-802	Generic name: Functionalized styrene methacrylic polymer	50 FR 16541 (4-26-85)	July 13, 1985.
P 85-803	Generic name: 4, 4'-phenylmethane diisocyanate adduct of polyether polyol	50 FR 16541 (4-26-85)	Do.
P 85-804	2-methyl-6-quinolinamine hydrochloride	50 FR 16541 (4-26-85)	July 14, 1985.
P 85-805	2-methyl-6-quinolinamine	50 FR 16541 (4-26-85)	Do.
P 85-806	2-methyl-6-nitroquinoline	50 FR 16541 (4-26-85)	Do.
P 85-807	Generic name: Polyperester of ketopolycyclic polyacid	50 FR 16541 (4-26-85)	Do.
P 85-808	Generic name: Polyester resin	50 FR 16541 (4-26-85)	Do.
P 85-809	Generic name: Terpolymer with styrene and methyl methacrylate	50 FR 16541 (16542) (4-26-85)	Do.
P 85-810	(Z)-1-bromo-3-hexene	50 FR 16541 (16542) (4-26-85)	Do.
P 85-811	Generic name: Polyurethane polyol	50 FR 16541 (16542) (4-26-85)	July 15, 1985.
P 85-812	Generic name: 2-[3', 5'-disubstituted-2'-hydroxyphenyl] benzotriazole	50 FR 16541 (16542) (4-26-85)	Do.
P 85-813	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541 (16542) (4-26-85)	Aug. 14, 1985.
P 85-814	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541 (16542) (4-26-85)	Do.
P 85-815	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541 (16542) (4-26-85)	Do.
P 85-816	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 16541 (16542) (4-26-85)	Do.
P 85-817	Generic name: Copolymer of unsaturated polyester and allyl-coumpunds	50 FR 16541 (16542) (4-26-85)	Do.
P 85-818	Generic name: Benzenesulfonic acid, 4-[[-substituted]-3-methyl-5-oxo-2-pyrazolin-l-yl], salt	50 FR 16541 (16542) (4-26-85)	July 16, 1985.
P 85-819	Generic name: Tall oil fractions, unsaturated hydrocarbon resin dienaophile modified polymer with pentaerythritol	50 FR 16541 (16542) (4-26-85)	Do.
P 85-820	Generic name: Carboxylic modified rosin	50 FR 16541 (16542) (4-26-85)	Do.
P 85-821	Generic name: Alkyd resin	50 FR 18916 (5-3-85)	July 17, 1985.
P 85-822	Generic name: Substituted alkyl alkanol	50 FR 18916 (5-3-85)	Do.
P 85-823	Generic name: Alkene-methacrylate copolymer	50 FR 18916 (5-3-85)	Do.
P 85-824	Generic name: Acrylic modified alkyd	50 FR 18916 (5-3-85)	July 20, 1985.
P 85-825	Generic name: 1-H-pyrazole-3-carboxylic acid, 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-4-[(4-sulfophenyl)azo], mixed salt	50 FR 18916 (5-3-85)	Do.
P 85-826	Generic name: Polyfluoro substituted alkyl, N-substituted amino alcohol	50 FR 18916 (5-3-85)	July 21, 1985.
P 85-827	Generic name: Phenoxazinium, bis(substituedamino), salt	50 FR 18916 (5-3-85)	Do.

I. 197 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-828	Generic name: Cycloalkenylpentenol	50 FR 18916 (5-3-85)	Do.
P 85-829	Generic name: Isothiocyanate of substituted polycyclic compound	50 FR 18916 (5-3-85)	Do.
P 85-830	Generic name: Thiocarbamate of substituted polycyclic compound	50 FR 18916 (5-3-85)	Do.
P 85-831	Generic name: Isothiocyanate of substituted polycyclic compound	50 FR 18916(18917) (5-3-85)	Do.
P 85-832	Generic name: Polyester resin	50 FR 18916(18917) (5-3-85)	Do.
P 85-833	Generic name: Urethane with blocked multifunctional isocyanates	50 FR 18916(18917) (5-3-85)	Do.
P 85-834	Generic name: Vinyl-substituted organosilicone copolymer	50 FR 18916(18917) (5-3-85)	Do.
P 85-835	Generic name: Organosilicone copolymer	50 FR 18916(18917) (5-3-85)	Do.
P 85-836	(+) 4-n-tetradecyl 4'-(2-methylbutyl) (	50 FR 18916(18917) (5-3-85)	July 1, 1985.
P 85-837	(+) 4-n-hexyloxyphenyl 4-(2-methylbutyl) biphenyl 4" carboxylate	50 FR 18916(18917) (5-3-85)	Do.
P 85-838	(+)-4-(2-meihylbutyl) phenyl 4-(2-methylbutyl) biphenyl 4" carboxylate	50 FR 18916(18917) (5-3-85)	Do.
P 85-839	(+)-4-cyanophenyl-4-(2"-methylbutyl) biphenyl 4'-carboxylate	50 FR 18916(18917) (5-3-85)	Do.
P 85-840	(+) 4-n-octyloxyl 4'-(2-methylbutyl) phenylbenzoate	50 FR 18916(18917) (5-3-85)	Do.
P 85-841	(+) 4-n-hexyloxy 4'-(2-methylbutyl)-phenyl-benzoate	50 FR 18916(18917) (5-3-85)	Do.
P 85-842	(+) 4-n-decyloxy 4'-(2-methylbutyl)phenyl-benzoate	50 FR 18916(18917) (5-3-85)	Do.
P 85-843	(+) 4-n-dodecyloxy 4'-(2-methylbutyl)-phenylbenzoate	50 FR 1816(18917)(5-3-5)	Do.
P 85-844	(+) 4(2-methylbutyl)-phenyl '-octylbiphenyl carboxylate	50 FR 18916(18918) (5-3-85)	Do.
P 85-845	(+) 4-n-propyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-846	(+) 4-n-pentyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-847	(+) 4(2-methylbutyl) phenyl 4'-n-heptylviphenyl carboxylate	50 FR 18916(18918) (5-3-85)	Do.
P 85-848	(+) 4-n-heptyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-849	(+) 4-n-pentyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-846	(+) 4-n-nonyl 4'-(2-methylbutyl)-phenylbenzoate	50 FR 18916(18918) (5-3-85)	Do.
P 85-850	(+) 4-(2-methylbutyl) 4'-pentylbiphenyl carboxylate	50 FR 18916(18918) (5-3-85)	Do.
P 85-851	Generic name: Copolymer of vinyl acetate	50 FR 18916(18918) (5-3-85)	July 22, 1985.
P 85-852	Generic name: Alkyl ester of phosphorous	50 FR 18916(18918) (5-3-85)	Do.
P 85-853	Generic name: Cycloaliphatic and cycloaromatic composite polyester	50 FR 18916(18918) (5-3-85)	Do.
P 85-854	Generic name: Triglycidyl ether of substituted tri(hydroxyphenyl)methane	50 FR 18916(18918) (5-3-85)	Do.
P 85-855	Generic name: Triglycidyl ether of substituted tri(hydroxyphenyl)methane	50 FR 18916(18918) (5-3-85)	Do.
P 85-856	Generic name: Oxime based polyurethane	50 FR 18916(18919) (5-3-85)	July 23, 1985.
P 85-857	Generic name: Alkylalumium halide	50 FR 18916(18919) (5-3-85)	Do.
P 85-858	Generic name: Polyester	50 FR 18916(18919) (5-3-85)	Do.
P 85-859	Generic name: Acrylic resin	50 FR 19798 (5-10-85)	July 24, 1985.
P 85-860	Generic name: Functionally modified acrylate type polymer	50 FR 19798 (5-10-85)	Do.
P 85-861	Generic name: Ammonium salt	50 FR 19798 (5-10-85)	Do.
P 85-862	Generic name: Blocked aliphatic polyisocyanate	50 FR 19796 (5-10-85)	Do.
P 85-863	Polymer of ethylene, ethyl acrylate, and maleic anhydride	50 FR 19798(19799) (5-10-85)	Do.
P 85-864	Generic name: Dimethylhydrogen terminated polysiloxane	50 FR 19798(19799) (5-10-85)	July 27, 1985.
P 85-865	Generic name: Substituted phenyl acetonitrile	50 FR 19798(19799) (5-10-85)	Do.
P 65-866	Generic name: Substituted phenyl acetonitrile	50 FR 19798(19799) (5-10-85)	Do.
P 85-867	Generic name: Ketopolycyclic polyacid	50 FR 19798(19799) (5-10-85)	July 28, 1985.
P 85-868	Generic name: Diacetyl polycyclic hydrocarbon	50 FR 19798(19799) (5-10-85)	Do.
P 85-869	Generic name: Ketopolycyclic polyacidchloride	50 FR 19798(19799) (5-10-85)	Do.
P 85-870	Generic name: Isocyanate-termianted polyurethane	50 FR 19798(19799) (5-10-85)	Do.
P 85-871	Generic name: Hydroxy-terminated polyurethane	50 FR 19798(19799) (5-10-85)	Do.
P 85-872	Generic name: Fatty acid, resinous amidoamine	50 FR 19798(19799) (5-10-85)	Do.
P 85-873	Generic name: Resinous amidoamine	50 FR 19798(19799) (5-10-85)	Do.
P 85-874	3-thiahept-5-ene-1-ol	50 FR 19798(19799) (5-10-85)	Do.
P 85-875	Generic name: Alkylamidopropyl betaine	50 FR 19798(19799) (5-10-85)	Do.
P 85-876	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-877	Generic name: Alkylaminopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-878	Generic name: Alkylaminopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-879	Generic name: Alkylaminopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-880	Generic name: Sodium bisulfite reaction product with an epoxidized natural oil	50 FR 19798 (19800) (5-10-85)	Do.
P 85-881	Generic name: 2,2,6,6-tetramethyl-4 N-(substituted)aminopiperidine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-882	Octadecenamide, N-[2-[(2-hydroxyethyl) amino]ethyl]-, monohydrochloride (salt)	50 FR 19798 (19800) (5-10-85)	Do.
P 85-883	Generic name: Polyurethane	50 FR 19798 (19800) (5-10-85)	Do.
P 85-884	Generic name: Blocked-isocyanate polyurethane polyether	50 FR 19798 (19800) (5-10-85)	Do.
P 85-885	Generic name: Unsaturated polyester resin	50 FR 19798 (19800) (5-10-85)	Do.
P 85-886	Generic name: Brominated unsaturated polyester resin	50 FR 19798 (19800) (5-10-85)	Do.
Y 85-36	Generic name: Acrylamide-acrylic acid terpolymer, mixed sodium ammonium salt	50 FR 14446 (4-12-85)	Apr. 21, 1985.
Y 85-37	Generic name: Acrylamide-acrylic acid terpolymer, sodium salt	50 FR 14446 (4-12-85)	Do.
Y 85-38	Generic name: Polyester polyurethane	50 FR 14446 (4-12-85)	Do.
Y 85-39	Generic name: Polyester polymer	50 FR 14446 (4-12-85)	Do.
Y 85-40	Generic name: Polyester polymer	50 FR 14446 (4-12-85)	Apr. 22, 1985.
Y 85-41	Generic name: Polyester polyol	50 FR 14446 (4-12-85)	Do.
Y 85-42	Generic name: Alkyd resin	50 FR 14446 (4-12-85)	Do.
Y 85-43	Generic name: Modified polyamide	50 FR 15632(15633) (4-19-85)	Apr. 25, 1985.
Y 85-44	Generic name: Dimer acids, monocarboxylic acids, polyamines, polyamide resin	50 FR 15632(15633) (4-19-85)	Apr. 28, 1985.
Y 85-45	Polymer of: soybean oil, pentaerythritol, phthalic anhydride, intermediate, 1,2 propanediol, 1,3-diisocyanato-methyl-benzene and dipropylene glycol monomethyl ether.	50 FR 15632(15633) (4-19-85)	Do.
Y 85-46	Polymer of: phthalic anhydride, trimethylolpropane and tone 0200 polycaprolactone diol	50 FR 15632(15633) (4-19-85)	Do.
Y 85-47	Generic name: Alkali-soluble styrene-acrylate random copolymer	50 FR 15632(15633) (4-19-85)	Apr. 29, 1985.
Y 85-48	Generic name: Alkali-soluble styrene-acrylate random copolymer	50 FR 15632(15633) (4-19-85)	Do.
Y 85-49	Generic name: Alkali-soluble styrene-acrylate random copolymer	50 FR 15632(15633) (4-19-85)	Do.
Y 85-50	Generic name: Alkali-soluble styrene-acrylate random copolymer	50 FR 15632(15633) (4-19-85)	Do.
Y 85-51	Generic name: Acrylic copolymer resin	50 FR 15632 (15633) (4-19-85)	Apr. 29, 1985.
Y 85-52	Generic name: Alkyl methacrylate polymer	50 FR 15632 (15633) (4-19-85)	Apr. 30, 1985.
Y 85-53	Generic name: Alkyl methacrylate polymer	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-54	Generic name: Alkyl methacrylate polymer	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-55	Generic name: Polyoxyalkylenesilsesquioxane	50 FR 16543 (4-26-85)	May 2, 1985.
Y 85-56	Generic name: Alkyd resin	50 FR 16543 (4-26-85)	May 6, 1985.
Y 85-57	Generic name: 1-substituted propane, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, mono sodium salt, polymer with 2-propenamide and 2 propenoic acid, sodium salt.	50 FR 16543 (4-26-85)	Do.
Y 85-58	Generic name: Polyester resin	50 FR 18919 (18920) (5-3-85)	May 12, 1985.
Y 85-59	Generic name: Polyester resin made from dibasic aromatic and aliphatic acids and aliphatic glycols	50 FR 18919 (18920) (5-3-85)	Do.
Y 85-60	Generic name: Polyester resin made for dibasic aromatic and aliphatic acids and aliphatic glycols	50 FR 18919 (18920) (5-3-85)	Do.
Y 85-61	Generic name: Urethane modified alkyd resin	50 FR 18919 (18920) (5-3-85)	May 14, 1985.
Y 85-62	Generic name: Phthalic modified alkyd resin	50 FR 18919 (18920) (5-3-85)	Do.
Y 85-63	Generic name: Isophthalic modified alkyd resin	50 FR 18919 (18920) (5-3-85)	Do.
Y 85-64	Generic name: Phthalic modified alkyd resin	50 FR 18919 (18920) (5-3-85)	Do.
Y 85-65	Generic name: Copolymer of vinyl acetate and olefins	50 FR 18919 (18920) (5-3-85)	Do.

I. 197 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
Y 85-66	Generic name: Linseed fatty acid modified polyester	50 FR 18919 (18920) (5-3-85)	May 15, 1985.
Y 85-67	Generic name: Polyester	50 FR 18919 (18920) (5-3-85)	Do.
Y 85-68	Generic name: Alkyd	50 FR 18919 (18920) (5-3-85)	Do.
Y 85-69	Generic name: Acrylated alkyd	50 FR 18919 (18920) (5-3-85)	Do.
Y 85-70	Generic name: Acrylic copolymer	50 FR 19797 (19798) (5-10-85)	May 20, 1985.

II. 118 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-613	Generic name: Dialkylamine substituted aryl-n-arylnitrone	50 FR 10536(10537) (3-15-85)	May 29, 1985.
P 85-614	Generic name: Dialkylamine substituted aryl-n-arylnitrone	50 FR 10536(10537) (3-15-85)	Do.
P 85-615	Generic name: Nitrobenzoic acid ester	50 FR 10536(10537) (3-15-85)	Do.
P 85-616	Generic name: Brominated propanoic acid derivative	50 FR 10536(10537) (3-15-85)	Do.
P 85-617	Generic name: Substituted-phenylazo-substituted-naphthalenedisulfonic acid, sodium salt	50 FR 10536(10537) (3-15-85)	Do.
P 85-618	Generic name: Substituted-phenylazo-substituted-naphthalenedisulfonic acid, sodium salt	50 FR 10536(10537) (3-15-85)	Do.
P 85-621	Generic name: Cyclopentene substituted alcohol	50 FR 10536(10537) (3-15-85)	June 1, 1985
P 85-622	Generic name: Poly[alkyl sulfonic acid, ammonium salt]	50 FR 10536(10538) (3-15-85)	Do.
P 85-623	Generic name: Substituted benzene sulfonic acid,-[chloro-[(substituted pheynl) amino]-triazinyl aminol]-[[amino carbonyl-ethyl-hydroxy-methyl-oxo-pyridinyl] hydroxy-methyl-oxo-pyridine]azo]-alkali metal salt	50 FR 10536(10538) (3-15-85)	Do.
P 85-624	Generic name: Amino-hydroxy-naphthalene disulfonic acid,-[(dichloro.triazinyl) amino] substituted phenyl azo]-[(substituted phenyl)azo]-, alkali metal salt	50 FR 10536(10538) (3-15-85)	Do.
P 85-625	Generic name: Copper phthalocyanine, [[(chloro-substituted-triazinyl) amino] substituted sulfonyl sulfo derivatives alkali metal salt	50 FR 10536(10538) (3-15-85)	Do.
P 85-626	Generic name: 3-Acetyl-7-(diethylamino)-2H-1-benzopyran-2-one	50 FR 10536(10538) (3-15-85)	Do.
P 85-627	Generic name: Alkenyloxysilane	50 FR 10536(10538) (3-15-85)	June 2, 1985.
P 85-628	Generic name: Alkyd resin	50 FR 10536(10538) (3-15-85)	Do.
P 85-629	Generic name: Potassium, 1-n-octyl sulfonate	50 FR 10536(10538) (3-15-85)	Do.
P 85-630	Generic name: Ammonium, 1-n-tetradecyl sulfonate	50 FR 10536(10538) (3-15-85)	Do.
P 85-631	Generic name: Sodium, 1-n-tetradecyl sulfonate	50 FR 10536(10538) (3-15-85)	Do.
P 85-632	Generic name: Ammonium, 1-n-hexadecyl sulfonate	50 FR 10536(10538) (3-15-85)	Do.
P 85-633	Generic name: Aminoalkanoic acid	50 FR 10536(10538) (3-15-85)	Do.
P 85-634	Generic name: Butyltin alkyl thio-glycolate	50 FR 10536(10538) (3-15-85)	Do.
P 85-635	Polymer of: Methylmethacrylate; butyl acrylate; dimethylaminoethyl methacrylate; and methacrylic acid	50 FR 10536(10539) (3-15-85)	Do.
P 85-636	Generic name: Substituted epoxy resin	50 FR 10536 (10539) (3-15-85)	Do.
P 85-637	Generic name: Phosphonomethylated amine	50 FR 10536 (10539) (3-15-85)	June 3, 1985.
P 85-638	Generic name: Substituted polyglycol	50 FR 10536 (10539) (3-15-85)	Do.
P 85-639	Generic name: Substituted polyglycol	50 FR 10536 (10539) (3-15-85)	Do.
P 85-640	Generic name: Substituted propenamide	50 FR 10536 (10539) (3-15-85)	Do.
P 85-641	Generic name: Substituted amino carboxamide	50 FR 10536 (10539) (3-15-85)	June 4, 1985.
P 85-642	2-Nonynoic acid, 2-methylpropyl ester	50 FR 10536 (10539) (3-15-85)	Do.
P 85-643	Generic name: Substituted pyridine	50 FR 10536 (10539) (3-15-85)	Do.
P 85-644	Generic name: Substituted alkanoic triester	50 FR 10536 (10539) (3-15-85)	Do.
P 85-645	Generic name: Titanium complex compound	50 FR 10536 (10539) (3-15-85)	Do.
P 85-646	Generic name: Titanium complex compound	50 FR 10536 (10539) (3-15-85)	Do.
P 85-647	Generic name: Trisubstituted naphthalene-carboxamide	50 FR 11557 (11558) (3-22-85)	June 5, 1985.
P 85-648	Generic name: Isopropylidene-bis-(1,1-dimethylpropyl) derivative	50 FR 11557 (11558) (3-22-85)	Do.
P 85-649	Generic name: Sulfurized alkyl phenol	50 FR 11557 (11558) (3-22-85)	Do.
P 85-650	Generic name: Mixed amine/alkane spiropolycarboxylate octaesters	50 FR 11557 (11558) (3-22-85)	Do.
P 85-651	Generic name: Mixed amine/alkane spiropolycarboxylate octaesters	50 FR 11557 (11558) (3-22-85)	Do.
P 85-652	Generic name: Reacted epoxy resin	50 FR 11557 (11558) (3-22-85)	June 8, 1985.
P 85-653	Generic name: Organomagnesium compound	50 FR 11557 (11558) (3-22-85)	Do.
P 85-654	Generic name: Halogenated organo-metal	50 FR 11557 (11558) (3-22-85)	June 9, 1985
P 85-655	Generic name: Quaternary ammonium humate	50 FR 11557 (11558) (3-22-85)	Do.
P 85-656	Generic name: Cyanobiphenyl, alkyl cyclohexane carboxylic acid	50 FR 11557 (11558) (3-22-85)	Do.
P 85-657	Generic name: Cyano-alkylterphenyl	50 FR 11557 (11558) (3-22-85)	Do.
P 85-658	Generic name: Cyanobiphenyl alkyl benzoic acid	50 FR 11557 (11558) (3-22-85)	Do.
P 85-659	Generic name: Cyano naphthyl alkyl cyclohexane carboxylic acid	50 FR 11557 (11558) (3-22-85)	Do.
P 85-660	Generic name: Fatty acid esters with alkanolamine, ethoxylated	50 FR 11557 (11559) (3-22-85)	June 10, 1985.
P 85-661	Generic name: Alkylthiophenol	50 FR 11557 (11559) (3-22-85)	Do.
P 85-662	Generic name: Organometallic polymer	50 FR 12623 (3-29-85)	June 12, 1985.
P 85-663	Generic name: Pyrrolopyrrol	50 FR 12623 (3-29-85)	Do.
P 85-664	Generic name: Reaction product of metallic alkyls and polysiloxanes	50 FR 12623 (3-29-85)	Do.
P 85-665	Generic name: Reaction product of metallic alkyls, polysiloxanes and titanates	50 FR 12623 (3-29-85)	Do.
P 85-666	Generic name: Polyester polyurethane	50 FR 12623 (3-29-85)	June 15, 1985.
P 85-667	Generic name: Aliphatic unsaturated aldehyde	50 FR 12623 (3-29-85)	Do.
P 85-668	Mixture of acetic acid, 2,2',2''-(dodecylstannylidyne) tris (thio)-tris-,trisooctyl ester and acetic acid, 2,2,'-(dodecylstannylidyne) bis (thio)-bis-,dissooctyl ester.	50 FR 12623 (3-29-85)	Do.
P 85-669	Generic name: Silylated amino carboxylate	50 FR 12623 (3-29-85)	Do.
P 85-670	Tall oil rosin propylene oxide reaction	50 FR 12623(12624) (3-29-85)	June 30, 1985.
P 85-671	Generic name: Reacted modified cyclo-aliphatic diamine	50 FR 12623(12624) (3-29-85)	June 4, 1985.
P 85-672	Generic name: Thionocarbamate derivative	50 FR 12623(12624) (3-29-85)	June 15, 1985.
P 85-673	Generic name: Silylated amino carboxylate	50 FR 12623(12624) (3-29-85)	Do.
P 85-674	Generic name: Aliphatic polyester	50 FR 12623(12624) (3-29-85)	June 16, 1985.
P 85-675	Generic name: Aliphatic/aromatic polyester	50 FR 12623(12624) (3-29-85)	Do.
P 85-676	Generic name: Functional polyester	50 FR 12623(12624) (3-29-85)	Do.
P 85-677	Generic name: Functional polyether	50 FR 12623(12624) (3-29-85)	Do.
P 85-678	Generic name: Aryl sulfonamide	50 FR 12623(12624) (3-29-85)	Do.
P 85-679	Generic name: Polyurethane	50 FR 12623(12624) (3-29-85)	Do.
P 85-680	Generic name: 1,1-dimethylpropyl peroxyester	50 FR 12623(12624) (3-29-85)	Do.
P 85-681	1,2,7,8-diepoxyoctane	50 FR 12623(12624) (3-29-85)	Do.
P 85-682	Generic name: Vinyl reactive plasticizer	50 FR 12623(12624) (3-29-85)	Do.
P 85-683	Methacryloxy ethylacidphthalate	50 FR 12623(12624) (3-29-85)	Do.
P 85-684	Generic name: Aliphatic polyester	50 FR 12623(12625) (3-29-85)	Do.
P 85-685	Triethanolamine, compounded with boron fluoride (1:1)	50 FR 12623(12625) (3-29-85)	Do.
P 85-686	Generic name: Acrylate copolymer	50 FR 12623(12625) (3-29-85)	Do.
P 85-687	Generic name: Acrylate copolymer	50 FR 12623(12625) (3-29-85)	Do.
P 85-688	Generic name: Acrylate copolymer	50 FR 12623 (12625) (3-29-85)	Do.
P 85-689	Generic name: Acrylate copolymer	50 FR 12623 (12625) (3-29-85)	Do.
P 85-690	Potassium antimony tris-(ethanediol)	50 FR 12623 (12625) (3-29-85)	June 17, 1985.

II. 118 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-691	Generic name: Metal salt of substituted (dialkyl) bis (alkyl succinate ester)	50 FR 12623 (12625) (3-29-85)	Do.
P 85-692	7-(diethylamino)-3-(1-oxo-3-phenyl-2-propenyl)-2H-1-benzopyran-2-one	50 FR 12623 (12625) (3-29-85)	June 18, 1985.
P 85-693	Generic name: Acrylated urethane resin	50 FR 12623 (12625) (3-29-85)	Do.
P 85-694	Generic name: 2-propenoic acid copolymer	50 FR 12623 (12625) (3-29-85)	Do.
P 85-695	Generic name: Acrylate copolymer	50 FR 12623 (12625) (3-29-85)	Do.
P 85-696	Generic name: Acrylate copolymer	50 FR 12623 (12626) (3-29-85)	Do.
P 85-697	Generic name: Acrylate copolymer	50 FR 12623 (12626) (3-29-85)	Do.
P 85-698	Generic name: Acrylate copolymer	50 FR 12623 (12626) (3-29-85)	Do.
P 85-699	Generic name: Polymer of styrene with acrylate and methacrylates	50 FR 13652 (4-5-85)	June 19, 1985.
P 85-700	Generic name: Mixed acrylate/methacrylate polymer	50 FR 13652 (4-5-85)	Do.
P 85-701	Generic name: Polyester derivative	50 FR 13652 (4-5-85)	Do.
P 85-702	Generic name: Acrylic terpolymer resin	50 FR 13652 (4-5-85)	Do.
P 85-703	Polymer of hydroxy ethyl acrylate; isophorone di isocyanate; and melpol 125	50 FR 13652 (4-5-85)	Do.
P 85-704	Generic name: Modified tripshenol novolac	50 FR 13652 (4-5-85)	Do.
P 85-705	Generic name: Substituted polyglycol	50 FR 13652 (4-5-85)	Do.
P 85-706	Generic name: Substituted pyridine	50 FR 13652 (4-5-85)	Do.
P 85-707	Generic name: Saturated polyester	50 FR 13652 (4-5-85)	Do.
P 85-708	Generic name: Saturated polyester, silicone modified	50 FR 13652 (13653) (4-5-85)	Do.
P 85-709	Generic name: Styrene-acrylic modified oil	50 FR 13652 (13653) (4-5-85)	Do.
P 85-710	Generic name: Poly acrylate/methacrylate ester	50 FR 13652 (13653) (4-5-85)	June 22, 1985.
P 85-711	Generic name: Metal alkoxide	50 FR 13652 (13653) (4-5-85)	June 23, 1985.
P 85-712	Generic name: Acrylic polymer substituted amine reaction product	50 FR 13652 (13653) (4-5-85)	Do.
P 85-713	Generic name: Styrene, acrylic copolymer	50 FR 13652 (13653) (4-5-85)	Do.
P 85-714	Generic name: Disubstituted urea	50 FR 13652 (13653) (4-5-85)	Do.
P 85-715	Generic name: Polycarbodi imide	50 FR 13652 (13653) (4-5-85)	Do.
P 85-716	Generic name: Poly(ethylene-butylacrylate-maleic anhydride)	50 FR 13652 (13653) (4-5-85)	June 24, 1985.
P 85-717	Generic name: Polyglycidyl ether of polyglycerol	50 FR 13652 (13653) (4-5-85)	Do.
P 85-718	Generic name: Polyol polyacrylate	50 FR 13652 (13653) (4-5-85)	Do.
P 85-719	Generic name: Polymer of styrene and methacrylates	50 FR 13652 (13653) (4-5-85)	June 25, 1985.
P 85-720	Generic name: Polyacrylate	50 FR 13652 (13653) (4-5-85)	Do.
P 85-721	Generic name: Melamine, hydroxypropyl-melamine polymer with formaldehyde	50 FR 13652 (13653) (4-5-85)	Do.
P 85-722	C_{14} and C_{18} unsaturated alkyl nitriles	50 FR 13652 (13654) (4-5-85)	Do.
P 85-723	Distillation residue from C_{14}-C_{18} un-saturated alkyl nitriles	50 FR 13652 (13654) (4-5-85)	Do.
P 85-724	Generic name: Ethoxylated thiol ether	50 FR 13652 (13654) (4-5-85)	June 26, 1985.

III. 118 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory

PMN No.	Identity/generic name	FR citation	Expiration date
P 84-913	Generic name: N,N'-bis[2 [2 [3-alkyl] thiazoline] vinyl]-1, 4-phenylene diamine double salt	49 FR 29616 (29618) (7-13-84)	Apr. 8, 1985.
P 84-968	Generic name: Alkyl ester	49 FR 30238 (30240) (7-27-84)	Apr. 19, 1985.
P 84-1007	Generic name: 3-alkyl-2-(2-anilino)vinyl thiazolinium salt	49 FR 32110 (8-10-84)	Apr. 8, 1985.
P 84-1074	Generic name: Polyurethane polymer	49 FR 34572 (8-31-84)	Apr. 26, 1985.
P 85-8	Generic name: Polyether polyester urethane	49 FR 41100 (41101) (10-19-84)	Apr. 21, 1985.
P 85-98	Generic name: 2,2'-(1, 3-phenylene)bis (4, 5-dihydro oxazole	49 FR 44676 (44677) (11-6-84)	Apr. 2, 1985.
P 85-152	Generic name: Reacted epoxy resin	49 FR 47106 (47109) (11-30-84)	Apr. 18, 1985.
P 85-325	Cobaltate(1-), [N-] [N- [8 [[5-aminosulfonyl)-2-hydroxyphenyl] azo]-7-hydroxyl-1-naptha-lenyl] acetamidato (2-)]-[3-[4,5-dihydro-4-[(2-hydroxy-5-nitrophenyl)azo-3-methyl-5-oxo-1H-pyrazol-1-yl]benzene-sulfonamidato (2-)-, sodium (9Cl).	49 FR 50444 (50446) (12-28-84)	Apr. 17, 1985.
P 85-326	Chromate(1-), [3-[4, 5-dihydro-4-[(2-hydroxy-5-nitrophenyl—azo]-3-methyl-5-oxol-1H-pyrazol-1-yl] benzene-sulfonamidato(2)] [4-hydroxy-3-[(3-hydroxy-1-naphthalenyl) azo] benzenesulfonamidato (2-)]-hydrogen (9C1).	49 FR 50444 (50446) (12-28-84)	Do.
P 85-352	Generic name: MDI adduct with a polyether glycol and a hydroxy methacrylate	50 FR 50 543 (544) (1-4-85)	Apr. 24, 1985.
P 85-365	Polymer of cyclohexanedimethanol, isophthalic acid, pentaerythritol, tetrisopropyl titanate and trimellatic anhydride	50 FR 1630 (1631) (1-11-85)	Apr. 1, 1985.
P 85-366	Generic name: Short oil alkyd resin	50 FR 1630 (1631) (1-11-85)	Do.
P 85-370	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630 (1632) (1-11-85)	Do.
P 85-371	Generic name: Acrylic alkyd resin	50 FR 1630 (1632) (1-11-85)	Do.
P 85-372	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-373	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-374	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-375	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-376	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-377	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-378	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-379	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-380	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-381	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-382	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630 (1632) (1-11-85)	Do.
P 85-383	Phenol, 2,4-bis[(dimethylamino)methyl]-6-methyl	50 FR 2718 (2719) (1-18-85)	Apr. 7, 1985.
P 85-384	Generic name: Epoxy amine adduct	50 FR 2718 (2719) (1-18-85)	Do.
P 85-385	Generic name: Acrylic rubber dispersion in epoxy resin	50 FR 2718 (2719) (1-18-85)	Do.
P 85-386	Generic name: Acrylate functional epoxy resin urethane	50 FR 2718 (2719) (1-18-85)	Do.
P 85-387	Generic name: Halogenated acrylate	50 FR 2718 (2719) (1-18-85)	Do.
P 85-388	Generic name: Modified copolymer of acrylic and vinyl aromatic monomers	50 FR 2718 (2719) (1-18-85)	Apr. 8, 1985.
P 85-389	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718 (2719) (1-18-85)	Apr. 9, 1985.
P 85-390	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718 (2719) (1-18-85)	Do.
P 85-391	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718 (2719) (1-18-85)	Do.
P 85-392	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718 (2719) (1-18-85)	Do.
P 85-393	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718 (2719) (1-18-85)	Do.
P 85-394	Generic name: Heteropolycycle azo benzeneamine derivative, salt	50 FR 2718 (2720) (1-18-85)	Do.
P 85-395	Generic name: Substituted polyester resin	50 FR 2718 (2720) (1-18-85)	Do.
P 85-396	Generic name: Metal salt of organo sulfur compound	50 FR 3592 (1-25-85)	Apr. 13, 1985.
P 85-397	Generic name: Acrylated cellulosic	50 FR 3592 (1-25-85)	Do.
P 85-398	Generic name: Vinyl acetate acrylic copolymer	50 FR 3592 (3593) (1-25-85)	Apr. 14, 1985.
P 85-399	N-1-pyrenyl-9-octadecenamide	50 FR 3592 (3593) (1-25-85)	Do.
P 85-400	N-(9-ethyl-9H-carbazol-3-yl)-9-octadecenamide	50 FR 3592 (3593) (1-25-85)	Do.
P 85-401	Generic name: Substituted aminoazobenzene	50 FR 3592 (3593) (1-25-85)	Do.
P 85-402	Generic name: Substituted aliphatic alcohol	50 FR 3592 (3593) (1-25-85)	Do.
P 85-403	Generic name: Mixed amine/alkane polycarboxylate	50 FR 3592 (3593) (1-25-85)	Do.

III. 118 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-404	Generic name: Mixed amine/alkane polycarboxylate	50 FR 3592 (3593) (1-25-85)	Do.
P 85-405	Generic name: Phosphated acrylate	50 FR 3592 (3593) (1-25-85)	Do.
P 85-406	Condensation product of nonylphenol-formaldehyde, ethoxylate, benzoic acid, maleic anhydride and sodium sulfite	50 FR 3592(3593) (1-25-85)	Apr. 16, 1985.
P 85-407	Condensation product of bisphenol A diglycidyl ether, tri-sec-butylphenol and ethylene oxide	50 FR 3592(3593) (1-25-85)	Do.
P 85-408	Generic name: Polymer from acrylic acid esters and substituted acrylamide	50 FR 3592(3593) (1-25-85)	Do.
P 85-409	Generic name: Acrylate polymer	50 FR 3592(3593) (1-25-85)	Do.
P 85-413	Generic name: Blocked isocyanate resin	50 FR 3592(3593) (1-25-85)	Do.
P 85-414	Generic name: Acrylated alkyd resin	50 FR 3592(3594) (1-25-85)	Do.
P 85-415	Generic name: Acrylic ester	50 FR 4896(4897) (2-4-85)	Apr. 17, 1985.
P 85-416	Generic name: Acrylic resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-417	Generic name: Acrylic resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-418	Generic name: Acrylic resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-419	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-420	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-421	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-422	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-423	Generic name: Acrylic resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-424	Diphyenylsulfone-3,3'-disulfonylhydrazide	50 FR 4896(4897) (2-4-85)	Do.
P 85-425	Generic name: Ether dicarboxylate	50 FR 4896(4897) (2-4-85)	Do.
P 85-426	Generic name: Complex organo-silane	50 FR 4896(4897) (2-4-85)	Apr. 21, 1985.
P 85-427	Generic name: Unsaturated polyester	50 FR 4896(4897) (2-4-85)	Do.
P 85-428	Generic name: Ester modified phenolic resin	50 FR 4896(4898) (2-4-85)	Do.
P 85-429	Generic name: Polyester	50 FR 4896(4898) (2-4-85)	Apr. 22, 1985.
P 85-430	Generic name: Complex organo-silane	50 FR 4896(4898) (2-4-85)	Do.
P 85-431	Generic name: Complex amino ester	50 FR 4896(4898) (2-4-85)	Do.
P 85-432	Generic name: Polyester polyurethane prepolymer	50 FR 4896(4898) (2-4-85)	Do.
P 85-433	Generic name: 1-Propanol, 3-mercapto-	50 FR 4896(4898) (2-4-85)	Do.
P 85-434	Generic name: Substituted cyclopropane carboxylic acid chloride	50 FR 4896(4898) (2-4-85)	Do.
P 85-435	Generic name: Polyether polyol digomer	50 FR 4896(4898) (2-4-85)	Do.
P 85-436	Generic name: Halogenated silicon magnesium titanium alkoxides	50 FR 4896(4898) (2-4-85)	Do.Apr. 23, 1985.
P 85-437	Generic name: Hydroxy-propyl-triazine	50 FR 4896(4898) (2-4-85)	Apr. 23, 1985.
P 85-438	Generic name: Bis(substituted-benzamide), N,N'-substituted-	50 FR 4896(4898) (2-4-85)	Do.
P 85-439	Generic name: Unsaturated polyester	50 FR 4896(4898) (2-4-85)	Do.
P 85-440	Methylmethacrylate-styrene-n-vinyl pyrrolidone terpolymer	50 FR 4896(4898) (2-4-85)	Do.
P 85-441	Generic name: Polymer from N-methyl-N-vinylacetamide, acrylic acid and N-substituted acrylamide	50 FR 8390(8391) (3-1-85)	Apr. 24, 1985.
P 85-442	Generic name: 2-Naphthalenediazonium, 5-sulfo, substituted	50 FR 5416 (2-8-85)	Do.
P 85-443	Generic name: Bis(substituted alkyl) disulfide	50 FR 5416 (2-8-85)	Do.
P 85-444	Generic name: Aromatic amidoamine	50 FR 5416 (2-8-85)	Apr. 27, 1985.
P 85-445	Generic name: Unsaturated polyester	50 FR 5416 (2-8-85)	Do.
P 85-446	2,3-isopropoylidene dioxyphenol	50 FR 5416 (2-8-85)	Do.
P 85-447	Polymer of 4,4'-isopropylidenedicyclo-hexanol-epichlorohydrin, terephthalic acid, isophthalic acid, adipic acid, tetra-methyl ammonium chloride, linseed fatty acid.	50 FR 5416 (2-8-85)	Apr. 28, 1985.
P 85-448	Generic name: Tetra-substituted-biphenol	50 FR 5416(5417) (2-8-85)	Do.
P 85-449	Generic name: Phosophorus acid ester	50 FR 5416(5417) (2-8-85)	Do.
P 85-450	Generic name: Alkyd resin	50 FR 5416(5417) (2-8-85)	Apr. 29, 1985.
P 85-451	Generic name: Alkyd resin	50 FR 5416(5417) (2-8-85)	Do.
P 85-452	Generic name: Alkyd resin	50 FR 5416(5417) (2-8-85)	Do.
P 85-453	Generic name: Alkyd resin	50 FR 5416(5417) (2-8-85)	Do.
P 85-454	Generic name: Tetra-substituted-biphenol	50 FR 5416(5417) (2-8-85)	Do.
P 85-455	Palm kernel acids, 2-sulfoethyl ester, sodium salt	50 FR 5416(5417) (2-8-85)	Do.
P 85-456	Generic name: Substituted phenylazopyridone trisulfonic acid	50 FR 5416(5417) (2-8-85)	Do.
P 85-28	Generic name: Rosin modified alkydrfesin	50 FR 10539(10540) (3-15-85)	Mar. 25, 1985.
P 85-29	Generic name: Modified rosin ester	50 FR 11559 (3-22-85)	Mar. 28, 1985.
P 85-30	Generic name: Acrylic polymer	50 FR 11559	Mar. 30, 1985.
Y 85-31	Generic name: Styrene acrylate t-thiol polymer	50 FR 11559 (3-22-85)	Apr. 1, 1985.
Y 85-32	Generic name: Terpolyamide	50 FR 11559 (3-22-85)	Do.
Y 85-33	Generic name: Copolyamide (polymer)	50 FR 11559 (3-22-85)	Do.
Y 85-34	Generic name: Calcium salt of -2-acrylamide-2-methyl-propanesulfonic acid copolymer	50 FR 12626 (3-29-85)	Apr. 4, 1985.
Y 85-35	Generic name: Aliphatic polyester alkali metal salt	50 FR 12626 (3-29-85)	Do.
Y 85-36	Generic name: Acrylamide-acrylic acid terpolymer, mixed sodium ammonium salt	50 FR 14446 (4-12-85)	Apr. 21, 1985.
Y 85-37	Generic name: Acrylamide-acrylic acid terpolymer, sodium salt	50 FR 14446 (4-12-85)	Do.
Y 85-38	Generic name: Polyester Polyurethane	50 FR 14446 (4-12-85)	Do.
Y 85-39	Generic name: Polyester polymer	50 FR 14446 (4-12-85)	Do.
Y 85-40	Generic name: Polyester polyol	50 FR 14446 (4-12-85)	Apr. 22, 1985.
Y 85-41	Generic name: Polyester polyol	50 FR 14446 (4-12-85)	Do.
Y 85-42	Generic name: Alkyd resin	50 FR 14446 (4-12-85)	Do.
Y 85-43	Generic name: Modified ployamide	50 FR 15632 (15633) (4-19-85)	Apr. 25, 1985.
Y 85-44	Generic name: Dimer acids, monocarboxylic acids, polyamines, polyamide resin	50 FR 15632 (15633) (4-19-85)	Apr. 28, 1985.
Y 85-45	Polymer of: soybean oil, pentaerythritol, phthalic anhydride, intermediate, 1,2 propanediol, 1,3-diisocyanato-methylben-zene and dipropylene glycol monomethyl ether.	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-46	Polymer of: phthalic anhydride, trimethylolpropane and tone 0200 polycaprolactone diol	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-47	Generic name: Alkali-soluble styrene-acrylate random copolymer	50 FR 15632 (15633) (4-19-85)	Apr. 29, 1985.
Y 85-48	Generic name: Alkali-soluble styrene-acrylate random copolymer	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-49	Generic name: Alkali-soluble styrene-acrylate random copolymer	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-50	Generic name: Alkali-soluble styrene-acrylate random copolymer	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-51	Generic name: Acrylic copolymer resin	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-52	Generic name: Alkyl methacrylate polymer	50 FR 15632 (15633) (4-19-85)	Apr. 30, 1985.
Y 85-53	Generic name: Alkyl methacrylate polymer	50 FR 15632 (15633) (4-19-85)	Do.
Y 85-54	Generic name: Alkyl methacrylate polymer	50 FR 15632 (15633) (4-19-85)	Do.

IV. 39 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN NO.	Chemical identification	FR citation	Date of commencement
P 81-275	Generic name: Lower alkyl ester of an alkyl propionic acid	46 FR 35344 (7-8-81)	Feb. 28, 1985.
P 81-276	Generic name: Sulfur-containing polyamide	46 FR 35344 (7-8-81)	Do.

IV. 39 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture—Continued

PMN NO.	Chemical identification	FR citation	Date of commencement
P 81-461	Polymer of ethenyl benzene, diethenyl benzene, chloromethoxy methane and hexamethylene tetramine	46 FR 47658 (9-29-81)	Mar. 16, 1985.
P 83-696	Generic name: Dimer fatty acids monocarboxylic acid, and polyamines polymer, modified with an acrylic copolymer	48 FR 21370 (21372) (5-12-83)	Jan. 31, 1985.
P 83-905	Generic name: Acetyl aniline ether	48 FR 32381 (32383) (7-15-83)	Mar. 1, 1985.
P 83-906	Generic name: Brominated aryl alkyl ether	48 FR 32381 (32383) (7-15-83)	Do.
P 83-907	Generic name: Substituted benzoyl benzoic acid	48 FR 32381 (32383) (7-15-83)	Do.
P 83-908	Generic name: Ethylated amino phenol	48 FR 32381 (32383) (7-15-83)	Do.
P 83-909	Generic name: Amino phenol	48 FR 32381 (32383) (7-15-83)	Do.
P 83-910	Generic name: Anilino-ether	48 FR 32381 (32383) (7-15-83)	Do.
P 83-1072	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39689 (39390) (9-1-83)	Mar. 16, 1985.
P 83-1244	Generic name: Modified polyester	48 FR 43397 (43400) (9-23-83)	Jan. 24, 1985.
P 84-168	Generic name: Oxo-fluorine substituted dioxolane	48 FR 50944 (50950) (11-4-83)	Mar. 20, 1985.
P 84-389	Generic name: Urethane acrylate	49 FR 6160 (6161) (12-17-84)	Mar. 25, 1985.
P 84-489	Generic name: Modified acrylic polymer	49 FR 11010 (3-23-84)	Mar. 8, 1985.
P 84-495	Generic name: Vegetable oil, ester with aromatic carboxylic acid	49 FR 11010 (11011) (3-23-84)	Apr. 8, 1985.
P 84-538	Generic name: Disubstitutedsulfamoyl-carbomonocycle azo substituted naphthalene sulfonic acid	49 FR 13744 (13745) (4-6-84)	Nov. 26, 1984.
P 84-561	Generic name: Low molecular weight modified polyacrylate	49 FR 14802 (14804) (4-13-84)	Apr. 1, 1985.
P 84-595	Generic name: Polyester resin	49 FR 16833 (16835) (4-20-84)	Apr. 22, 1985.
P 84-631	Generic name: Trisubstituted benzene-sulfonic acid derivative	49 FR 19110 (19111) (5-4-84)	Mar. 22, 1985.
P 84-687	Generic name: Substituted benzyl amino polyol	49 FR 21113 (21114) (5-18-84)	Mar. 25, 1985.
P 84-771	Generic name: Butyl salicylic acid potassium salt aqueous solution	49 FR 23916 (23918) (6-8-84)	Apr. 15, 1985.
P 84-821	Generic name: Acrylic modified epoxy	49 FR 24782 (24784) (6-15-84)	Mar. 25, 1985.
P 84-923	Generic name: Polyurethane prepolymer	49 FR 29451 (29452) (7-20-84)	Apr. 15, 1985.
P 84-940	Generic name: Vinyl acetate-acrylic copolymer	49 FR 29451 (29453) (7-20-84)	Apr. 29, 1985.
P 84-961	Generic name: Modified polymer of styrene with alkyl methacrylates	49 FR 30238 (30240) (7-27-84)	Do.
P 84-1097	Generic name: Alkyl phosphate ester amine salt	49 FR 34572 (34574) (8-31-84)	Mar. 27, 1985.
P 84-1104	Generic name: Substituted triazines	49 FR 35414 (35415) (9-7-84)	Apr. 9, 1985.
P 84-1149	Generic name: Disubstituted carbopoly-cycle, salt	49 FR 37458 (9-24-84)	Dec. 26, 1984.
P 84-1165	Generic name: Substituted benzotriazole	49 FR 37458 (37459) (9-24-84)	Mar. 16, 1985.
P 85-91	Generic name: Alcohol ether sulfate, sodium salt	49 FR 44676 (44677) (11-8-84)	Jan. 1, 1985.
P 85-138	Generic name: Substituted titanocene	49 FR 46482 (11-26-84)	Apr. 8, 1985.
P 85-226	Generic name: Substituted succinic acid	49 FR 47921 (47923) (12-7-84)	Apr. 29, 1985.
P 85-248	Generic name: Quinone-imine dye	49 FR 48802 (48803) (12-14-84)	Apr. 20, 1985.
P 85-256	Generic name: Alcohol ether sulfate, ammonium salt	49 FR 48802 (48803) (12-14-84)	Apr. 1, 1985.
P 85-276	Generic name: Substituted phenylazo substituted naphthalene sulfonic acid, salt	49 FR 49895 (49897) (12-24-84)	May 15, 1985.
P 85-314	Generic name: Fatty acid amide	50 FR 543 (544) (1-4-85)	Mar. 17, 1985.
P 85-366	Generic name: Short oil alkyd resin	50 FR 1630 (1631) (1-11-85)	Apr. 2, 1985.
P 85-371	Generic name: Acrylic alkyd resin	50 FR 1630 (1632) (1-11-85)	Do.

V. 129 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
P 83-1	Generic name: Polyhalogenated aromatic alkylated hycrocarbon	47 FR 46371 (10-18-82)	Oct. 22, 1982.
P 83-333	Generic name: Reaction product of poly-cyclesulfonic acid salt with phosphorous halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 72 (73) (1-3-83)	Mar. 14, 1983.
P 83-418	Generic name: Benzenedisulfonic acid, chlorotriaziniyaminodimethylphenylazo-sulfonaphthaleneazo-	48 FR 5304 (5306) (2-4-83)	Feb. 19, 1985.
P 83-461	Generic name: Substituted alkoxy silane	48 FR 7299 (7300) (2-16-83)	July 1, 1983.
P 83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4-22-83)	July 5, 1983.
P 83-669	Generic name: Chromium complex of substituted phenolazosulfonaphthol with naptholazosulfonaphthol	48 FR 20490 (5-6-83)	Aug. 5, 1983.
P 83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazosulfophenylpyrazolone.	48 FR 20490 (20491) (5-6-83)	Do.
P 83-770	Generic name: Cobalt complex of a substituted phenolazonaphtol	48 FR 24967 (24968) (6-3-83)	Aug. 15, 1983.
P 83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-formimidphenol with sulfonaphthylazo-sulfonaphtol.	48 FR 24967 (24968) (6-3-83)	Do.
P 83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30434 (30435) (7-1-83)	Sept. 21, 1983.
P 83-875	Generic name: 4-(2-cyno-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl) amino] benzene	48 FR 31460 (31462) (7-8-83)	Do.
P 83-876	Generic name: 4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	48 FR 31460 (31462) (7-8-83)	Do.
P 83-913	Generic name: Copper sulfonylphenazopoly-hydroxy phenazobenzoate	48 FR 32381 (32383)	Oct. 3, 1983.
P 83-1006	Generic name: (Amino)-(hydroxy)-(subsituted) (substituted) naphthalenedi-sulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) Napthalendi-sulonic acid, salts with sodium and potassium.	48 FR 36647 (36648) (8-12-83)	July 19, 1984.
P 83-1007	Generic name: (Substituted)-(substituted-hydroxy-naphthalenesulfonic acid, sodium salts	48 FR 36647 (36648) (8-12-83)	Do.
P 83-1012	Generic name: Bis(sulfophenychloro-triazineaminosulfophenylazo) hydroxyamino-disulfonaphthalene	48 FR 36647 (36648) (8-12-83)	Oct. 24, 1983.
P 83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl] derivative	48 FR 36647 (36649) (8-12-83)	Do.
P 83-1238	Generic name: Substituted anthraquinone	48 FR 43397 (43400) (9-23-83)	Dec. 9, 1983.
P 84-15	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Feb. 9, 1985.
P 84-17	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Do.
P 84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48866) (10-21-83)	Do.
P 84-50	Generic name: Substituted heterocyclic metal complex	48 FR 50951 (50952) (11-4-83)	Do.
P 84-64	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted-disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.	48 FR 50951 (59053) (11-4-83)	July 9, 1984.
P 84-108	Generic name: Trisubstituted heterocyclic disubstituted monocycle	48 FR 50944 (50945) (11-4-83)	Mar. 5, 1984.
P 84-121	Generic name: Substituted heterocyclic metal complex	48 FR 50944 (50946) (11-4-83)	Feb. 9, 1985.
P 84-306	Benzoic acid, 2-((((2-((2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester	49 FR 930 (932) (1-6-84)	Mar. 22, 1984.
P 84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	49 FR 930 (932) (1-6-84)	Do.
P 84-375	Generic name: Sodium salt of alkyl dithiocarbamates	49 FR 4960 (4961) (2-9-84)	Jan. 10, 1985.
P 84-376	Generic name: Aryl esters of alkyl dithiocarbamates	49 FR 4960 (4961) (2-9-84)	Do.
P 84-391	Generic name: Cuprazin(5-), [5-hydroxy-2-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted)phenyl]azo]-7-sulfo-2-naphthalenyl]amino]-6-[(3-sulfophenyl)amino)]-1,3,5-triazin-2-yl]amino]-6-[(2-hydroxy-5-sulfophenyl)]azo-1,7-naphthalene-disulfonato(7-)], pentasodium.	49 FR 6160 (6162) (2-17-84)	Apr. 27, 1984.
P 84-392	Generic name: Alkoxylated cycloaliphatic diamine	49 FR 6160 (6162) (2-17-84)	Do.
P 84-485	Generic name: Poly(oxy-1,2-ethanediyl) alpha-acyl-w-alkyl	49 FR 11009 (11010) (3-23-84)	June 4, 1984.
P 84-558	Generic name: Carboxylated alkane diol	49 FR 14802 (14803) (4-3-84)	Apr. 24, 1985.
P 84-591	Generic name: Sodium salt of an alkylated, sulfonated aromatic	49 FR 16833 (16835) (4-20-84)	Aug. 21, 1984.
P 84-597	Generic name: Blocked aliphatic polyisocyanate	49 FR 16833 (16835) (4-20-84)	July 19, 1984.
P 84-649	Generic name: Chromate, bis(substituted substituted phenolato)inorganic salts	49 FR 19110 (19113) (5-4-84)	July 20, 1984.
P 84-650	Generic name: Chromate, bis(substituted substituted substituted pyrazolyl),	49 FR 19110 (19113) (5-4-84)	Do.
P 84-651	Generic name: Chromate, bis(substituted substituted naphthalenolato)sodium	49 FR 19110 (19113) (5-4-84)	Do.
P 84-664	Generic name: Chromate, (substituted substituted phenolato)(substituted substituted substituted substituted phenolato)sodium.	49 FR 20060 (20061) (5-11-84)	Do.

V. 129 Premanufacture Notices for Which the Review Period Has Been Suspended—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
P 84-665	Generic name: Chromate, bis(substituted substituted substituted phenolato), sodium	49 FR 20060 (20061) (5-11-84)	Do.
P 84-669	Oleic, linoleic, palmitic acid ester of ethoxylated C_{12}-C_{14} alcohols	49 FR 20060 (20061) (5-11-84)	July 18, 1984.
P 84-673	Generic name: Chromate (substituted naphthalenolato)(substituted substituted naphthalenolato)inorganic salts	49 FR 20060 (20061) (5-11-84)	July 20, 1984.
P 84-698	Generic name: 9,10-Anthracenedione sulfonic acid, sodium salt	49 FR 22128 (22129) (5-25-84)	Aug. 10, 1984.
P 84-703	Oxo-octyl acetate	49 FR 22128 (22130) (5-25-84)	Oct. 29, 1984.
P 84-713	Generic name: Acrylated alkoxylated aliphatic polyol	49 FR 22128 (22130) (5-25-84)	Feb. 1, 1985.
P 84-737	Generic name: Glycol ether	49 FR 22865 (22866) (6-1-84)	Mar. 21, 1985.
P 84-738	Generic name: Glycol ether	49 FR 22865 (22866) (6-1-84)	Do.
P 84-742	Generic name: Cross-linked modified polyvinyl amide	49 FR 22865 (22866) (6-1-84)	Aug. 22, 1984.
P 84-796	Generic name: Polyfunctional azindine	49 FR 24782 (6-15-84)	Dec. 17, 1984.
P 84-814	Generic name: Polysubstituted polyol	49 FR 24782 (24784) (6-15-84)	Jan. 4, 1985.
P 84-824	Generic name: Brominated aromatic	49 FR 25676 (6-22-84)	Feb. 7, 1985.
P 84-858	Generic name: Polyalkylene glycol ether acrylate	49 FR 26800 (26801) (6-29-84)	Jan. 3, 1985.
P 84-881	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylates	49 FR 28614 (28615) (7-13-84)	Oct. 31, 1984.
P 84-886	Generic name: Triazine derivative	49 FR 28614 (28615) (7-13-84)	Oct. 22, 1984.
P 84-895	Generic name: Substituted-substituted benzenesulfonic acid coupled with substituted-substituted benzenes and substituted substituted naphthalenedi-sulfonic acid, sodium salt.	49 FR 28614 (28616) (7-13-84)	Nov. 16, 1984.
P 84-900	1,3,5-Triazine-2,4,6 (1H,3H,5H)-triona, 1,3,5-tris(2,3-dibromopropyl)-	49 FR 28616(28617) (7-13-84)	Mar. 26, 1985.
P 84-901	Bis(tetrabromobisphenol A)Bis(tribromophenyl)ethylenetetracarbonate	49 FR 28616 (28617) (7-13-84)	Feb. 7, 1985.
P 84-902	Hexabromodiphenyl amine	49 FR 28616 (28617) (7-13-84)	Do.
P 84-903	N-methylhexabromodiphenyl amine	49 FR 28616 (28617) (7-13-84)	Do.
P 84-913	Generic name: N,N'-bis(2-[2-(3-alkyl) thiasolino]vinyl)-1,4-phenylene diamine double salt	49 FR 28616 (28618) (7-13-84)	Nov. 28, 1984.
P 84-938	Polymer of hydroxy ethyl acrylate and polyisocyante T 1890/100	49 FR 29451 (29453) (7-20-84)	Jan. 3, 1985.
P 84-954	Generic name: Substituted aromatic	49 FR 30238 (30239) (7-27-84)	Apr. 29, 1985.
P 84-989	4-amino-3,6-bis[5-[4-(3-carboxypyridinio)-6-(4-chloro-3-sulfonateanilino)-1,3,5-triazin-2-ylamino]-2-sulfonato-phenylazo]-5-hydroxy-2, 7-naphthalene-disulfonate-dihydroxid, hexasodium.	49 FR 31136 (31137) (8-3-84)	Oct. 16, 1984.
P 84-1005	Generic name: Alkyl amine derivative	49 FR 32110 (8-10-84)	Oc. 24, 1984.
P 84-1053	Generic name: Ethoxylated vegetable fatty acid	49 FR 33718 (33720) (8-24-84)	Oc. 26, 1984.
P 84-1062	Methyl vinyl sulfone	49 FR 33718(33721) (8-24-84)	Mar. 25, 1985.
P 84-1079	Generic name: Alkylated diphenyl oxide	49 FR 34572(34573) (8-31-84)	Nov. 26, 1984.
P 84-1114	Generic name: Sodium salt of sulfonated, alkylated diphenyl oxide	49 FR 35414(35416) (9-7-84)	Nov. 19, 1984.
P 84-1128	Generic name: isoalkyleneoxy alkanol	49 FR 35414(35417) (9-7-84)	Nov. 26, 1984.
P 84-1129	Acetic acid, ester with C_8-C_{11} iso alcohols, C_{10}-rich	49 FR 35414(35417) (9-7-84)	Jan. 10, 1985.
P 84-1130	Acetic acid, ester with C_8-C_{10} alcohols, C_9-rich	49 FR 35414(35417) (9-7-84)	Do.
P 84-1131	Acetic acid, ester with C_{11}-C_{14} iso alcohols, C_{13}-rich	49 FR 35414(35417) (9-7-84)	Do.
P 84-1136	Generic name: Substituted aromatic amide	49 FR 36151(36152) (9-14-84)	Feb. 4, 1985.
P 84-1137	Generic name: Cycloaliphatic epoxide	49 FR 36151(36152) (9-14-84)	Do.
P 84-1144	Generic name: Isoalkyleneoxy alkanoate	49 FR 36151(36152) (9-14-84)	Feb. 11, 1985.
P 84-1145	Generic name: Alkyltrialkoxysilane	49 FR 36151(36152) (9-14-84)	Nov. 27, 1984.
P 84-1182	Generic name: Aminopolyamide-epichloro-hydrin resin	49 FR 38356(38357) (9-14-84)	Jan. 11, 1985.
P 84-1183	Generic name: Aminopolyamide-epichloro-hydrin polymer	49 FR 33356(38357) (9-14-84)	Do.
P 84-1188	Generic name: Modified acrylamide polymer	49 FR 38356(38357) (9-28-84)	Dec. 7, 1984.
P 84-1204	Generic name: Substituted, sulfonated naphthylazo sodium salt	49 FR 38356(38359) (9-28-84)	Dec. 17, 1984.
P 84-1219	Generic name: Substituted, pyridine	49 FR 39379(39380) (10-5-84)	Feb. 5, 1985.
P 84-1228	Generic name: Polyisoalkoxyalkanol	49 FR 39379(39381) (10-5-84)	Jan. 8, 1985.
P 84-1229	Generic name: Polyisoalkoxyalkanol	49 FR 39379(39381) (10-5-84)	Do.
P 85-16	Generic name: Acrylamide unsaturated quaternary ammonium copolymer	49 FR 41102(41103) (10-19-84)	Jan. 4, 1985.
P 85-30	Generic name: Carbopolycycle sulfonate of substituted phenyl azo substituted heteromonocycle	49 FR 43105(43106) (10-26-84)	Jan. 9, 1985.
P 85-31	Generic name: Carbopolycycle sulfonate of substituted heteromonocycle	49 FR 43105(43106) (10-26-84)	Do.
P 85-36	Generic name: Substituted pyridine	49 FR 43105(43106) (10-26-84)	Feb. 5, 1985.
P 85-67	2,2'-diallyl-4,4'-sulfonyl diphenol	49 FR 44139(44140) (11-2-84)	Jan. 23, 1985.
P 85-109	Generic name: Arylthioalkanoylhydrazide	49 FR 45657 (11-19-84)	Apr.17, 1985.
P 85-141	Generic name: Polyester acrylate	49 FR 46852(46853) (11-26-84)	Feb. 12, 1985.
P 85-142	Generic name: Aromatic epoxy ester	49 FR 46852(46853) (11-26-84)	Do.
P 85-155	Generic name: Halogenated aromatic sulamide	49 FR 47108 (47109) (11-30-84)	Feb. 13, 1985.
P 85-159	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Feb. 11, 1985.
P 85-160	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
P 85-161	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
P 85-162	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
P 85-194	Generic name: Acid amide salt	49 FR 47921 (12-7-84)	Feb. 20, 1985.
P 85-198	Generic name: Alkylated aromatic diamine	49 FR 47921 (47922) (12-7-84)	Mar. 8, 1985.
P 85-203	Generic name: Sulfur-containing polyalkylene oxide	49 FR 47821 (47822) (12-7-84)	Mar. 5, 1985.
P 85-216	Generic name: Substituted pyridine	49 FR 47921 (47922) (12-7-84)	Feb. 19, 1985.
P 85-234	Generic name: Disubstituted sulfide	49 FR 47921 (47924) (12-7-84)	Apr. 25, 1985.
P 85-236	Generic name: Substituted pyridine	49 FR 48801 (48802) (12-14-84)	Apr. 16, 1985.
P 85-258	Generic name: Substituted phenylazo substituted carbopolycycle-carboxylic acid, salt	49 FR 48801 (48803) (12-14-84)	Apr. 23, 1985.
P 85-259	Generic name: Substituted phenylazo substituted heteropolycycle	49 FR 48801 (48803) (12-14-84)	Do.
P 85-265	Amines, tri (C_{11-14}-iso-C_{13} rich)	49 FR 49695 (49896) (12-24-84)	Mar. 5, 1985.
P 85-296	Generic name: Silicone ester polyacrylate	49 FR 49895 (49898) (12-24-84)	Mar. 13, 1985.
P 85-298	Generic name: Amino acrylate monomer	49 FR 49695 (49898) (12-24-84)	Do.
P 85-301	Generic name: Urethane acrylate	49 FR 50444 (12-28-84)	Mar. 28, 1985.
P 85-317	Phosphine oxide, diphenyl (2,4,6-trimethyl-benzoyl)-	49 FR 50444 (50445) (12-28-84)	Mar. 14, 1985.
P 85-344	Benzoic acid, 2-(3-(1,3-benzodioxole-5-yl)-2 methyl propylidene)amino, methyl ester	50 FR 543 (544) (1-4-85)	Mar. 19, 1985.
P 85-360	Generic name: Partial metal complex of aminomethylene phosphonic acid	50 FR 1630 (1631) (1-4-85)	Mar. 22, 1985.
P 85-367	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630 (1631) (1-11-85)	Mar. 25, 1985.
P 85-368	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630 (1631) (1-11-85)	Do.
P 85-369	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630 (1631) (1-11-85)	Do.
P 85-383	Phenol, 2,4-bis[(dimethylamino)methyl]-6-methyl	50 FR 2719 (1-18-85)	Apr. 5, 1985.
P 85-395	Generic name: Substituted polyester resin	50 FR 2719 (1720) (1-18-85)	Apr. 1, 1985.
P 85-410	Generic name: Amine substituted imidazolidines	50 FR 3592 (2593) (1-25-85)	Mar. 5, 1985.
P 85-411	Generic name: Amine substituted imidazolidines	50 FR 3592 (3594) (1-25-85)	Do.
P 85-412	Generic name: Amine substituted imidazolidines	50 FR 3592 (3594) (1-25-85)	Do.
P 85-415	Generic name: Acrylic ester	50 FR 4896 (4897) (2-4-85)	Apr. 5, 1985.
P 85-428	Generic name: Ester modified phenolic resin	50 FR 4896 (4898) (2-4-85)	Apr. 17, 1985.
P 85-433	Generic name: 1-Propanol, 3-mercapto-	50 FR 4896 (4896) (2-4-85)	Apr. 22, 1985.
P 85-444	Generic name: Aromatic amidoamine	50 FR 5416 (2-8-85)	Apr. 19, 1985.
P 85-458	Generic name: Alkyl ester of a trialkoxy silane	50 FR 6383 (6384) (2-15-85)	Apr. 29, 1985.
P 85-459	Generic name: Aromatic tertiary diamine	50 FR 6383 (6384) (2-15-85)	Feb. 19, 1985.
P 85-460	Generic name: Substituted succinic anhydride, reaction product with heterocyclic amine	50 FR 6383 (6384) (2-15-85)	Apr. 30, 1985.

V. 129 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
P 85-463	Generic name: Silane	50 FR 6383 (6384) (2-15-85)	Apr. 25, 1985
P 85-619	Generic name: Tetra substituted amino-carboxylic acid	50 FR 10536 (10537) (3-15-85)	Mar. 22, 1985
P 85-743	Generic name: Isocyanato oxazolidonyl isocyanaurate	50 FR 14439 (14441) (4-12-85)	Apr. 19, 1985

[FR Doc. 85-18491 Filed 8-8-85; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59202; TSH-FRL 2879-2]

Adduct of an Aliphatic Amine With an Epoxy Resin; Premanufacture Exemption Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or proces a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: August 26, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-59202]" and the specific TME number should be sent to Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

T 85-62

Close of Review Period. September 14, 1985.

Manufacturer. Confidential.

Chemical. (G) Adduct of an aliphatic amine with an epoxy resin.

Use/Production. (S) Used as an epoxy crosslinking agent for potting, sealing and encapsulation of electrical components. Prod. range: Confidential.

Toxicity Data. Acute oral: 11.4 g/kg (rat), 15.6 g/kg (mouse), 19.8 g/kg (rabbit); Acute dermal: >20 m/kg; Irritation: Skin—Moderate, Eye—Moderate; Inhalation: No death in saturated air for 8 hours.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

Dated: August 5, 1985

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-18806 Filed 8-8-85; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59726; TSH FRL 2879-1]

Substituted (1-oxo-2-Propenyl) Amino Polymer with 2 Propenoic Acid, Sodium Salt; Premanufacture Exemption Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides a summary of it.

DATES: Close of Review Period: Y 85-114—August 19, 1985.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M. St., SW., Washington, DC 20460, (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 85-114

Importer. Confidential.

Chemical. (G) Substituted (1-oxo-2-propenyl) amino polymer with 2 propenoic acid, sodium salt.

Use/Import. (G) Enhanced oil recovery additive. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: August 5, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-18808 Filed 8-8-85; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51583; TSH-FRL 2879-4]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of

May 13, 1983 (48 FR 21722). This notice announces receipt of forty-four PMNs and provides a summary of each.

DATES: Close of Review Period:

P 85–1252, 85–1253, 85–1254, 85–1255, 85–1256, 85–1257, 85–1258, 85–1259, 85–1260, and 85–1261—October 23, 1985.

P 85–1262, 85–1263, 85–1264, 85–1265, 85–1266, 85–1267, 85–1268, 85–1269, 85–1270, 85–1271, 85–1272, 85–1273, 85–1274, 85–1275, 85–1276, 85–1277, 85–1278, 85–1279, and 85–1280—October 26, 1985.

P 85–1281, 85–1282, 85–1283, 85–1284, 85–1285, 85–1286, 85–1287, 85–1288, 85–1289, 85–1209, 85–1291, 85–1292, 85–1293, and 85–1294—October 27, 1985.

P 85–1295—October 28, 1985.

Written comments by:

P 85–1252, 85–1253, 85–1254, 85–1255, 85–1256, 85–1257, 85–1258, 85–1259, 85–1260, and 85–1261—September 23, 1985.

P 85–1262, 85–1263, 85–1264, 85–1265, 85–1266, 85–1267, 85–1268, 85–1269, 85–1270, 85–1271, 85–1272, 85–1273, 85–1274, 85–1275, 85–1276, 85–1277, 85–1278, 85–1279, and 85–1280—September 26, 1985.

P 85–1281, 85–1282, 85–1283, 85–1284, 85–1285, 85–1286, 85–1287, 85–1288, 85–1289, 85–1290, 85–1291, 85–1292, 85–1293, and 85–1294—September 27, 1985.

P 85–1295—September 28, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS–51583]" and the specific PMN Number should be sent to: Document Control Officer (TS–793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M St., SW., Washington, D.C. 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M St., SW., Washington, DC 20460 (202–382–3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address.

P 85–1252

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1253

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1254

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1255

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1256

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1257

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1258

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1259

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1260

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1261

Manufacturer. Confidential.
Chemical. (G) Aliphatic polyisocyanate modified acrylic resin.
Use/Production. (S) Sag control agent.
Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85–1262

Manufacturer. Confidential.
Chemical. (G) Modified copolymer of maleic anhydride and 1-substituted alkene.
Use/Production. (G) Industrial scale inhibitor. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: > g/kg; Irritation: Skin—Not a primary irritant, Eye—Non-irritant; Ames test: Not-mutagenic; BOD 5 day: 12,825 mg/l; BOD 20 day: 19,228 mg/l; COD 760,000 mg/l; LC_{50} 24–96 hr: (Sheepshead minnow); 460 parts per million; LC_{50} 24 hr (Mysid shrimp): >300 but <500 ppm; LC_{50} 48 hr (Mysid shrimp); 390 ppm; LC_{50} 72 and 96 hr (Mysid shrimp): 300 ppm; LC_{50} 96 hr (Bluegill): 390 mg/l; LC_{50} 48 hr (Waterflea); 700 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

P 85–1263

Importer. Dragoco, Inc.
Chemical. (G) Alkenyl nitrile.
Use/Import. (S) Used as fragrance mixtures that gives desired odor to finished products: soaps detergents, room fresheners, household cleaners, etc. Import range: 700–1,000 kg/yr.
Toxicity Data. Acute oral: >6.85 ml/kg; Irritation: Eye—Non-irritant;

Epicutaneous patch test on humans: Non-irritant; Phototoxic effects: Non-phototoxic; Photo-sensitizing properties: Non-photosensitizing; Skin sensitization: No reaction.

Exposure. Processing: dermal, a total of 9 workers, up to 5 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. 560 g/batch, 5 hr period released to air and 40 g/batch to water. Disposal by publicly owned treatment works (POTW).

P 85–1264

Importer. Confidential.

Chemical. (S) 1-(4'-sulfophenyl sodium salt)-3-methyl-4-(2"-methoxy-5"-methyl-4"-ethylsulfonyl sulfonic acid ester sodium salt phenyl azo)-5-pyrrazolone.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1265

Importer. Confidential.

Chemical. (S) 2-acetylamino-7-(4'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-8-hydroxy naphthalene-6-sulfonic acid potassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1266

Importer. Confidential.

Chemical. (S) 1-acetylamino-8-hydroxy-7-(3'-ethyl sulfonyl sulfuric acid ester potassium salt-6'-methoxy phenylazo]naphathalene 3,6-disulfonic acid dipotassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1267

Importer. Confidential.

Chemical. (S) Copper complex of 1-acetylamino-8-hydroxy-7-(4'-ethyl sulfonyl sulfuric acid-ester potassium salt phenylazo]naphthalene 3,6-disulfonic acid dipotassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1268

Importer. Confidential.

Chemical. (S) 1-(4'sulfo phenyl sodium salt)-3-carboxylic acid sodium salt)-4-(4"-ethyl sulfonyl sulfonic acid ester sodium salt phenylazo)-5-pyrrazolone.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1269

Importer. Confidential.

Chemical. (S) Copper complex of 1-(4'-sulfophenyl potassium salt)-3-methyl-4-(2"-methoxy-5"-ethyl sulfonyl sulfonic acid ester potassium salt phenylazo)-5-pyrazzolone.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1270

Importer. Confidential.

Chemical. (S) 1-(4'-sulfophenyl potassium salt)-3-methyl-4-(2"-,5'-dimethoxy-4"-ethyl-sulfonic sulfuric acid ester potassium salt phenylazo)-5-pyrazzolone.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1271

Importer. Confidential.

Chemical. (S) 1-Hydroxy-2-(4'-ethyl sulfonyl sulfuric acid ester sodium salt phenyl azo)-8-[5"-chloro-3"-(4"-ethyl sulfonyl sulfuric acid ester sodium salt phenyl amino)-S-triazinyl] amino naphthalene-3,6-disulfonic acid disodium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1272

Importer. Confidential.

Chemical. (S) Copper complex of naphthalene 1-hydroxy 2-(5'-ethyl sulfonyl sulfuric acid ester potassium salt 2'-methoxy benzeneazo) 6-(1"-hydroxy 8"-acetylamino 3",6"-disulfonic acid dipotassium salt 2" naphthlyazo)-3-sulfonic acid potassium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1273

Importer. Confidential.

Chemical. (S) Copper complex of 1-acetylamino-8-hydroxy-7-(2',5'-dimethoxy-4'-ethyl sulfo phenyl sulfuric acid ester potassium salt phenylazo)-3,6-disulfonic acid di-potassium salt.

Use/Import. (S) Reactive dye for textile. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1274

Importer. Confidential.

Chemical. (S) Copper complex of 2-(2'methoxy-5'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-6-(4"8"-disulfonic acid dipotassium salt naphthylazo) 1,3-dihydroxybenzene.

Use/Import. (S) Reactive dye for textile. Import range: 40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 85–1275

Manufacturer. The Dow Chemical Company.

Chemical. (G) Cellulose derivative.

Use/Production. (S) Industrial, commercial and consumer component of printing ink and miscellaneous industrial coatings. Prod. range: Confidential.

Toxicity Data. Acute oral: >2,500 mg/kg; Irritation: Skin—No irritation, Eye—Moderate.

Exposure. Manufacturer: dermal.

Environmental Release/Disposal. Release to air, water and land. Disposal by incineration, landfill, navigable waterway after treatment and recovery and reprocessed.

P 85–1276

Manufacturer. The Dow Chemical Company.

Chemical. (G) Lake dye.

Use/Production. (S) Industrial and consumer colorant for bar soaps. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacturer: dermal, a total of 5 workers.

Environmental Release/Disposal. Less than 1 kg/day to less than 5 kg/yr released to water. Disposal by navigable waterway after treatment.

P 85-1277

Manufacturer. The Dow Chemical Company.

Chemical. (G) Lake dye.

Use/Production. (S) Industrial and consumer colorant for bar soaps. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacturer: dermal, a total of 5 workers.

Environmental Release/Disposal. Less than 1 kg/day to less than 5 kg/yr released to water. Disposal by navigable waterway after treatment.

P 85-1278

Manufacturer. The Dow Chemical Company.

Chemical. (G) Lake dye.

Use/Production. (S) Industrial and consumer colorant for bar soaps. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacturer: dermal, a total of 5 workers.

Environmental Release/Disposal. Less than 1 kg/day to less than 5 kg/yr released to water. Disposal by navigable waterway after treatment.

P 85-1279

Manufacturer. QO Chemical Inc.

Chemical. (G) Benzene sulfonic acid, copper (II) salt.

Use/Production. (S) Industrial latent activator for foundry sand binder. Prod. range: 10,000-100,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. 0.1 kg/batch released to water. Disposal by POTW.

P 85-1280

Manufacturer. FRP Company.

Chemical. (G) Poly [1,4 (dilinaleic, phthalic) poly methylene diamide].

Use/Production. (S) Industrial printing inks. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacturer: dermal, a total of 12 workers, up to 4 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. 2 kg/batch released to land. Disposal by recycle or evaporation lagoons.

P 85-1281

Manufacturer. Confidential.

Chemical. (G) Alkyl (halosubstitutedphenyl) oxoheterocyclic substituted sulfonanilide.

Use/Production. (S) Contained use in an article. Prod. range: Confidential.

Toxicity Data. Acute oral: > 6,400 mg/kg; Acute dermal: > 0.5 g/kg; Irritation: Skin—Slight, Eye—Slight.

Exposure. Manufacturer and processing: dermal and inhalation, a total of 130 workers, up to 3 hrs/da, up to 35 da/yr.

Environmental Release/Disposal. 0 to kg/batch released to water. Disposal by navigable waterway with less than 70 kg/batch to biological treatment system and 0 to 70 kg/batch of incinerated.

P 85-1282

Manufacturer. Confidential.

Chemical. (G) Urethane modified copolyester.

Use/Production. (G) Polyurethane wire enamal. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 85-1283

Manufacturer. Confidential.

Chemical. (G) Polymer of an acrylate ester and mixed methacrylate esters.

Use/Production. (G) Polymeric resin used in manufacturing nonconsumer used coating products. Prod. range: 10,000-100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal a total of 30 workers, up to 8 hrs/da, up to 29 da/yr.

Environmental Release/Disposal. 6 to 95 kg/batch released to land. Disposal by incineration and landfill.

P 85-1284

Manufacturer. Confidential.

Chemical. (G) Alkanoic ester derivative of an alkanol and a carbomonocyclic anhydride.

Use/Production. (G) Specialty chemical having an industrial use. Prod. range: 10,000-105,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal a total of 30 workers, up to 8 hrs/da up to 77 da/yr.

Environmental Release/Disposal. 4 to 120 kg/batch released to land. Disposal by incineration and landfill.

P 85-1285

Manufacturer. R.T. Vanderbilt Company, Inc.

Chemical. (G) Molybdenum complex of organic nitrogen compound.

Use/Production. (S) Industrial friction modifier for motor oil. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 85-1286

Manufacturer. Quaker Chemical Corporation.

Chemical. (G) Mixed fatty and alkyl esters.

Use/Production. (S) Site-limited and commercial can drawing lubricant for cupping operation. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal a total of 6 workers, up to 5 hrs/da, up to 15 to 75 da/yr.

Environmental Release/Disposal. 1 kg/batch released to air with 1 to 5 kg/batch to water. Disposal by POTW.

P 85-1287

Manufacturer. Quaker Chemical Corporation.

Chemical. (G) Alkyl esters.

Use/Production. (S) Site-limited and commercial can drawing lubricant for cupping operations. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal a total of 6 workers, up to 5 hrs/da, up to 15 to 75 da/yr.

Environmental Release/Disposal. 1 kg/batch released to air with 1 to 5 kg/batch to water. Disposal by POTW.

P 85-1288

Manufacturer. Confidential.

Chemical. (S) 4,4'-isopropylidenediphenol, reaction product with epichlorohydrin and 4-glycidoxy-N,N-diglycidyl aniline.

Use/Production. (S) Industrial epoxy resin hardener for pipe coatings, for coating reinforcing bars for concrete and for general metal finishing and powder coatings for electrical insulation. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal: > 2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Skin sensitization: Low.

Exposure. Manufacture: dermal and inhalation.

Environmental Release/Disposal. 1 kg/batch released to water. Disposal is biological treated and discharged (under permit) into the ocean.

P 85-1289

Manufacturer. Confidential.

Chemical. (G) Bis-(alkylureido)-alkane.

Use/Production. (G) Paint additive, open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: > 10 ml/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture: dermal, a total of 5 workers.

Environmental Release/Disposal. Confidential.

P 85-1290

Manufacturer. Confidential.
Chemical. (G) Aliphatic polycarbonate urethane.
Use/Production. (S) Industrial, commercial and consumer coating and adhesive. Prod. range: 20,000-40,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. No release.

P 85-1291

Manufacturer. Confidential.
Chemical. (G) Aliphatic polycarbonate urethane.
Use/Production. (S) Industrial, commercial and consumer coating and adhesive. Prod. range: 20,000-40,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. No release.

P 85-1292

Manufacturer. Confidential.
Chemical. (G) Aromatic polyether urethane.
Use/Production. (S) Industrial, commercial and consumer coating and adhesive. Prod. range: 20,000-40,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. No release.

P 85-1293

Manufacturer. Ethyl Corporation.
Chemical. (S) 1,2-dibromooctadecane.
Use/Production. (S) Intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers, up to 2 hrs/da, up to 180 da/yr.
Environmental Release/Disposal. 2 kg/day released to land with less than 10 ppm air. Disposal by landfill.

P 85-1294

Manufacturer. The Dow Chemical Company.
Chemical. (G) Phosphonium salt.
Use/Production. (G) Catalyst. Prod. range: Confidential.
Toxicity Data. Acute oral: > 2,000 mg/kg; Acute dermal: > 2,000 mg/kg Irritation: Skin—Not a primary irritant. Eye—Moderate.
Exposure. Manufacture and use: dermal, a total of 8 workers.
Environmental Release/Disposal. Release to air, water, and land. Disposable by navigable waterway after treatment, incineration and landfill.

P 85-1295

Manufacturer. Confidential.
Chemical. (G) Quaternary salt of fatty acid amide esters.
Use/Production (G) Open, non-dispersive use. Prod. range: 2,000-4,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 3 workers, up to 1 hr/da, up to 30 da/yr.
Environmental Release/Disposal. Less than 1/10 to less than 5 kg/batch released to water. Disposal by POTW.

P 85-1296

Manufacturer. Air Products and Chemical, Inc.
Chemical. (G) Saturated and unsaturated alkylcarboxylic acid diethanalamide/triethanolamine salt.
Use/Production. (S) Lubricant additive and formulated lubricant. Prod. range: Confidential.
Toxicity Data. Acute oral: > 2,000 mg/kg; Irritation: Eye—Moderate.
Exposure. Manufacture: dermal, up to 8 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. Release to air. Disposal by incineration.

Dated: August 5, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-18805 Filed 8-8-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00064; TSH-FRL 2880-2]

Interagency Toxic Substances Data Committee Open meeting;

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: This notice announces the forthcoming meeting of the Interagency Toxic Substances Data Committee. The meeting is open to the public.

DATE: The meeting will take place from 9:30 a.m. to 12:30 p.m. on September 10, 1985.

ADDRESS: The meeting will be held in the: First Floor Conference Room, Council on Environmental Quality, 722 Jackson Pl., NW., Washington, D.C. 20006.

Please use the entrance on Jackson Place.

FOR FURTHER INFORMATION CONTACT: Gerhard Brown (TS-793), Executive Secretary, Interagency Toxic Substances Data Committee, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-333, 401 M Street SW., Washington, D.C. 20460 (202)-382-3634).

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic Substances Data Committee usually are held on the first Tuesday of alternate months. Because of the Labor Day holiday, the date of the September meeting has been changed. The next meetings has been scheduled for November 5, 1985.

Dated: August 5, 1985.

Gerhard Brown,

Executive Secretary Interagency Toxic Substances Data Committee.

[FR Doc. 85-18937 Filed 8-8-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2879-6]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information, (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed July 29, 1985 Through August 2, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850324, Final, FHW, OR, Murray Boulevard Widening, Sunset Highway/US 26 to Jenkins Road, Improvement and Right-of-Way Acquisition, Washington County, Due: September 9, 1985, Contact: Dale Wilken, (503) 399-5749.

EIS No. 850325, Final, COE, AK, Dillingham Small Boat Harbor Improvement, Bristol Bay Region, Due: September 9, 1985, Contact: William Lloyd, (907) 552-2572.

EIS No. 850326, Final, BLM, NM, El Paso Electric 345kV Transmission Line Project, Springer to Deming, Construction, Operation, and Maintenance, Right-of-Way Permit and Approval, Due: September 9, 1985, Contact: Jack Edwards, (303) 236-1080.

EIS No. 850327, Final, FHW, DC, Whitehurst Freeway/US 29 Corridor Modifications, Improvement or Replacement, Due: September 9, 1985, Contact: Jack Coe, (202) 426-4980.

EIS No. 850328, Final, SFW, AK, Alaska Peninsula National Wildlife Refuge Management, Comprehensive Conservation Plan and Wilderness Designation, Due: September 9, 1985, Contact: William Knauer, (907) 786-3399.

EIS No. 850329, FSuppl, NOA, MXG, SATL, REG, Coastal Migratory Pelagic Resource (Mackerel) Fishery Management Plan, Due: September 9, 1985, Contact: Wayne Swingle, (813) 228–2815.

EIS No. 850330, Final, NOA, ATL, REG, Atlantic Swordfish Fishery Management Plan, Due: September 9, 1985, Contact: David Gould, (803) 571–4366.

EIS No. 850331, Final, FHW, KY, Great River Road Construction, Cairo Bridge to Reelfoot Lake, Due: September 9, 1985, Contact: Donald Ecton, (502) 564–7183.

EIS No. 850332, Final, USAF, CA, 146th Tactical Airlift Wing of the California Air National Guard Relocation, Van Nuys Airport to Point Mugu Naval Air Station, Continued Operation, Ventura County, Due: September 9, 1985, Contact: Riley Black, (818) 781–5980.

EIS No. 850333, Draft, FHW, VT, Chittenden County Circumferential Highway Construction, VT–127 to I–89, Chittenden County, Due: September 9, 1985, Contact: Arthur Gross, (802) 828–2663.

Amended Notice

EIS No. 850197, Draft, AFS, NC, Croatan and Uwharrie National Forests, Land and Resource Management Plan, Due: August 29, 1985, Published FR 5–17–85—Review extended.

Dated: August 6, 1985.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 85–19036 Filed 8–8–85; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2879–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared July 22, 1985 through July 26, 1985 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated October 19, 1984 (49 FR 41108).

Draft EISs

ERP No. D–AFS–H65002–MO, Rating LO, Mark Twain Nat'l Forest, Land and Resource Mgmt. Plan, MO. **Summary:** EPA requested the Forest Service to require a plan to prevent nonpoint source pollution (including groundwater) from permitted land disturbing activities as a part of the Land and Resource Management Plan (LRMP) consistent with its Strategy commitment in the draft Nat'l Nonpoint Source Policy. EPA suggested that monitoring plans be developed for dealing with uncontrolled or abandoned hazardous waste on Forest Service (FS) property as well as adjacent property. Six possible Superfund sites on or adjacent to FS property were included as part of the comments.

ERP No. D–BLM–J70003–UT, Rating EC1, Box Elder Planning Area, Resource Mgmt. Plan, UT. **Summary:** EPA is concerned the preferred alternative does not do enough to protect and improve water quality values. EPA recommended selection of alternative 3, the environmental protection or enhancement alternative, or at least that its range, watershed, riparian, and soil improvements be adopted.

ERP NO. D–BLM–J70004–SD, Rating EC2, South Dakota Resource Area, Resource Mgmt. Plan, SD. **Summary:** EPA recommends that BLM more fully address the following topics: treatment of fragile soils subject to grazing allotments, specific management practices for riparian areas, degradation of ground and surface water quality from oil and gas activity, and potential impacts from noxious weed control management.

ERP No. D–COE–C36057–NY, Rating EC2, Limestone Creek Flood Damage, Reduction Plan, NY. **Summary:** EPA believes that the project could impact fisheries resources of Limestone Creek and, therefore, that additional measures to protect native fish species and maintain water quality should be included in a mitigation/revegetation plan for incorporation into the FEIS. In addition, EPA believes that potential impacts from dredging activities has not been adequately addressed in the DEIS.

ERP No. D–COE–F32191–00, Rating LO, Great Lakes Connecting Channels and Harbors Study, Final Feasibility Report, PA, NY, MI, IN, OH, IL, WI, MN. **Summary:** EPA's review of the DEIS did not identify any significant environmental impacts requiring changes to the proposed project.

ERP No. D–FHW–G40114–TX, Rating EC2, US59/Southwest Freeway Improvement and Widening, Beltway 8 to TX–288, TX. **Summary:** EPA believes the DEIS does not contain sufficient air quality and water quality impact assessment information to fully assess the related impacts with your proposal and to assure that the environmental impacts are being minimized to the extent practical.

ERP No. D–MMS–A02214–00, Rating EC2, 1986 Central and Western Gulf of Mexico OCS Oil and Gas Sale Nos. 104 and 105, Leasing. **Summary:** EPA recommended that MMS demonstrate that the protective stipulations for topographic highs are equivalent to deleting remaining tracts near these features. EPA also recommended deleting tracts within the Gulf Ocean Incineration Site and providing cautionary statements regarding tracts near the Ocean Incineration Site.

Final EISs

ERP No. F–AFS–J61032–CO, Cache La Poudre River, Wild and Scenic River Study, Designation, Arapahoe and Roosevelt Nat'l Forest, CO. **Summary:** EPA made no formal comments. EPA had no objections to the proposal for designation.

ERP No. F–AFS–K61082–AZ, Bill Williams Mtn. Ski Area Development and Mgmt. Plan, Kaibab Nat'l Forest, AZ. **Summary:** The FEIS adequately addressed EPA's prior comments.

ERP No. F–COE–D28009–VA, Beaverdan Swamp Water Supply Reservoir, Impoundment, Construction, Permit, VA. **Summary:** EPA's review found the project to be environmentally unsatisfactory and expressed that: (1) the impoundment would destroy the valuable habitat/wetlands, (2) the proposed mitigation scheme is incomplete and does not mitigate for the loss of approximately 100 acres of wetlands, (3) insufficient consideration was given to appropriate alternative technologies such as reverse osmosis, and (4) other sites with less environmental impact exist and should be given additional consideration. Consequently, EPA has recommended the denial of the permit in addition to a reconsideration, and potential referral to the Council on Environmental Quality (CEQ), of the actual project.

ERP No. F–COE–F90005–WI, Green Bay Harbor Confined Disposal Facility, Construction, Operation, and Maintenance, WI. **Summary:** EPA does not oppose the construction of the proposed facility, but insists upon bioassay testing in order to prove that these facilities truely confine contaminants.

ERP No. F–FHW–D40173–PA, Newtown Bypass/LR–1141 (Section A20) Extension, Newtown Pike to I–95 Interchange, Completion, PA. **Summary:** EPA reviewed the FEIS and has no objections to the project.

ERP No. F–USN–L11006–WA, Puget Sound Area, Carrier Battle Group

Homeporting, Construction and Operation, WA **Summary:** EPA recommended that the Record of Decision (ROD) include specific mitigation measures designed to reduce adverse water quality and fisheries impacts resulting from the construction and operation of the carrier fleet homeport, that additional analyses of the air quality impacts of the project be completed, and appropriate air quality mitigation measures incorporated in the ROD. EPA noted that such air analyses would be needed before the Corps of Engineers (COE) makes its decisions on the Navy's application for a permit under Sect. 404 of the Clean Water Act. Finally, EPA identified several environmental questions that must be addressed during the COE consideration of the 404 permit application and concluded that a supplemental EIS may be necessary before the Sect. 404 decision is made.

Dated: August 6, 1985.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 85-19037 Filed 8-8-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Agency Information Collection Requirements Submitted to Office of Management and Budget for Review

August 2, 1985.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submissions are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

OMB Number: None
Title: Section 1.1705, Determining Duration of Cuban Interference
Action: New collection
Respondents: AM radio broadcasters experiencing interference from Cuban stations
Estimated Annual Burden: 26 Responses; 26 Recordkeepers; 1,170 Hours

OMB Number: None
Title: Section 1.1709, Requirements for Filing Applications for Compensation
Action: New collection
Respondents: AM radio broadcasters experiencing interference from Cuban stations

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-18933 Filed 8-8-85; 8:45 am]

BILLING CODE 6712-01-M

Rulemaking Proceedings; Petitions Filed, Granted, Denied etc.

July 31, 1985.

The following listings of petitions for reconsideration and clarification filed in Commission rulemaking proceedings is published pursuant to CFR 1.429(e). Oppositions to such petitions for reconsideration and clarification must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: MTS and WATS Market Structure (CC Docket No. 78-72).
Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board. (CC Docket No. 80-286)
Filed by:
David E. Blabey, Attorney for The New York State Department of Public Service on 6-26-85.
Francine J. Berry, George Finkelstein & Harry M. Davidow, Attorney for American Telephone and Telegraph Company on 7-25-85.

Subject: Amendment Parts 73 and 97 of the Commission's Rules Concerning Rebroadcasts of Transmissions of Non-Broadcast Radio Stations. (BC Docket No. 79-47).
Filed by:
David B. Poplin on 7-15-85.
Christopher D. Imlay, Attorney for The American Radio Relay League, Incorporated on 7-18-85.

Subject: Petitions Seeking Amendment of Part 68 of the Commission's Rules Concerning Connection of Telephone Equipment, Systems and Protective Apparatus to the Telephone Network, and Notice of Inquiry into Standards for Inclusion of One- and Two-Line Business and Residential Service in Part 68 of the Commission's Rules. (CC Docket No. 81-216, RM's 2845, 3195, 3206, 3227, 3283, 3316, 3329, 3348, 3501, 3526, 3530, 4054 & 4087)
Filed by: Andrew D. Lipman & David A. Hirsh, Attorneys for Verilink Corporation on 7-16-85. (Supplemental Information)

Subject: Amendment of Section 73.202(b), Table of Allotments. FM Broadcast Stations. (Susanville, California and Reno, Nevada) MM Docket No. 83-514, RM's 4431 & 4561)
Filed by: Roger Metzler, Attorney for AMERICOM, (KHTX) on 6-20-85.

Subject: Investigation of Access and Divestiture Related Tariffs. (CC Docket No. 83-1145, Phase I)
Filed by:
John R. Hoffman, Senior Vice President Legal and External Affairs for US Telecom, Inc., on 6-28-85.
Chester T. Kamin, Michael H. Salsbury, & Glenn B., Mansihin, Attorneys for MCI Telecommunications Corporation on 7-24-85.
Sean A. McCarthy, J. Manning Lee & Robert Jack Dominguez, Attorneys for Satellite Business Systems on 7-24-85.
Leon M. Kestenbaum & Michael B. Fingerhut, Attorneys for GTE Sprint Communications Corporation on 7-25-85.

Subject: Nighttime Operations on Canadian, Mexican and Bahamian AM Clear Channels. (MM Docket No. 84-281)
Filed by:
Robert J. Metzler, Jr., Attorney for Chabin Communications Corporation (KKIS) on 6-6-85.
William J. Potts, Jr., Attorney for Communications Investment Corporation on 7-11-85.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-18934 Filed 8-8-85; 8:45 am]

BILLING CODE 6712-01-M

Travel Reimbursement Experiment

AGENCY: Federal Communications Commission.

ACTION: Publishing of quarterly report on travel reimbursement experiment.

SUMMARY: In Pub. L. 97-259, the Congress authorized the Federal Communications Commission to accept reimbursement from non-government organizations for travel of employees of the Commission. The Federal Communications Commission must keep records of such travel by each event and prepare a report each quarter of all reimbursements allowed and provide copies of each quarterly report to the Senate Committee on Appropriations, House Committee on Appropriations, Senate Committee on Commerce, Science and Transportation, and the House Committee on Energy and Commerce. This must be done each quarter until September 30, 1985. In addition the Federal Communications Commission must publish each quarterly report in the Federal Register until September 30, 1985.

DATE: This report is for the period from April 1, 1985 through June 30, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Geoffrey Sherman, Office of the Managing Director, (202) 632-6900.

SUPPLEMENTARY INFORMATION: The report for the quarter ending June 30, 1985 is as follows:

Summary Report

Total Number of Sponsored Events: 14.

Total Number of Sponsoring Organizations: 15.

Total Number of Commissioners/Employees Attending: 40.

Total Amount of Reimbursement:	
Transportation	$14,160.00
Room	9,975.31
Board	1,979.71
Other Expenses	1,560.75
Total	24,675.77

Individual Event Reports Attached

Individual Event Report

Sponsoring Organization: (name and address): National Cable Television Association, 1724 Massachusetts Avenue NW., Washington, DC 20036.

Date of the Event: May 31, 1985.

Description of the Event: To participate in the annual convention of the National Cable Television Association in Las Vegas, Nevada.

Number of Commissioners Attending: 2.

Number and Title of Employees Attending:

1—Commissioner Quello
1—Commissioner Rivera
1—Director, Office of Congressional & Public Affairs
1—General Counsel
1—Deputy Bureau Chief
3—Supervisory Electronics Engineers
1—Supervisory General Attorney
1—Electronics Engineer Mass Media Bureau
1—Bureau Chief Common Carrier Bureau

Amount of Reimbursement:	
Transportation	$4,166.00
Room	2,350.79
Board	500.60
Other Expenses	428.32
Total	[1]7,445.71

[1] Reimbursement Estimated-travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): National Association of Broadcasters, 1771 N. Street NW., Washington, DC 20036.

Date of the Event: April 15, 1985.

Description of the Event: The participate in the National Association of Broadcasters annual convention in Las Vegas, Nevada.

Number of Commissioners Attending: 3.

Number and Title of Employees Attending:

1—Commissioner Dawson
1—Attorney Adviser Office of Commissioner Dawson
1—Commissioner Rivera
1—Attorney Adviser Office of Commissioner Rivera
1—Commissioner Quello
1—Bureau Chief Common Carrier Bureau
1—Bureau Chief
2—Attorney Advisors
1—Chief, Video Services Div.
2—Electronics Engineers
1—Equal Opportunity Officer Mass Media Bureau
1—Managing Director
1—Associate General Counsel, Office of General Counsel

Amount of Reimbursement:	
Transportation	$6,372.50
Room	3,504.02
Board	1,168.00
Other Expenses	716.43
Total	[1] 11,760.95

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Bell South Corporation, 1819 L Street NW., Suite 1000, Washington, DC 20036.

Date of the Event: May 21, 1985.

Description of the Event: To speak at the mid-year Management Conference of the Bell South Corporation in Atlanta, Georgia.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Attorney-Legal Assistant Common Carrier Bureau.

Amount of Reimbursement:

Amount of Reimbursement:	
Transportation	$204.00
Room	90.00
Board	22.50
Other Expenses	30.00
Total	[1] 346.50

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Utilities Telecommunications Council, c/o Keller & Heckman Law Office, Washington, DC 20036.

Date of the Event: June 18, 1985.

Description of the Event: To participate in the 1985 Utilities Telecommunications Council's annual meeting in Minneapolis, Minnesota.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Deputy Bureau Chief, Private Radio Bureau.

Amount of Reimbursement:	
Transportation	$378.00
Room	150.00
Board	75.00
Other Expenses	50.00
Total	[1] 653.00

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Northern Telecom Inc., P.O. Box 649, Concord, NH 03301.

Date of the Event: April 1, 1985.

Description of the Event: To participate on a panel at a symposium on Bypass and Divestiture in Scottsdale, Arizona.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Carrier Analyst Common Carrier Bureau.

Amount of Reimbursement:	
Transportation	$348.00
Room	75.00
Board	8.50
Other Expenses	0
Total	[1] 431.50

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Nebraska Telephone Association, 200 Executive Building, Lincoln, NB 68508.

Date of the Event: May 13, 1985.

Description of the Event: To speak at the Spring convention of the National Telephone Association in Lincoln, Nebraska.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Supervisory, Attorney Advisor Common Carrier Bureau.

Amount of Reimbursement:	
Transportation	$284.00
Room	90.00
Board	26.00
Other Expenses	25.00
Total	[1] 425.00

[1] Reimbursement Estimated—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Wisconsin State Telephone Association, 4610 University Avenue, Madison, WI 53705.

Date of the Event: May 21, 1985.

Description of the Event: To speak at the 1985 convention of the Wisconsin State Telephone Association in Lake Geneva, Wisconsin.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Attorney Advisor Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$276.00
Room	59.40
Board	6.45
Other Expenses	48.32
Total	[1] 392.17

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): New England Broadcasters Association, Statler Office Bldg. Boston, MA 02116.

Date of the Event: June 17, 1985.

Description of the Event: To speak at the monthly luncheon of the New England Broadcasters Association in Boston, Massachusetts.

Number of Commissioners Attending: 1.

Number and Title of Employees Attending: 1, Commissioner Quello.

Amount of Reimbursement:

Transportation	$149.00
Room	0
Board	0
Other Expenses	0
Total	[1] 149.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Communications Magazine, 6530 South Yosemite, Englewood, CO 80111.

Date of the Event: April 24, 1985.

Description of the Event: To participate in the National Land Mobile Exposition in Las Vegas, Nevada.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending:
1—Chief, Private Radio Bureau
1—Chief, Office of Plans and Policy

Amount of Reimbursement:

Transportation	$796.00
Room	295.85
Board	88.71
Other Expenses	77.12
Total	[1] 1,257.68

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): WLVI-TV 56, 75 Morrissey Blvd., Boston, MA 02125.

Date of the Event: June 17, 1985.

Description of the Event: To speak at the monthly luncheon of the New England Broadcaster Association in Boston, Massachusetts.

Number of Commissioners Attending: 1.

Number and Title of Employees Attending: 1, Commissioner Quello.

Amount of Reimbursement:

Transportation	0
Room	$75.00
Board	0
Other Expenses	25.00
Total	[1] 100.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Legg Mason, Inc., 7 East Redwood Street, 3rd Floor, Baltimore, MD 21202

Date of the Event: June 12, 1985.

Description of the Event: To speak at a symposium sponsored by the Telecommunication Association of Maryland in Baltimore, Maryland.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Public Utilities Specialist Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$15.50
Room	17.25
Board	0
Other Expenses	50.00
Total	[1] 82.75

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): United States Telephone Association, 1801 K. Street NW, Suite 1201, Washington, DC 20006.

Date of the Event: June 24, 1985.

Description of the Event: To participate in the Biloxi Telephone Industry Symposium in Biloxi, Mississippi.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Chief, Office of Plans and Policy.

Amount of Reimbursement:

Transportation	$445.00
Room	64.00
Board	6.95
Other Expenses	22.46
Total	[1] 538.41

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Financial Analysts Federation, c/o Prudential-Bache Securities, Inc, 1911 Fort Myer Drive, Suite 905, Rosslyn, VA 22209.

Date of the Event: April 2, 1985.

Description of the Event: To participate in the Financial Federation National Conference in Kansas City, Missouri.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Chief, Office of Plans and Policy.

Amount of Reimbursement:

Transportation	$270.00
Room	50.00
Board	25.00
Other Expenses	25.00
Total	[1] 370.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Telephone Association of Michigan, 122 S. Grand, Suite 205, Lansing, MI 48933.

Date of the Event: May 13, 1985.

Description of the Event: To speak at the Telephone Association of Michigan's anniversary convention in Grand Rapids, Michigan.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Supervisory Public Utilities Specialist Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$344.00
Room	154.00
Board	50.00
Other Expenses	50.00
Total	[1] 598.00

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

Sponsoring Organization (name and address): Greater Hartford Chamber of Commerce, 250 Constitution Plaza, Hartford, CT 06103.

Date of the Event: April 6, 1985.

Description of the Event: To speak at a conference on "Telecommunications in Transition: The Impact on Business" in Hartford, Connecticut.

Number of Commissioners Attending: N/A.

Number and Title of Employees Attending: 1, Bureau Chief Common Carrier Bureau.

Amount of Reimbursement:

Transportation	$112.00
Room	0
Board	0
Other Expenses	13.10
Total	[1] 125.10

[1] *Reimbursement Estimated*—travel processing not complete or Reimbursement billed, but not received.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85–18935 Filed 8–8–85; 8:45 am]

BILLING CODE 6712-01-M

Federal Executive Agencies; Authority to Qualify for the Interconnection of Communications Equipment or Secrutity Devices to the Telephone Company Provided Communications Network

Preamble

AGENCY: Federal Communications Commission.

ACTION: Notice of request for permanent authority and order granting temporary authority.

SUMMARY: Section 68.2(e) of the Commission's rules and regulations permits governmental departments, agencies or administrations to apply for exemption from the technical and legal requirements of Part 68 of the Commission's rules, in the interest of national defense and security. Part 68 governs the interconnection of customer provided telephone equipment with the nationwide telephone network. The Federal Emergency Management Agency has requested a permanent exemption under § 68.2(e), as well as special temporary authority to act under that section pending action on its request for permanent exemption. In accordance with the requirements of § 68.2(e), the Commission hereby provides notice of the Federal Emergency Management Agency's request for permanent exemption and grant of its request for special temporary authority.

DATES: Comments due September 9, 1985. Reply comments due September 19, 1985.

FOR FURTHER INFORMATION CONTACT: Anne M. Siegel, Esq., Domestic Services Branch, Common Carrier Bureau, (202) 634–1831.

SUPPLEMENTARY INFORMATION: In the matter of the application of the Federal Executive Agencies of the United States Government for authority to qualify for the interconnection of communications equipment or security devices to the telephone company provided communications network pursuant to § 68.2(e) of the Commission's Rules.

Adopted July 29, 1985.

Released July 31, 1985.

By the Chief, Common Carrier Bureau.

1. Before the Commission is an application for permanent authority, and a request for special temporary authority pending action on the request for permanent authority, filed by the Secretary of Defense in his capacity as Executive Agent for the National Communication System (NCS),[1] to permit the Federal Emergency Management Agency (FEMA) to act pursuant to the national security exemption of § 68.2(e) of the Commission's Rules, 47 CFR 68.2(e). That section, adopted November 14, 1979 (FCC 79–728), permits governmental departments, agencies or administrations to connect communciations equipment or security devices to the public switched network with out compliance with the provisions of Part 68 where such compliance could result in the disclosure of communication equipment or security devices, locations, uses, personnel, or activities which would adversely affect the national interest, provided that proper written certification is made to the appropriate common carrier[2] and the governmental entity making such certification has in advance been approved in writing by the Commission to act pursuant to § 68.2(e).

2. On December 19, 1979, the Department of Defense (DoD) filed an application and request for temporary authority to permit ten governmental departments and agencies to act pursuant to § 68.2(e). That request was approved by Order of the Chief, Common Carrier Bureau in CC Docket 78–331, released on April 2, 1980.[3] Subsequently, the DoD filed a application and Request For Special Temporary Authority on behalf of the Department of Energy requesting permanent authority to act pursuant to Part 68.2(e), as well as special temporary authority pending action on the request for permanent authority, both of which were granted. *See* 47 FR 12858, March 25, 1982 and 47 FR 30284, July 13, 1982.

3. According to the application now before us, at the time of the previous applications the FEMA did not install communications equipment or security devices covered by § 68.2(e); such installations were performed for FEMA by General Services Administration personnel. The Secretary of Defense claims that circumstances have changed, and it is now necessary for FEMA personnel to perform these installations. As an example, FEMA operates Emergency Relocation Centers throughout the United States utilizing cryptographic and other communications security equipment which may, in an emergency, be connected to the public switched network. According to the Secretary of Defense, problems in obtaining and installing telephone equipment in secure areas and a greater use of communications security equipment in general have made it necessary for FEMA personnel to have the authority to act under § 68.2(e). Accordingly, the Secretary of Defense now requests the Commission to authorize FEMA to interconnect communications equipment or security devices to the public switched network pursuant to the provisions of § 68.2(e) of the Commission's Rules.

4. Under § 68.2(e) the Commission may grant, without notice, special temporary authority, not to exceed 90 days, permitting governmental departments, agencies or administrations to connect communications equipment or security devices to the network. Permanent authority under § 68.2(e) requires publication of the request in the Federal Register and a thirty day notice period for public comment.

5. On the basis of the facts and circumstances presented to us by the Secretary of Defense, we find that his request for special temporary authority to permit FEMA to act pursuant to § 68.2(e) pending action on the concurrent request for permanent

[1] Executive Order No. 12472, "Assignment of National Security and Emergency Prepardness Telecommunications Functions", April 3, 1984 established the NCS. Section 1(e) of E.O. 12472 designates the Secretary of Defense as Executive Agent for the NCS. By direction of the Executive Office of the President, the NCS Member organizations are: Dept. of Agriculture, Central Intelligence Agency, Department of Commerce, Dept. of Defense, Dept. of Energy, Federal Emergency Management Agency, General Services Administration, Dept. of the Interior, Dept. of Justice, National Aeronautics & Space Administration, National Security Agency, National Telecommunications & Information Administration, Organization of the Joint Chiefs of Staff, Dept. of State, Dept. of Transportation, Dept. of Treasury, U.S. Information Agency, Veterans Administration, and the Nuclear Regulatory Commission.

[2] For each installation, the exempt entity must cerfify in writing to the appropriate common carrier that: (1) The connection is required in the interest of national defense and security; (2) the equipment or device to be connected either complies with the technical requirements of this part or will not cause harm to the nationwide telephone network or telephone company employees; and (3) the installation is performed by well-trained, qualifed employees under the responsible supervision and control of a person who meets the qualifications stated in § 66.2(c). *See* Order, 44 FR 66,825 (1979).

[3] The Federal Executive Agencies covered include the Department of State, Department of Defense, General Services Administration, Department of Treasury, Central Intelligence Agency, Federal Bureau of Investigation, Department of Justice, Department of Commerce, Department of Transportation and Federal Reserve Board.

authority is consistent with the Commission's rules and regulations and will serve the interests of national defense and security.[4] Accordingly, pursuant to the authority delegated under § 0.291 and § 0.303 of the Commission's Rules and Regulations, FEMA's request for special temporary authority to act pursuant to § 68.2(e) Is Granted.

6. It is also Ordered that notice of this action and FEMA's request for permanent exemption from Part 68 shall be published in the **Federal Register.** Comments on that request are due within thirty days of such publication, and reply comments ten days thereafter.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 85-18928 Filed 8-8-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Bell Savings Banc of Texas; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Bell Savings Banc of Texas, Temple, Texas on August 2, 1985.

Dated: August 6, 1985.

Jeff Sconyers,

Secretary.

[FR Doc. 85-18978 Filed 8-8-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-009847-012.
Title: U.S. Atlantic Coast/Brazil Agreement.
Parties:
Companhia De Navegacao Lloyd Brasileiro
United States Lines (S.A.) Inc.
Companhia De Navegacao Maritime Netumar
Synopsis: The proposed amendment would modify the agreement to change the pool accounting period from six months to twelve months and make certain nonsubstantive changes to the language of the agreement to reflect this change.

Agreement No.: 221-010794.
Title: Riviera Beach Marine Terminal Premises Agreement.
Parties:
Port of Palm Beach District (District)
Southeast Container Repair, Inc. (SCR)
Synopsis: The District agrees to lease 11,400 square feet of unimproved open land located at the Port of Palm Beach Terminal in the city of Riviera Beach, Florida, to SCR for the purposes of storing, maintaining and repairing cargo containers. The term of the agreement is for eighteen months with compensation to be paid to the District in amounts, and on a schedule, specified in the agreement.

Agreement No.: 202-010795
Title: West Coast/Western Australia Discussion and Cooperative Working Agreement
Parties:
EAC Lines Trans Pacific Service
Nedlloyd Lijnen
Synopsis: The agreement establishes a conference agreement whereby the parties are authorized to discuss and to reach consensus or agreement on their separate tariffs, rates, service items, rules and service contracts in the trade from U.S. ports and points to ports and points in Australia, exiting through U.S. Pacific Coast ports and entering through Australian West Coast ports.

Agreement No.: 224-010796
Title: Palm Beach Foreign Trade Zone Terminal Agreement
Parties:
Port of Palm Beach District (Port)
CHO Properties, Inc. (CHO)
Synopsis: Agreement No. 224-010796 constitutes a lease agreement between the Port and CHO authorizing the establishment of a foreign trade zone consisting of land located solely within the Port. The agreement shall remain in effect for an initial period of 30 years with the right to renew for two successive 10 year terms.

By Order of the Federal Maritime Commission.

Dated: August 6, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-18959 Filed 8-8-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Ruston Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

Correction

In the issue of Thursday, August 1, 1985, in the document beginning on page 31244, make the following correction: On page 31245, in the first column at the end of the document, the FR document number reading "FR Doc. 85-18076" should read "FR Doc. 85-18076a."

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on August 2, 1985.

Public Health Service

Food and Drug Administration

Subject: Tamper Resistant Packaging and Labeling Requirements for Contact Lens Solutions and Tablets—Revision (0910-0150)
Respondents: Manufacturers of contact lens solutions and tablets—Reinstatement (0910-0014)
OMB Desk Officer: Bruce Artim

[4] We also note that no comments or oppositions were filed in response to the 1979 **Federal Register** notice of the request, discussed *supra* at para. 2, seeking permanent authorization under § 68.2(e) for ten government agencies.

Health Care Financing Administration

Subject: Request for Reconsideration of Part A Health Insurance Benefits-HCFA-2649—Revision (0938-0045)
Respondents: State/local governments, individuals

Subject: Information Collection Requirements in HSQ-109-F, Peer Review Organization Sanctions 42 CFR 474.36(b), 474.38 (2b, and c), 474.39 (a and b) and 474.40 (a and b)-HCFA-R-65—New
Respondents: Peer Review Organizations, physicians

Subject: Information Collection Requirements in HSQ-111-F, Peer Review Organization Reconsideration and Appeals 42 CFR 473.18 (a and b) 473.34 (a and b), 473.36 (a and b) and 473.42 (a)-HCFA-R-72—New
Respondents: Peer Review Organizations

Subject: Information Collection Requirements in HSQ-108-F, Peer Review Organization Assumption of Responsiblities 42 CFR 405.472, 431.630, 456.654, 466.70, 466.72, 466.74, 466.78, 466.80, and 466.94-
Respondents: Peer Review Organizations
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Survey of Absent Parents-SSA-235—New
Respondents: Selected state child support enforcement agencies, individuals
OMB Desk Officer: Judy A McIntosh

Human Development Services

Subject: Program Performance Report-Developmental Disabilities—New
Respondents: States

Subject: Evaluation of Reunification of Minority Children in Foster Care—Extension (0980-0167)
Respondents: State/local governments
OMB Desk Officer: Judy A. McIntosh.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-245-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503. Attn: (name of OMB Desk Officer).

Dated: August 5, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[Fr Doc. 85-18932 Filed 8-8-85; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 85N-0009]

Biological Product Licenses; Volunteer Blood Center, Inc.; Revocation of U.S. License No. 873

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has revoked the establishment license (U.S. License No. 873) and the product licenses issued to the Volunteer Blood Center, Inc., for the manufacture of Whole Blood (Human), Red Blood Cells (Human), Single Donor Plasma (Human), and Platelet Concentrate (Human). In a letter postmarked October 11, 1984, the firm requested that its establishment and product licenses be revoked and waived the opportunity for a hearing.

DATE: The revocation of the establishment and product licenses was effective on November 14, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Center for Drugs and Biologics (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 873) and product licenses issued to the Volunteer Blood Center, Inc., for the manfacture of Whole Blood (Human), Red blood Cells (Human), Single Donor Plasma (Human), and Platelet Concentrate (Human). The Volunteer Blood Center, Inc. (formerly the Mid-South Volunteer Blood Bank, Inc.), was located at 5830 Mt. Moriah Rd., Memphis, TN 38115.

On July 28 through 30, 1980, the first regular FDA inspection of the Mid-South Volunteer Blood Bank found significant deviations from the applicable biologics regulations. These deviations included, but were not limited to: (1) Inadequate or nonexistent records for component preparation, hepatitis testing, disposition of components (including those from hepatitis reactive units), and identification of unacceptable donors (21 CFR 610.40(d), 606.160(a)(1)); (2) alterations of hepatitis test counts or interpretations without explanation or justification (21 CFR 606.160(a) (1)); and (3) failure to have written standard operating procedures (SOP's) for examination of donor arms and to follow written SOP's for preparation of phlebotomy sites (21 CFR 606.100(b) (1) and (3)).

On August 26, 1980, a limited FDA reinspection of the firm revealed inadequate or nonexistent records for hepatitis testing and disposition of components as well as alterations of hepatitis test counts or interpretations without explanation or justification. FDA issued a notice of adverse findings to the firm as a result of these inspectional findings.

On February 18 through 25, 1981, an FDA inspection found additional deviations from the regulations, including: (1) Failure to follow written SOP's for positive identification of donors and donor screening (21 CFR 606.100(b), 640.3(a)); (2) failure to have an adequate written SOP for arm preparation, blood collection, and labeling of units (21 CFR 606.100(b)(3), (5), and (16)); and (3) inadequate or nonexistent records for component preparation (21 CFR 606.160(b)(2)(ii)).

On March 21 and 22, 1983, an FDA inspection of the firm, which had become Volunteer Blood Center, Inc., found further deviations, including shipment, as Recovered Human Plasma, of expired Platelet Concentrate and expired Single Donor Plasma units with their original labels without designating the individual units as Recovered Human Plasma. FDA issued another notice of adverse findings to the firm as a result of these inspectional findings.

On November 22 through December 1, 1983, and December 9, 1983, FDA inspection found continuing noncompliance with the biologics regulations, including:

(1) Failure to have a designated responsible head. The former responsible head terminated employment on November 18, 1983, and had not been replaced (21 CFR 6000.10(a)).

(2) Failure to notify the Director, Office of Biologics Research and Review, of an important change in responsible personnel, i.e., responsible head (21 CFR 601.12(a)).

(3) Failure to perform hepatitis B surface antigen (HBsAg) testing as required by the manufacturer of the hepatitis testing reagents and by the firm's own SOP's (21 CFR 610.40(b) and (d), 606.100(b)(7)).

(4) Failure to interpret HBsAg test results according to the HBsAg manufacturer's directions (21 CFR 610.40 (b) and (d), 606.100(b)(7)).

(5) Failure to maintain distribution records to insure that disposition of all

components can determined (21 CFR 606.165(b), 600.12(a)).

In a letter dated December 16, FDA suspended the firm's licenses because of significant deviations from standard in Title 21, Code of Federal Regulations, Subchapter F, and in the firm's license. Volunteer Blood Center's license was reinstated on February 15, 1984, following a reinspection and receipt of several letters from the firm outlining corrective actions.

On April 9 through 12, 1984, however, a subsequent reinspection of the firm found further deficiencies, including:

(1) Inadequate or nonexistent records for reissue, component preparation, labeling, disposition/distribution, destruction (including components from hepatitis reactive units), receipt of supplies, hepatitis testing, pooling of plasma, and shipping temperature verification (21 CFR 606.160(a), (b)(2)(i), (ii), and (v), (b)(3) (i) and (iv), and (b)(5)(iv), 606.165(b)).

(2) Failure to have written SOP's for a computer-controlled counter used for hepatitis testing, pooling plasma, and verifying shipping temperatures of frozen plasma (21 CFR 606.100(b)(7) and (10)).

(3) Failure to take corrective action when Platelet Concentrate quality control test results were unacceptable (21 CFR 640.25(b)(4)).

(4) Failure to follow written SOP's for reissue (21 CFR 606.100(b)).

(5) Alteration of records, prior to and during inspection, e.g., hepatitis testing, labeling of components, return forms for reissue, receipt of blood bags, and autoclave log (21 CFR 606.160(a)).

In summary, the actions of Volunteer Blood Center, Inc., represent significant and continued noncompliance with the standards established in the firm's licenses and with the applicable standards in regulations designed to ensure the continued safety, purity, and potency of the products that the firm was licensed to manufacture (i.e., Whole Blood (Human), Red Blood Cells (Human), Single Donor Plasma (Human), and Platelet Concentrate (Human)). Furthermore, FDA found that a number of these actions represented intentional and willful disregard for the prescribed standards. Therefore, FDA initiated revocation proceedings without providing the establishment further opportunity to achieve compliance.

As provided in 21 CFR 601.5(b), FDA issued a letter on June 29, 1984, that notified the licensee of FDA's intention to revoke U.S. License No. 873, and that set forth grounds for, and offered an opportunity for a hearing on, the proposed revocation. In a letter postmarked October 11, 1984, Volunteer Blood Center, Inc., requested that its establishment and product licenses be revoked and waived the opportunity for a hearing. FDA has placed a copy of the letter postmarked October 11, 1984, on file with the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

The agency granted the licensee's request. In a letter to the firm dated November 14, 1984, issued under 21 CFR 601.5(a), FDA revoked the establishment license (U.S. License No. 873) and product licenses of Volunteer Blood Center, Inc.

Accordingly, under 21 CFR 12.38 and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Office of Biologics Research and Review (21 CFR 5.68), the establishment license (U.S. License No. 873) and product licenses issued to Volunteer Blood Center, Inc., for the manufacture of Whole Blood (Human), Red Blood Cells (Human), Single Donor Plasma (Human), and Platelet Concentrate (Human) were revoked effective November 14, 1984. This notice is issued and published under 21 CFR 601.8 and the redelegation at 21 CFR 5.67 (see the **Federal Register** of July 29, 1985; 50 FR 30696).

Dated: August 2, 1985.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 85-18865 Filed 8-8-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85D-0312]

Labeling of Surimi-Based Seafood Products; Availability of Policy

In FR Doc. 85-17734, beginning on page 30523, in the issue of Friday, July 26, 1985, make the following correction:

On page 30523, in the **ADDRESS** paragraph, sixth line, "30857" should read "20857".

BILLING CODE 1505-01-M

Food and Drug Administration

[Docket No. 85E-0268]

Determination of Regulatory Review Period for Purposes of Patent Extension; Lupron Injection

In FR Doc. 85-17887, appearing on page 30523, in the issue of Friday, July 26, 1985, make the following correction:

In the second column, fourth line from the bottom of the page, "January 20, 1985" should read "January 22, 1986.".

BILLING CODE 1505-01-M

[Docket No. 81N-0096]

Biological Products; Allergenic Extracts; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for hearing on a proposal to revoke the product license or the authority to manufacture specific products under the U.S. License for Allergenic Extracts, as applicable, for all Allergenic Extracts classified in Category IIIB by the Panel on Review of Allergenic Extracts (the Panel).

DATES: The licensees may submit written requests for a hearing to the Dockets Management Branch by September 9, 1985, and any data justifying a hearing must be submitted by October 8, 1985. Other interested persons may submit comments on the proposed revocation to the Dockets Management Branch by October 8, 1985. Labeling changes required under this notice must be submitted to and approved by the Office of Biologics Research and Review, Center for Drugs and Biologics, by February 5, 1988.

ADDRESSES: Requests for hearing and comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Submission of labeling changes to the Director, Office of Biologics Research and Review (HFN-825), Center for Drugs and Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205.

FOR FURTHER INFORMATION CONTACT:

About this notice: Michael L. Hooton, Center for Drugs and Biologics (HFN-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3640

About labeling requirements and changes in in biological licenses: Michael G. Beatrice, Center for Drugs and Biologics (HFN-825), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-5433.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 23, 1985 (50 FR 3082), FDA announced its intention to revoke those individual product licenses, or the authority of a manufacturer to produce individual

products under the "blanket" U.S. License for Allergenic Extracts, for any Allergenic Extract classified by the Panel into Category IIIB. This notice issued under § 601.7 (21 CFR 601.7), is based upon the Panel's conclusions and recommendations that the data are insufficient to classify the Category IIIB products as safe and effective and that the products have an unfavorable benefit-to-risk potential. FDA agrees with the Panel's analyses, findings, and recommendations, contained in the January 23, 1985 proposal and adopts these as the grounds for revocation of the product licenses.

FDA notes that the Panel placed two products into Category II, one of which was classified as Category II only for one specific indication for therapy. That licensed product, Aspergillus extract, was recommended for Category II for immunotherapy of bronchopulmonary aspergillosis. FDA has not previously approved any Aspergillus extracts for immunotherapy of bronchopulmonary aspergillosis; nor is the agnecy aware of the extracts being used for such immunotherapy. The other product recommended by the Panel for Category II is Histamine Azoprotein, manufactured by Parke-Davis, Division of Warner-Lambert Co. At the request of the manufacturer, the licenses for that product was revoked on February 9, 1978. Accordingly, FDA proposed no actions for the Category II products.

The January 23, 1985 proposal included a listing of the Category IIIB products, most of which were classified generically. Where the extract is licensed to a particular manufacturer under a specific product license or the specific manufacturer's product was reviewed by the Panel, the listing includes the name of the manufacturer along with that specific extract. The other products included in the listing are generic products that represent a Category IIIB classification for the corresponding specific company product of all licensed manufacturers of Allergenic Extracts. Some products were placed generically in Category IIIB for therapy and a different category (Category I or Category IIIA) for diagnosis. Other products are manufactured and approved only for immunotherapy. The currently licensed manufacturers of allergenic extract products and all Allergenic Extracts that were placed in Category IIIB for their particular uses are listed as follows:

Allergologists Laboratorium A/S, License No. 927 (approved by FDA on January 9, 1985);

Allergy Laboratories of Ohio, Inc., License No. 407;

Allergy Laboratories, Inc., License No. 103;

Allermed Laboratories, Inc., License No. 467;

Antigen Laboratories, Inc., License No. 468;

Axonics, Inc., License No. 896 (this license was approved by FDA on August 22, 1983);

Barry Laboratories, Inc., License No. 119;

Berkeley Biologicals, License No. 334;

EM Industries, Incorporated Center Laboratories Divison, License No. 193;

Greer Laboratories, Inc., License No. 308;

Iatric Corp., Inc., License No. 416;

Meridian Bio-Medical, Inc., License No. 448;

Miles Laboratories, Inc., License No. 008;

Mulford Colloid Laboratories Division of Lemmon Co., Inc., License No. 102;

Nelco Laboratories, Inc., License No. 459;

Optimal, Inc., License No. 922 (this license was approved by FDA on November 2, 1984);

Parke-Davis, Division of Warner-Lambert Co., Inc., License No. 001;

Pharmacia AB, Inc., License No. 752;

Riker Laboratories, Inc., License No. 372; and

Washington Homeopathic Pharmacy, Inc., License No. 392;

Since the Panel completed its review, Cutter Laboratories, Inc., including its Hoollister-Stier Laboratories Division, has become a part of Miles Laboratories, Inc., and the combined operations are now licensed under License No. 008. In the following discussions and listings under *Product Classifications* the references to specific products manufactured by Hollister-Stier Laboratories, or by Miles Laboratories, apply to the products manufactured by those companies at the time the Panel completed its review and prior to the merger of the two companies. This notice of opportunity for hearing concerning any products manufactured by either of the two companies during the Panel's review applies to the present company (Miles Laboratories) licensed under License No. 008.

In addition, three manufacturers that each held a license for the manufacture of Allergenic Extracts when the Panel was meeting, no longer hold such a license. At the request of Endo Laboratories, Inc. (License No. 147), its establishment and product licenses were revoked on August 20, 1981, and at the request of Pharmacia Laboratories Division of Pharmacia, Inc. (License No. 556) its establishment and product licenses were revoked on February 24, 1982. Similarly, at the request of Merck Sharp & Dohme, Division of Merck and Co. (License No. 002), its product license for the manufacture of Allergenic Extract (Poison Ivy Extract) was revoked on December 6, 1978. This firm remains licensed for the manufacture of other types of biological products.

Diagnosis	Immunotherapy
CATEGORY IIIB EXTRACTS OF MAMMALIAN ORIGIN	
Angora wool, rabbit and antelope hair mix.	Angora wool, rabbit and antelope hair mix.
Beaver fur	Beaver fur
Caracul fur	Caracul fur
Chamois skin	Chamois skin
Chinchilla fur	Chinchilla fur
Ermine fur	Ermine fur
Fox fur	Fox fur
Fur mix	Fur mix
Gerbil fur	Gerbil fur
Kolinksy fur	Kolinksy fur
Lamb, black	Lamb, black
Leopard fur	Leopard fur
Marmot fur	Marmot fur
Mink fur	Mink fur
Mole fur	Mole fur
Muskrat fur	Muskrat fur
Muskrat fur (Hudson seal)	Muskrat fur (Hudson seal)
Nutria fur	Nutria fur
Opossum fur	Opossum fur
Persian lamb fur	Persian lamb fur
Pony fur	Pony fur
Rabbit hair (fur)	Rabbit hair (fur)
Raccoon fur	Raccoon fur
Sable fur	Sable fur
Seal fur, Alaskan	Seal fur, Alaskan
Seal fur	Seal fur
Sheep wool	Sheep wool
Skunk fur	Skunk fur
Squirrel fur	Squirrel fur

Diagnosis	Therapy
CATEGORY IIIB EXTRACTS OF FOODS	
Anchovy/Herring/Sardine	Anchovy/Herring/Sardine.
Angostura Bitters	Angostura Bitters.
Apple Mix	Apple Mix.
Bacon	Bacon.
Bean Sprouts	Bean Sprouts.
	Beechnut: *Fagus sylvatica.*
Beer	Beer.
Buttermilk	Buttermilk.
Cascara Bark: *Rhamnus purshiana.*	Cascara Bark: *Rhamnus purshiana.*
Caviar	Caviar.
Cheese, American	Cheese American.
Cheese, Camembert	Cheese, Camembert.
Cheese, Cheddar (American)	Cheese, Cheddar (American).
Cheese, Cottage	Cheese, Cottage.
Cheese, Limburger	Cheese, Limburger.
Cheese, Mozzarella	Cheese, Mozzarella.
Cheese, Parmesan	Cheese, Parmesan.
Cheese, Pimento	Cheese, Pimento.
Cheese, Provolone	Cheese, Provolone.
Cheese, Romano	Cheese, Romano.
Cheese, Roquefort	Cheese, Roquefort.
Cheese, Swiss	Cheese, Swiss.
Cherry, Mix	Cherry, Mix.
Chewing Gum Base	Chewing Gum Base.
Chili Powder	Chili Powder.
Chocolate	Chocolate.
Cider, Apple	Cider, Apple
Cocoa	Cocoa.
Cocoa (Hersheys)	Cocoa (Hersheys).
Coca-Cola	Coca-Cola.
Cola	Cola.
Cola-Glyouno	Cola-Glyouno.
	Coffee *Coffea arabica.*
Cream of Tartar	Cream of Tartar.
Curry Powder	Curry Powder.
Dr. Pepper	Dr. Pepper.
Gelatin	Gelatin.
Grape/Raisin Mix	Grape/Raisin Mix.
Grape, Raisin	Grape, Raisin.
Ham, Smoked	Ham, Smoked.

Diagnosis	Therapy
Honey	Honey.
Honey, Pure	Honey, Pure.
Lactalbumin	Lactalbumin.
Lactalbumin, Cow's Milk	Lactalbumin, Cow's Milk.
Lettuce Mix: *Lactuca sativa species*	Lettuce Mix: *Lactuca sativa species.*
	Licorice: *Glycyrrhiza glabra.*
Liver	Liver.
Milk, Condensed	Milk, Condensed.
Milk (evaporated)	Milk (evaporated).
Mint Mix: Peppermint—*Mentha piperita* and Spearmint—*Mentha spicata.*	Mint Mix: Peppermint—*Mentha piperita* and Spearmint—*Mentha spicata.*
Mull-Soy	Mull-Soy.
Molasses	Molasses.
Muskmelon Mix (Cantaloupe/Casaba/Honeydew/Persian): *Cucumis melo*	Muskmelon Mix (Cantaloupe/Casaba/Honeydew/Persian): *Cucumis melo*
Mustard, Prepared	Mustard, Prepared.
Oatmeal	Oatmeal.
Olive Mix	Olive Mix.
Onion Mix	Onion Mix.
Pablum	Pablum.
Mixed Peppers (Red and Green).	Mixed Peppers (Red and Green).
Pepsi-Cola	Pepsi-Cola.
Plum/Prune Mix	Plum/Prune Mix.
Popcorn Seed: *Zea Mays*	Popcorn Seed: *Zea Mays.*
Postum	Postum.
Prune, Dried	Prune, Dried.
Raisin	Raisin.
Root Beer	Root Beer.
Saccharose	Saccharose.
Saccharin	Saccharin.
Seven-up	Seven-up.
Squash: *Cucurbita pepo* varieties.	Squash: *Cucurbita pepo* varieties.
Squash Mix	Squash Mix.
Sugar (Beet): *Beta vulgaris*	Sugar (Beet): *Beta vulgaris.*
Sugar (Cane): *Saccharum officinarum l.*	Sugar (Cane): *Saccharum officinarum.*
Sugar (Maple): *Acer saccharum.*	Sugar (Maple): *Acer saccharum.*
Sweetbreads	Sweetbreads.
Syrup, Pure Maple	Syrup, Pure Maple.
Tea, Black	Tea, Black.
Tea, Green	Tea, Green.
Tea, Mixed	Tea, Mixed.
Tuna Mix	Tuna Mix.
Vinegar	Vinegar.
Worcestershire Sauce	Worcestershire Sauce.
Yeast: *Saccharomycetaceae*	Yeast: *Saccharomycetaceae.*
Yeast Mix (Bakers/Brewers)	Yeast Mix (Bakers/Brewers).

CATEGORY IIIB EXTRACTS OF MISCELLANEOUS INHALANTS

Animal Feed Mix	Animal Feed Mix.
Balsam Sawdust	Balsam Sawdust.
Binder Twine	Binder Twine.
Cattail	Cattail.
Chalk	Chalk.
Cleansing Tissue	Cleansing Tissue.
	Cottonseed.
Dacron	Dacron.
	Derris Root.
Dust, Alfalfa Hay	Dust, Alfalfa Hay.
Dust, Alfalfa Mill	Dust, Alfalfa Mill.
Dust, Auto Upholstery	Dust, Auto Upholstery.
Dust, Barley	Dust, Barley.
Dust, Barn	Dust, Barn.
Dust, Brome Corn	Dust, Brome Corn.
Dust, Chicken House	Dust, Chicken House.
Dust, Clover Hay	Dust, Clover Hay.
Dust, Combined	Dust, Combined.
Dust, Furniture Upholstery	Dust, Furniture Upholstery.
Dust, Hay	Dust, Hay.
Dust, Prairie Hay	Dust, Prairie Hay.
Dust, Kafir	Dust, Kafir.
Dust, Lespedeza Hay	Dust, Lespedeza Hay.
Dust, Milo	Dust, Milo.
Dust, Oat	Dust, Oat.
Dust, Pea	Dust, Pea.
Dust, Pencil	Dust, Pencil.
Dust, Poultry	Dust, Poultry.
Dust, Rice	Dust, Rice.
Dust, Road	Dust, Road.
Dust, Rye	Dust, Rye.
Dust, Soy Bean	Dust, Soy Bean.
Dust, Timothy Hay	Dust, Timothy Hay.
Dust, Wheat	Dust, Wheat.
Excelsior	Excelsior.
Fiber Glass	Fiber Glass.
	Flaxseed.
Glue	Glue.

Diagnosis	Therapy
Glue, Animal	Glue, Animal.
Glue, Fish	Glue, Fish.
Glue, Liquid	Glue, Liquid.
Glue, Powdered	Glue, Powdered.
Lampblack	Lampblack.
Linen	Linen.
Newspaper	Newspaper.
Newspaper Mix (Printed)	Newspaper Mix (Printed).
Newspaper/Newspaper Print	Newspeper/Newspaper Print.
Nylon	Nylon.
Paper, Carbon	Paper, Carbon.
Paper, Mix	Paper, Mix.
Paper, Pulp	Paper, Pulp.
Rayon	Rayon.
Rug	Rug.
Smoke, Cigar	Smoke, Cigar.
Smoke, Cigarette	Smoke, Cigarette.
Smoke, Tobacco	Smoke, Tobacco.
Tobacco Smoke Mixture	Tobacco Smoke Mixture.
Snuff, Mix	Snuff, Mix.
Spanish Moss	Spanish Moss.
Tobacco, Cigar	Tobacco, Cigar.
Tobacco, Cigarette	Tobacco, Cigarette.
Tobacco, Mix	Tobacco, Mix.
Tobacco, Pipe	Tobacco, Pipe.

CATEGORY IIIB EXTRACTS OF PLANT OLEORESINS

	Injectable Plant Oleoresins:
	Poison ivy Extracts, injection in almond oil, manufactured by Parke-Davis and Co.
	Poison Ivy Extract, injection in olive oil, (Ivyol™), manufactured by Merck Sharp & Dohme, Division of Merck and Co. At the request of the manufacturer, this product license was revoked on December 6, 1978.
	Poison Ivy Extract, Poison Oak Extract, and Poison Ivy-Poison Oak Extracts (combined), injections in alcohol, manufactured by Hollister-Stier Labs., Division of Cutter Labs., Inc.
	Poison Ivy Extract, injection in hydroalcoholic solution (Rhustox Antigen™), manufactured by Mulford Colloid Labs., Division of Lemmon Co.
	Poison Ivy-Oak-Sumac Extracts, combined, injection in almond oil, (Rhus-All Antigen™), manufactured by Barry Labs., Inc.
	Poison Ivy Extract, Alum Precipitated, (Aqua Ivy ap™), injection, manufactured by Miles Labs., Inc.
	Plant Oleoresin (for oral use only):
	Poison Ivy Extract by Washington Homeopathic Pharmacy.
	Plant Oleoresins Used for Patch Testing and Oral Immunotherapy:
	Wild Plants, as follows:
	Aster *Callistephus.*
	Bitterweed *Helenium tenuifolium.*
	Black-eyed Susan *Rudbeckia hirta.*
	Burdock *Arctium.*
	Burweed marshelder *Iva xanthifolia.*
	Chicory *Chichorium lotybus L.*
	Cocklebur *Xanthium commune.*
	Dandelion *Taraxacum officinale.*
	Dog fennel *Anthemis cotula.*
	Fleabane *Erigeron.*
	Goldenrod *Solidago.*
	Ironweed *Vernonia.*
	Ragweed, false *Franseria acanthicarpa.*
	Ragweed, giant *Ambrosia trifida.*
	Ragweed, western *A. psilostachya.*
	Sagebrush *Artemesia tridentata.*
	Sneezeweed *Helenium microcephalum.*
	Wild feverfew *Parthemium hysteroporus.*
	Wormwood *Artemesia absinthium.*
	Yarrow *Achillae lanulosa.*
	Domesticated plants, as follows:
	Chrysanthemum *Chrysanthemum x-morifolium.*
	Coreopsis *Coreopsis.*
	Corn flower.
	Cosmos *cosmos.*
	Dahlia *dahlia.*
	Feverfew *chrysanthemum parthenium.*
	Gaillardia *gaillardia.*
	Lettuce *Latuca sativa* L.
	Marigold *tagetas.*
	Shasta daisy *Chrysanthemum maximum.*
	Sunflower *Helianthaae.*
	Tansy *Tanacetum vulgare* L.

CATEGORY IIIB EXTRACTS OF MOLDS INVOLVED IN DERMATOMYCOSIS

Dermatophytin-Hollister-Stier Labs., Division of Cutter Labs, Inc.	Dermatophytin-Hollister-Stier Labs., Division of Cutter Labs, Inc.
Dermatophytin "O"—Hollister-Stier Labs., Division of Cutter Labs, Inc.	Dermatophytin "O"—Hollister-Stier Labs., Division of Cutter Labs, Inc.
"T.O.E."—Hollister-Stier Labs., Division of Cutter Labs, Inc.	"T.O.E."—Hollister-Stier Labs., Division of Cutter Labs, Inc.
"T.O.E."—Antigen Laboratories, Inc.	"T.O.E."—Antigen Laboratories, Inc.

CATEGORY III, B, EXTRACTS OF INSECTS

	Bedbugs.
Bee, Bumble	Bee, Bumble.
Bee, Honey; used for stinging insect anaphylaxis.	Bee, Honey; used for stinging insect anaphylaxis.
Bee, Sweat	Bee, Sweat.
	Beetle, Blister.
	Beetle, Dermestid.
	Beetle, Japanese.
	Beetle, Ladybug.
Black-fly	Black-fly.
Box Elder Bugs	Box Elder Bugs.
	Butterfly.
Caterpillar	Caterpillar.
Caterpillar (tent)	Caterpillar (tent).
Citrus Mealy Bugs	Citrus Mealy Bugs.
Clear Lake Gnats	Clear Lake Gnats.
	Cricket.
	Cicada/Locust.
	Cockroach.
	Cockroach, Mixed.
	Daphnia.
	Flea.
	Flea, Dog.
	Flea, Cat.
	Flea, Mixed.
Flea, Sand	Flea, Sand.
	Flea, Water (daphnia pulex)
	Fruit Flies.
Gnat	Gnat.
Gnat, Black	Gnat, Black.
Grasshopper	Grasshopper.
Hornet	Hornet.
Hornet, Bald Face	Hornet, Bald Face.
Hornet, Black and Yellow Mix	Hornet, Black and Yellow Mix.
Hornet, Japanese	Hornet, Japanese.
Horsefly	Horsefly.
Horsefly/Stable Fly	Horsefly/Stable Fly.
	Housefly.
Household Insects	Household Insects.
	Leafhopper.
	Locust.
	Mosquito.
	Mosquito Mix.
	Moth.
	Moth/Miller.
Sandfly	Sandfly.
	Screwworm Fly.

Diagnosis	Therapy
	Sow Bugs.
	Spider.
	Spider Mix.
Stable Flies	Stable Flies.
Tick Seeds	Tick Seeds.
	Triatoma.
Wasp	Wasp.
Wasp Mix	Wasp Mix.
Yellow Jacket	Yellow Jacket.
Stinging Insect Mix	Stinging Insect Mix.

In addition, Allergenic Extracts, Alum-Percipitated (approved for therapy only) licensed to Center Labs., Inc., were recommended as Category IIIB if the corresponding aqueous product was placed in Category IIIB. Allergenic Extracts, Alum-Precipitated (Allpyral Extracts) licensed to Miles Laboratories were recommended for Category IIIB if the corresponding aqueous extracts were recommended for Category IIIB. Also, Allpyral short ragweed pollen extract was recommended for Category IIIB because the bulk of the applicable data and information available to the Panel suggested that this product is not effective.

FDA notes that the Panel recommended that extracts of Cockroach, American; Cockroach, German; and Cockroach, Oriental be placed into Category IIIB for immunotherapy. However, after the Panel completed its review, new relevant data were published that justify reconsideration of the generic classification of these products into Category IIIA. A copy of these published data has been placed on file with the FDA's Dockets Management Branch. Accordingly, Cockroach, American; Cockroach, German; Cockroach, Oriental; and mixtures consisting of such extracts will remain on the market on an interim basis pending review with all other Category IIIA products by the appropriate advisory committee for reclassification into either Category I or Category II.

In addition, the Panel recommended that extracts of Beechnut: *Fagus sylvatica*, Coffee: *Coffea arabica*, Licorice: *Glycyrrhiza glabra*, and Butterfly be placed into Category IIIB for both diagnosis and therapy. However, the data relating to these products were rereviewed by the appropriate advisory committee, which has tentatively recommended reclassification of these products into Category I for diagnostic use. Therefore, FDA believes that these products should not be removed from the market at this time and will hold in abeyance any regulatory action, other than labeling changes, concerning the diagnostic use of these products. Accordingly, extracts of Beechnut: *Fagus sylvatica*, Coffee: *Coffea arabica*, Licorice: *Glycyrrhiza glabra*, and Butterfly will remain on the market for diagnostic use on an interim basis pending review by the agency of the final report of the appropriate advisory committee containing the recommendations for reclassification of the extracts into either Category I or Category II.

FDA agrees with the Panel's findings and recommendations concerning the listed Category IIIB allergenic extracts and, in accordance with §§ 601.5 and 12.21(b) (21 CFR 601.5 and 12.21(b)), the Commissioner of Food and Drugs is offering an opportunity for a hearing. A written request for a hearing by the licensee may be submitted to the Dockets Management Branch (address above) by September 9, 1985, and any data justifying a hearing must be submitted by October 8, 1985. Other interested persons may submit comments on the proposed revocation to the Dockets Management Branch by October 8, 1985.

The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, the submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing are contained in 21 CFR Part 12 and 21 CFR 314.200 (see 21 CFR 601.7(a)).

The failure of a licensee to file timely written appearance and request for a hearing constitutes an election of the licensee not to avail itself of the opportunity for a hearing concerning the proposed revocation and a waiver of any contentions concerning the legal status of the products at issue. Any such product may not thereafter lawfully be marketed for its Category IIIB indication(s) (diagnosis and/or therapy) and FDA will initiate appropriate regulatory action to remove such product from the market. Manufacturers are required to amend their license applications to delete from manufacture any product in Category IIIB for diagnosis and/or therapy that is manufactured and marketed under the approved license. However, if a product is approved for diagnosis but classified into Category IIIB for therapy, a manufacturer may continue to produce and market that product for diagnostic use if the labeling for the product is amended to reflect only the approved diagnostic use of the product and, specifically, the label and the "Indications and Usage" section of the package insert state prominently, "FOR DIAGNOSTIC USE ONLY". This statement should immediately follow the proper name "Allergenic Extract" or "Allergenic Extract, Alum Precipitate," in the same size and type of print as the proper name. The package insert (in the "Indications and Usage" section) should also include a statement that the data to support the therapeutic use of the product has not been established. These labeling requirements will be reconsidered by FDA at any time in the future that a manufacturer presents acceptable evidence that such labeling is no longer appropriate. Labeling amendments for such products must be submitted to and approved by the Director, Office of Biologics Research and Review (HFN-825), Center for Drugs and Biologics (address above), by February 5, 1986. The authority for a manufacturer to produce a product for which the labeling is not changed will be revoked. Any biological product marketed without an approved license is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for a hearing that there is no genuine and substantial issue of fact which precludes the revocation of the license, or if a request for a hearing is not made in the required format or with the required analysis, FDA will enter summary judgment against the licensee requesting the hearing, making findings and conclusions, and denying a hearing.

All submissions pursuant to this notice shall be filed in duplicate. Such submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director and Deputy Director of

the Center for Drugs and Biologics (21 CFR 5.67) (see the **Federal Register** of July 29, 1985; 50 FR 30696).

Dated: August 2, 1985.

Harry M. Meyer, Jr.,

Director, Center for Drugs and Biologics.

[FR Doc. 85-18866 Filed 8-8-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[I-20704, I-21520, and I-21521]

Realty Action, Direct Sale of Public Land in Owyhee County, ID

Correction

In FR Doc. 85-16806, appearing on page 29768 in the issue of Monday, July 22, 1985, make the following correction: In the middle column, in the paragraph designated "2.", the serial number at the end of the first line of the paragraph should read "I-015177".

BILLING CODE 1505-01-M

Canon City District Grazing Advisory Board; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Grazing Advisory Board Public Meeting.

SUMMARY: Pursuant to the Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Canon City District Grazing Advisory Board to be held at 10:00 a.m., Thursday, September 19, 1985 in the meeting room of Empire Savings Bank, 227 G Street, Salida, Colorado. Agenda will include: (1) Expenditure of range betterment funds, (2) proposals for expenditure of range improvement funds, (3) update on current issues dealing with grazing management programs in the District. A field trip will be held Friday, September 20th to the Poncha Pass area to review brush control proposals, weather permitting.

The meeting will be open to the public. Facilities and space to accommodate the public are limited and persons will be accommodated on a first come, first served basis. Any person may file with the Board a written statement concerning matters to be discussed. A portion of the meeting time will be set aside on Thursday, September 19th at 2:00 p.m. to hear members of the public.

Minutes of the meeting will be made available for public inspection 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Donnie Sparks, District Manager, Bureau of Land Management, 3080 East Main Street, Canon City, Colorado 81212, 303-275-0631.

Donnie R. Sparks,

District Manager.

[FR Doc. 85-1890 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-JB-M

Susanville District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Tour and Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579 (FLPMA), that a tour by Susanville District Grazing Advisory Board will be held on September 19 & 20, 1985, with a short meeting to be held in conjunction with the tour.

The tour will begin at 9:00 a.m., September 19, 1985, at the Susanville District Office of the Bureau of Land Management, 705 Hall Street, Susanville, California. The tour will be of prescribed fires, fire rehabilitation, and range developments in the Eagle Lake Resource Area.

The agenda for the meeting will include a discussion of the Wild Horse Program, Advisory Board funds, Experimental Stewardship Program Report, and other items as appropriate.

The tour and meeting is open to the public. Interested persons should contact the Bureau of Land Management by September 12, 1985 for details.

Interested persons may make oral statements to the board or file a written statement for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130, by September 12, 1985. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Ben F. Collins,

Associate District Manager.

[FR Doc. 85-18901 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40

[W-82320]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

July 30, 1985.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease W-82320 for lands in Lincoln County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has 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-82320 effective February 1, 1985, subject to the original terms of conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 85-18902 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-22-M

[CA 5054, SAC 033533]

July 31, 1985.

Opening of Lands; California

1. In an exchange of lands under the provisions of section 8 of the Act of June 28, 1934, 48 Stat. 1272, and section 206 of the Act of October 21, 1976, 90 Stat. 2756, the following lands have been reconveyed to the United States:

Mount Diablo Meridian

CA 5054

T. 29 N., R. 13 E.,
Sec. 36, All.
T. 29 N., R. 14 E.,
Sec. 30, SW¼NE¼, S½ of Lot 1 of the NW¼, S½ of Lot 2 of the NW¼, Lot 1 of the SW¼, W½SE¼;
Sec. 31, Lot 2 of the NW¼.

SAC 033533

T. 29 N., R. 13 E.,
Sec. 25, SE¼NW¼, NE¼SW¼ and W½SE¼.

The land described aggregates 1,148.55 acres in Lassen County.

2. At 10:00 a.m. on September 9, 1985, the land described in paragraph 1, shall be open to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on September 9, 1985, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The following described lands were reconveyed to the United States without the mineral estate and are not subject to the mining laws (30 U.S.C. Ch. 2) or the mineral leasing laws:

Mount Diablo Meridian

T. 29 N., R. 13 E.,
Sec. 36, All.

4. At 10:00 a.m. on September 9, 1985, the lands, except those described in paragraph 3, shall be opened to the operation of the mining laws (30 U.S.C. Ch. 2), and the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10:00 a.m. on September 9, 1985, shall be considered simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

5. Inquiries concerning the lands should be addressed to the Bureau of Land Management, Department of the Interior, Federal Office Building, Room E-2841, 2800 Cottage Way, Sacramento, CA 95825.

Nancy J. Alex,

Chief, Lands, & Locatable Minerals Section, Branch of Lands & Minerals Operations.

[FR Doc. 85-18903 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[C-8-84]

Filing of Plat of Survey; California

July 25, 1985.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Madera County

T. 8 S., R. 21 E.

2. This supplemental plat showing amended lottings created by the cancellation of Mineral Survey No. 4024 B and C, in the NE¼, sec. 6, Township 8 South, Range 21 East, Mount Diablo Meridian, California, was accepted June 25, 1985.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-18887 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[C-14-85]

Filing of Plat of Survey; California

July 25, 1985.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 5 S., R. 2 W.

2. This supplemental plat of the SE¼, section 18, Township 5 South, Range 2 West, San Bernardino Meridian, California, showing amended lottings, was accepted June 14, 1985.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-18888 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 744]

Filing of Plat of Survey; California

July 25, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Mendocino County

T. 12 N., R. 10 W.

2. This plat, representing the dependent resurvey of a portion of the east and north boundaries, a portion of the subdivisional lines, and a portion of the subdivision of section 4, and the survey of the subdivision of sections 2, 3, 4, 5, 10, 11, 12 and 14, Township 12 North, Range 10 West, Mount Diablo Meridian, under Group No. 744, California, was accepted June 6, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-18889 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 569]

Filing of Plat of Survey; California

July 29, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Plumas and Sierra Counties

T. 21 N., R. 9 W.

2. This plat, representing the corrective dependent resurvey of a portion of the subdivisional lines, Township 21 North, Range 9 West, Mount Diablo Meridian, under Group No. 569, California, was accepted July 8, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management,

Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-18890 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 891]

Filing of Plat of Survey; California

July 29, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Lassen County

T. 30 N., R. 12 E.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 29, and the metes-and-bounds survey of Parcel A, in section 29, Township 30 North, Range 12 East, Mount Diablo Meridian, under Group No. 891, California, was accepted April 24, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management and the Bureau of Indian Affairs.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-18891 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[C-13-85]

Filing of Plat of Survey; California

July 30, 1985.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Nevada County

T. 17 N., R. 14 E.

2. This supplemental plat of Township 17 North, Range 14 East, Mount Diablo Meridian, California, designed to show the segregation of certain patented lands, and the amended lotting of a portion of the public lands in the southeast quarter of section 24, was accepted July 12, 1985.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management and the Department of Agriculture, U. S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-18892 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 907]

Filing of Plat of Survey; California

July 30, 1985.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, effective 7:30 a.m. on September 24, 1985:

San Bernardino Meridian, San Bernardino County

T. 6 N., R. 4 W.

2. This plat representing the dependent resurvey of a portion of the subdivisional lines and certain mineral survey boundaries, the completion survey of certain sections, and the survey of the subdivision of sections 9, 14, 20, and 21, in Township 6 North, Range 4 West, San Bernardino Meridian, under Group No. 907, California, was accepted July 8, 1985.

3. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

4. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-18893 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 830]

Filing of Plat of Survey; California

July 30, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Tulare County

T. 17 S., R. 29 E.

2. This plat, representing the dependent resurvey of portions of the south and east boundaries, a portion of the subdivisional lines and subdivision of section 36, and the survey of the subdivision of sections 25, 26, 27, 35, and 36, T. 17 S., R. 29 E., Mount Diablo Meridian, under Group No. 830, California, was accepted July 5, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-18894 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[A-21050]

Withdrawal and Reservation of Public Lands; Arizona

The National Park Service, Southwest Region, Department of Interior, P.O. Box 728, Santa Fe, New Mexico 87501, has filed application, Serial Number A-21050, for withdrawal of the following described lands from settlement, sale, location, or entry under all of the general land laws, including the mining laws, but not the mineral leasing laws, subject to valid existing rights:

Gila and Salt River Meridian

T. 25 N., R. 8 E.,
Sec. 3, SW¼SW¼ and U.S. Hwy 89 right-of-way;
Sec. 10, that portion lying west of the east right-of-way boundary of U.S. Hwy 89;
Sec. 15, that portion lying west of the east right-of-way boundary of U.S. Hwy 89.

The areas described aggregate approximately 168.89 acres in Coconino County, Arizona.

The National Park Service desires that the lands be withdrawn and reserved

for protection of cultural resources and inclusion of the above-described lands in the Wupatki National Monument.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for hearing to the undersigned officer within 30 days from publication of this notice. Upon determination by the Arizona State Director, Bureau of Land Management, that a public meeting will be held, a notice of the time and place of the meeting will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting which will be scheduled and conducted in accordance with BLM Manual Section 2351.16B.

For a period of two years from the date of publication of this notice in the **Federal Register** the land will be segregated as specified above unless the application is rejected or the withdrawal is approved prior to that date.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources, and will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether the lands will be withdrawn and reserved as requested by the applicant Agency. The determination of the Secretary on the application will be published in the **Federal Register.** The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

All communications in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, U.S. Department of the Interior, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-18904 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-32-M

[CA 7549 WR]

Proposed Continuation of Withdrawal; California

July 31, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation, Mid-Pacific Region, proposes that a land withdrawal containing 480 acres for the Clear Lake Dam, Klamath Project, continue for an additional 50 years. The lands are located in the Modoc National Forest. The lands will remain closed to surface entry and mining, but have been and will remain open to mineral leasing.

DATE: Comments should be received by November 7, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, California State Office, 2800 Cottage Way (Room E-2841), Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Sonia Santillan, California State Office, (916) 484-4431.

The Bureau of Reclamation proposes that an existing land withdrawal be continued for a period of 50 years, pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The withdrawal is described as follows:

Mount Diablo Meridian

T. 47 N., R. 8 E.,
Sec. 8, NE¼, E½NW¼, SW¼, W½SE¼.

The area described contains 480 acres in Modoc County.

The purpose of the withdrawal is to protect lands adjacant to Clear Lake Dam. The withdrawal segregates the lands from operation of the public land laws generally, including the mining but not the mineral leasing laws. No change is proposed in the purpose of segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Joan B. Russell,

Acting Chief, Branch of Land & Minerals Operations.

[FR Doc. 85-18905 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-40-M

[NM-52386]

Proposed Continuation of Withdrawal, New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposes that a 6.63-acre withdrawal for the Bureau of Reclamation continue for an additional 50 years. The lands will remain closed to surface entry and mining and will remain open to mineral leasing.

DATE: Comments should be received by November 7, 1985.

FOR FURTHER INFORMATION CONTACT: Pauline T. Brown, BLM, New Mexico State Office, P.O. Box 1449, Santa Fe, NM 87504-1449, 505-988-6326.

The Department of the Interior proposes that the existing land withdrawal made by Secretary's Order of March 18, 1914, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

T. 21 S., R. 26 E.,
Sec. 35, NE¼NE¼NE¼ (except for 3.3685 acres conveyed to Guadalupe Medical Center, Inc.)

The area described contains 6.6315 acres in Eddy County.

The purpose of the withdrawal is for use in connection with the Carlsbad Project, Main Southern Canal.

The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated July 31, 1985.

Monte G. Jordan,

Associate State Director.

[FR Doc. 85-18906 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-FB-M

[W-0304138, W-71414, W-71891, W-71889, W-71893, W-71894]

Proposed Continuation of Withdrawals: Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes to continue the existing withdrawals on 17,578.33 acres of the Seminoe Dam and Reservoir, 5,818.20 acres for the Morgan Creek Hydrologic Drainage Area, and 2,145.68 acres for the Kortes/Miracle Mile Area for an additional 100 years. The remaining acreage in the existing withdrawals will be terminated. The lands remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments and requests for public meeting should be received November 7, 1985.

ADDRESS: Comments and meeting request should be sent to: Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 1828, Cheyenne, Wyoming 82003.

FOR FURTHER INFORMATION CONTACT: Scott Gilmer, Wyoming state Office, 307-772-2089.

The Bureau of Reclamation proposes that parts of the existing withdrawals made by the Secretarial Orders of January 20, 1932, as modified by Public Land Order 2999, dated April 8, 1963; October 2, 1929, October 13, 1933, November 2, 1936, April 26, 1937, and PLO No. 3595 dated April 1, 1965, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The lands proposed for continuation for a period of 100 years are those lands that lie at or below the elevation of 6361 feet, and those above the elevation of 6361 feet to 6411 feet for a period of 10 years in the following described subdivisions:

Sixth Principal Meridian

T. 23 N., R. 82 W.,
Sec. 4, lots 2, 3, 4, SW¼NE¼, SE¼NW¼;
Sec. 6, lot 6, N½NE¼SW¼, NE¼SE¼.
T. 24, N., R. 82 W.,
Sec. 32, S½SW¼SW¼, SE¼SW¼, SW¼SE¼, S½SE¼SE¼;
Sec. 34, S½SW¼, SW¼SE¼, N½SE¼ SE¼.
T. 23 N., R. 83 W.,
Sec. 2, lot 1;
Sec. 30, lots 1, 2, E½NW¼.
T. 24 N., R. 83 W.,
Sec. 16, N½NE¼, W½;
Sec. 18;
Sec. 20, SE¼NE¼, SW¼NW¼, S½;
Sec. 22, SW¼ W½SE¼;
Sec. 26, N½, E½SE¼;
Sec. 28, N½, N½SW¼, SE¼;
Sec. 30, lot 1;
Sec. 34, N½N½;
Sec. 36.
T. 25 N., R. 83 W.,
Sec. 30, lots 3, 4;
Sec. 32, N½NW¼.
T. 22 N., R. 84 W.,
Sec. 4, lot 4.
T. 23 N., R. 84, W.,
Sec. 2;
Sec. 4, S½NE¼, SE¼NW¼, N½S½;
Sec. 10, NE¼, S½NW¼, S½;
Sec. 14, S½NE¼, NW¼, S½;
Sec. 16, SE¼NE¼, E½SE¼;
Sec. 22, E½E½;
Sec. 24, SE¼NE¼, W½, NE¼SE¼, S½SE¼;
Sec. 26, N½, SW¼, W½SE¼;
Sec. 28, SW¼, N½SE¼;
Sec. 32, N½NE¼, S½NW¼, N½SW¼;
Sec. 34, N½N½, SW¼NW¼.
T. 24 N., R. 84 W.,
Sec. 2, S½;
Secs. 4, 8, 10;
Sec. 12, S½;
Sec. 14;
Sec. 16, N½NW¼, E½SE¼;
Sec. 18, lots 1, 2, 3, NE¼, E½NW¼, NE¼SW¼;
Sec. 20, N½NW¼;
Sec. 22;
Sec. 24, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 26;
Sec. 28, S½,NE¼, SE¼;
Sec. 34, N½, SE¼;
Sec. 36, W½,NW¼, SW¼, W½SE¼.
T. 25 N., R. 84 W.,
Sec. 8, lots 1-5, NE¼, E½NW¼, NE¼SW¼, NE¼SE¼;
Sec. 9, lots 1-4, W½NE¼;
Sec. 10, lots 4, 5;
Sec. 15, N½, SW¼, W½SE¼;
Sec. 16, NE¼, E½NW¼, S½;
Sec. 21, N½, SE¼;
Sec. 22;
Sec. 23, NW¼NE¼, S½NE¼, NW¼, S½;
Sec. 24, SW¼NE¼, S½NW¼, SW¼, NW¼SE¼;
Sec. 25, W½NW¼;
Sec. 26;
Sec. 27, NE¼, E½NW¼;
Sec. 28, N½N½NE¼, N½SE¼, SE¼SE¼;
Secs. 34, 36.
T. 22 N., R. 85 W.,
Sec. 2, lots 2, 3, S½SE¼;
Sec. 10, N½NW¼, SW¼NW¼, NW¼SW¼, S½S½, NE¼SE¼.
T. 23 N., R. 85 W.,
Sec. 36, SE¼SE¼.
T. 24 N., R. 85 W.,
Sec. 14, SE¼.

and the following described lands at all elevations:

T. 25 N., R. 84 W.,
Sec. 4, lots 1-14, SW¼NW¼, S½SW¼;
Sec. 5, lots 1, 2, 5-15, S½NE¼, SE¼NW¼, E½SW¼;
Secs. 6, 7;
Sec. 18, lots 1, 2 E½NW¼.
T. 26 N., R. 84 W.,
Sec. 15, E½W½;
Sec. 16, E½E½;
Sec. 22, W½E½, W½W½;
Sec. 27, E½;
Sec. 31, lots 2-4, SE¼NW¼, E½S¼, S½SE¼;
Sec. 32, SW¼, SW¼SE¼;
Sec. 33, SE¼SE¼;
Sec. 34.
T. 25 N., R. 85 W.,
Sec. 1;
Sec. 2, lots 1-3, S½N½, S½;
Sec. 3, E½SE¼;
Sec. 10, E½NE¼, NE¼SE¼;
Sec. 11, N½, N½SW¼, SE¼;
Sec. 12;
Sec. 13, N½N½, SE¼NE¼;
Sec. 14, NE¼NE¼.
T. 26 N., R. 85 W.,
Sec. 35 NE¼, (SE¼SW¼, SE¼, minerals only).

The areas described aggregate 25,542.21 acreas in Carbon County.

The purpose of the withdrawal is to protect the Seminoe Dam and Reservoir, the Morgan Creek Hydrologic Drainage Area, and the Kortes/Miracle Mile Area, and related facilities. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection

with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Land Resources, in the Wyoming State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

F. William Eikenberry,

Associate State Director.

[FR Doc. 85-18907 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-22-M

[AA-6652-A]

Alaska Native Claims Selection; Far West, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Far West, Inc. for 0.58 acre. The land involved is in the vicinity of Chignik.

U.S. Survey No. 3887, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 9, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal.

Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18962 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-JA-M

[AA-6670-A]

Alaska Native Claims Selection; Iliamna Natives Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Iliamna Natives Limited, notice of which was published in the **Federal Register** (43 CFR 2650.7(d)) on August 16, 1984, is modified by adding two rights-of-way to which the grant of lands will be subject.

A notice of the modified DIC will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the modified DIC may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until September 9, 1985 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given August 16, 1984, is final.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18963 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-14893-B]

Alaska Native Claims Selection; Mary's Igloo Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Mary's Igloo Native Corporation for approximately 4,961 acres. The lands involved are in the vicinity of Mary's Igloo.

Kateel River Meridian, Alaska

T. 5 S., R. 31 W. (Unsurveyed)

A notice of the decision will be published once a week for four (4) consecutive weeks, in the NOME NUGGET. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until September 9, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-18964 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-JA-M

Alaska Native Claims Selection; Sealaska Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of secs. 14(h)(1), 14(h)(7) and 22(j) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(h)(1), 1613(h)(7), 1621(j), will be issued to Sealaska Corporation. The lands involved are within the Tongass National Forest.

Serial No.	Land description	Approximate acreage
AA-10448	T. 66 S., R. 86 E., sec. 24	0.63
AA-10466	T. 80 S., R. 87 E., sec. 31	3.15
AA-10472	T. 72 S., R. 78 E., sec. 11	4.82
AA-10476	T. 70 S., R. 79 E., sec. 32	.07
AA-10498	T. 53 S., R. 60 E., sec. 11	24.0
AA-10519	T. 52 S., R. 67 E., sec. 24; T. 52 S., R. 66 E., secs. 19 and 30.	93.0
AA-10533	T. 253 S., R. 35 E., sec. 29	3.0

A notice of the decisions will be published once a week, for four (4) consecutive weeks, in the Juneau Empire. Copies of the decisions may be obtained by contacting the Bureau of

Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. [(907) 271–5960.]

Any party claiming a property interest which is adversely affected by the decisions shall have until September 9, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ruth Stockie,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–18965 Filed 8–8–85; 8:45 am]

BILLING CODE 4310-JA-M

[OR 37150]

Realty Action; Exchange of Public and Private Lands in Wheeler County, OR

The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

T. 13 S., R. 24 E., W.M.,
Sec. 9, NW¼SE¼, 40 acres;
Sec. 10, NE¼SW¼, 40 acres;
Sec. 11, SW¼SW¼, 40 acres;
Sec. 15, SE¼SE¼, 40 acres;
Sec. 22, E½NE¼, NE¼SW¼, SE¼Se¼, 160 acres;
Sec. 23, N½NE¼, SW¼Sw¼, 120 acres;
Sec. 24, S½NW¼, 80 acres.
T. 12 S., R. 25 E., W.M.,
Sec. 32, NE¼, 160 acres.
T. 13 S., R. 25 E., W.M.,
Sec. 6, SE¼SE¼, 40 acres.
Comprising 720 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from Clint Harris:

T. 1 S., R. 18 E., W.M.,
Sec. 36, SE¼SE¼, 40 acres.
T. 2 S., R. 18 E.,
Sec. 1, SE¼NE¼, 40 acres.
T. 1 S., R. 19 E.,
Sec. 30, lot 11, 40 acres;
Sec. 31, lot 2, 40 acres;
Lot 5, 40 acres;
Lot 6, 40 acres;
Lot 7, 40 acres;
Lot 8, 40 acres;
Lot 10, 50.05 acres;
Lot 11, 40 acres;
Lot 12, 40 acres;
W½SE¼, 80 acres.
T. 2 S., R. 19 E., W.M.,
Sec. 6, lot 3, 37.82 acres;
Lot 5, 41.49 acres;
SW¼NE¼, SE¼NW¼, N½NE¼SE¼, 100.00 acres.
T. 6 S., R. 19 E., W.M.,
Sec. 28, S½NW¼, N½SW¼, SW¼SW¼, 200 acres;
Sec. 29, E½, NE¼NW¼, SE¼SW¼ and all that part of the W½W½ lying east of the John Day River, 499 acres;
Sec. 31, all that part of the E½E½ lying east of the John Day River, 65 acres;
Sec. 32, E½, W½ all that part lying east of the John Day River, 635 acres;
Sec. 33, NW¼NE¼, N½, NW¼, SW¼NW¼,SW¼, W½SE¼, 400 acres.
T. 7 S., R. 19 E., W.M.,
Sec. 4, lots 2, 3 and 4, S½NW¼, SW¼, 364.21 acres;
Sec. 5, lots 1 and 2, S½NE¼, SE¼ and all that part of the N½SW¼ lying east of the John Day River, 375.21 acres.
Comprising 3,247.78 acres of private land.

The purpose of the exchange is to dispose of scattered isolated tracts with no legal public access, while obtaining land with public access and important recreational values. The public interest will be served by completing the exchange.

The value of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States by Clint Harris of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

(1) A reservation for existing oil and gas leases, OR 26531 and OR 27350.

(2) A reservation for existing rights-of-way OR 04704 and OR 03943.

(3) A reservation to the United States for ditches and canals and a reservation for existing canals on tracts 5, 8, 11 and 12, constructed and authorized under 43 U.S.C. 661, Act of July 26, 1886.

(4) The condition that until mitigation work is completed for archaeological sites OR–05–5380, 5381, and 5382 no impact to or disturbance of these sites will be allowed.

(5) The condition that the proponent, Mr. Clint Harris, grant the Bureau of Land Management a protective easement for The Dalles-Canyon City Military Wagon Road in T. 13 S., R. 25 E., Sec. 6: SE¼SE¼ (Tract No. 12) and a right-of-way for public access to the wagon trail from the county road.

(6) The condition that the mineral estates tied to the public land and Murtha properties also be exchanged.

Private lands to be acquired by the United States will be subject to an existing right-of-way granted to Wasco Electric Coop for a 20' powerline right-of-way.

Publication of this notice will segregate the subject lands from all appropriations under the public land laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this notice, or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Bureau of Land Management, Prineville District Office, P.O. Box 550, Prineville, Oregon 97754, for a period of 45 days from the date of publication of this notice in the **Federal Register.** Interested parties may submit comments to the Prineville District Manager.

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: August 2, 1985.

Gerald E. Magnuson,

District Manager.

[FR Doc. 85–18699 Filed 8–8–85; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On May 30, 1985, a notice was published in the **Federal Register** (Vol. 50, No. 104) that an application had been filed with the Fish and Wildlife Service by the Oregon University of Visual Arts, Eugene, OR, (PRT–693357) for a permit to import (re-import) from Canada 40 Eskimo dolls (Alaskan native handicrafts), previously exported for exhibition, some of which are constructed with walrus ivory and various seal and walrus parts. The exhibit is the property of the Alaska State Council of the Arts and is on tour throughout Canada and the U.S.

Notice is hereby given that on July 29, 1985, as authorized by the Marine Mammal Protection Act of 1972 (16 USC 1361–1407), the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's Permit Office in Room 605, 1000 North Glebe Road, Arlington, Virginia 22201.

Dated: August 5, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-18875 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Applications for Permits

The public is invited to comment on the following applications for permits to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*, and the regulations governing marine mammals (50 CFR Part 18).

Applicant: Name: Miyajima Public Aquarium, 10-3 Miyajimi-Cho, Saeki-gun, Hiroshima, JAPAN; File No. PRT 696262.

Type of Permit: Public Display.

Name and Number of Animals: Alaskan sea otters (*Enhydra lutris*) -4-.

Summary of Activity to be Authorized: The applicant proposes to take (capture) these animals and export them to Miyajima Public Aquarium for public display.

Source of Marine Mammals for Display: Prince William Sound or Green Island, Alaska or as designated by Alaska Dept. of Fish and Game.

Period of Activity: September 1, 1985, to December 31, 1985.

Applicant: Name: Otaru Public Aquarium, 3-303 Shikutsu, Otaru City, JAPAN; File No. PRT 685320.

Type of Permit: Public Display.

Name and Number of Animals: Alaskan sea otters (*Enhydra lutris*) -4-.

Summary of Activity to be Authorized: The applicant proposes to take (capture) these animals and export them to Otaru Public Aquarium for public display.

Source of Marine Mammals for Public Display: Prince William Sound or Green Island, Alaska, or as designated by Alaska Dept. of Fish and Game.

Period of Activity: September 1, 1985 to December 31, 1985.

Applicant: Name: Dr. Donald Siniff, University of Minnesota, Minneapolis, MN; File No. PRT 678319.

Type of Permit: Scientific Research.

Name and Number of Animals: Alaskan sea otters (*Enhydra lutris*) -150-.

Summary of Activity to be Authorized: The applicant presently holds Marine Mammal permit PRT 678319 authorizing the capture of 150 otters for flipper tagging, blood sampling measurements and other similar research activities. He is also authorized to surgically implant 100 otters with radio transmitters. The applicant now requests modification of his permit to authorize recapture of the 150 otters twice in order to affix another flipper tag and obtain growth data. Therefore, the total number of captures could approach 450.

Source of Marine Mammals for Research: Prince William Sound, Alaska.

Period of Activity: Through November 30, 1987.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete applications, or requests for a public hearing on these applications should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above applications are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601, 1000 N. Glebe Road, Arlington, Virginia.

Dated: August 5, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-18876 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-55-M

Outer Continental Shelf; Development Operations Coordination Document; Texaco USA

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Texaco USA has submitted a DOCD describing the activities it proposes to conduct on Lease OCS 0310, Block 236, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Louisa and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submited on July 31, 1985.

ADDRESS: 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 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 Act 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: August 2, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-18917 Filed 8-8-85; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

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

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisons for the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contracting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7313.

Title: 30 CFR Part 780 Surface Mining Permit Applications Minimum Requirements for Reclamation Operation Plan
Abstract: This is needed to fulfill the requirements of sections 507 and 508 of Pub. L. 95–87 and is used by the regulatory authority to determine whether the applicant can comply with the performance standards of the regulations and the environment protection standards of the regulatory program
Bureau Form Number: None
Frequency: On occasion
Description of Respondents: Coal Mine Operators
Annual Responses: 55,221
Annual Burden Hours: 944,022
Bureau Clearance Officer: Darlene Grose Boyd, 202–343–5447.

Dated: July 25, 1985.

Don Hinderliter,

Acting Assistant Director, Budget and Administration

[FR Doc. 85–18913 Filed 8–8–85; 8:45 am]

BILLING CODE 4310–05–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–43 (Sub–132)

Illinois Central Gulf Railroad Co., Abandonment in Hinds County, MS; Findings

The Commission has issued a certificate authorizing the Illinois Central Gulf Railroad Company to abandon its 3.70-mile rail line between Beckville (milepost 174.80) and Elton (milepost 174.80) in Hinds County, MS. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 85–18940 Filed 8–8–85; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–117 (Sub–2)]

Elgin, Joliet, and Eastern Railway Co.; Abandonment in Will and Kendall Counties, IL; Findings

The Commission has issued a certificate authorizing Elgin, Joliet, and Eastern Railway Company to abandon its 5.38-mile rail line between milepost J 12.86 and milepost J 18.24 in Will and Kendall Counties, IL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 85–18939 Filed 8–8–85; 8:45 am]

BILLING CODE 7035–01–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at 1211 Avenue of the Americas, 38th Floor, Conference Room A, New York City, New York on September 9, 1985 beginning at 9:00 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that the subject of the meeting falls within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, section 552(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: August 6, 1985.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 85–18941 Filed 8–8–85; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on the list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N 1301, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics
Permanent Mass Layoff and Plant Closing Program
Reports 1-3 and Supplemental Employer Information Report
BLS 428
Quarterly
State or local governments; business or other for-profit organizations; Federal agencies or employees; non-profit institutions.
1,141 responses; 29,725 hours; 4 forms.

Section 462(e) of the Job Training Partnership Act states that the Secretary of Labor develop and maintain statistical data on permanent mass layoffs and plant closings, and publish a report annually. These data will be used to study the causes and effects of worker dislocations.

Employment and Training Administration and Office of Veterans'
Employment and Training
Employment Service Program Reporting System
Quarterly
State or Local Governments
52 respondents; 9,148 burden hours; no forms.

The Employment Service Program Reporting System is to provide data on State Public Employment Service Agency program activity and expenditures, including services to veterans, for use at the Federal level by the U.S. Employment Service, WIN, and Veterans' Employment and Training Service in program administration and to provide reports to the President and Congress.

Occupational Safety and Health Administration
Survey of Shipyards to Determine Impacts of Proposed Health and Safety Standards
OSHA-155
One time survey
Business or other for-profit organizations
Small businesses
125 respondents; 63 hours; 1 survey form

This questionnaire is required to collect data from the shipbuilding and repairing industry relative to the development of a Regulatory Impact Analysis and Regulatory Flexibility Analysis of the proposed industry standard.

Reinstatement

Occupational Safety and Health Administration
Telecommunication Training Record
1218-0057, OSHA 220
Recordkeeping
Businesses or other for profit; small businesses or organizations
100,000 respondents; 21,400 hours; 0 forms

This regulation requires telecommunications employers to provide a written description of their training program to ensure that existing programs are adequate. The written description also allows employees and OSHA to review an employer's program to determine if the training meets the OSHA standards.

Signed at Washington, D.C., this 6th day of August, 1985.

Paul E. Larson,

Department Clearance Officer.

[FR Doc. 85-19007 Filed 8-8-85; 8:45 am]

BILLING CODE 4510-26/4510-30-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility to Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 19, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than August 19, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 31st day of July 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Alatex, Inc. (ACTWU)	Crestview, FL	7/19/85	7/15/85	TA-W-16,202	Mens underwear.
Goldstein Footwear, Inc. (ACTWU)	Brooklyn, NY	7/25/85	7/17/85	TA-W-16,203	Ladies shoes.
Kilborn, Inc. (workers)	Englewood, CO	7/24/85	7/22/85	TA-W-16,204	Engineer consulting for mining.
LTV Steel Co. (USWA)	Elyria, OH	7/2/85	7/19/85	TA-W-16,205	Tubing for auto, farm, oil industries.
LTV Steel Co., Pittsburgh Works—North (USWA)	Hazlewood, PA	7/12/85	7/5/85	TA-W-16,206	Carbon steel and carbon steel products.
LTV Steel Co., Pittsburgh Works, South (USWA)	Pittsburgh, PA	7/12/85	7/5/85	TA-W-16,207	Carbon steel and carbon steel products.
Northway Products Division (Universal Rundle) (workers)	Rensselaer, IN	7/22/85	7/15/85	TA-W-16,208	Wall units, kreepers, vanity, mirror frames.
Opelika Mfg Corp. (ACTWU)	Opelika, AL	7/19/85	7/15/85	TA-W-16,209	Uniforms, aprons, scub suits, childrens wear.
Opelika Mfg Corp. (workers)	Hawkinsville, GA	7/25/85	7/17/85	TA-W-16,210	Cotton terry towels, kitchen towels, hand, bath, and massage towels.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Royal Pants Manufacturing Co., Inc. (ACTWU)	Perkasie, PA	7/25/85	7/23/85	TA-W-16,211	Mens suits pants and men's slacks.
Wickham Piano Plate Co. (workers)	Springfield, OH	7/23/85	7/12/85	TA-W-16,212	Piano plate castings.
BCNR Mining Corp., Clyde Mine (UMWA)	Fredericktown, PA	7/15/85	7/9/85	TA-W-16,213	Metalurgical coal.
(The) Duriron Co. (company)	Dayton, OH	7/24/85	7/22/85	TA-W-16,214	Valve and pump castings.
Great Western Sugar Co. (wkrs)	Bayard, NE	7/22/85	7/1/85	TA-W-16,215	Raw sugar beet.
Great Western Sugar Co. (wkrs)	Ovid, CO	7/8/85	6/28/85	TA-W-16,216	Raw sugar beets.
Kitt Energy Corp., Kitt #1 Mine (wkrs)	Philippi, WV	7/19/85	7/15/85	TA-W-16,217	Metalurgical coal.
OMC Johnson (IMMA)	Waukegan, IL	7/24/85	7/22/85	TA-W-16,218	Outboard motors and die castings.

[FR Doc. 85-19008 Filed 8-8-85; 8:45 am]

BILLING CODE 4510-30-M

Federal-State Unemployment Compensation Program Unemployment Insurance Program Letter Interpreting the Work-Training and Work-Relief Exemption

Correction

In FR Doc. 85-17546 beginning on page 30249 in the issue of Wednesday, July 24, 1985, make the following correction:

On page 30249, third column, insert the following information above the last paragraph:

"(4) The jobs do not displace regularly employed workers or impair existing contracts for services."

BILLING CODE 1505-01-M

Office of Pension and Welfare Benefit Programs

[Application No. D-5557 et al.]

Proposed Exemptions; The James C. Soper, Inc. Portion of the Phillip M. Jelley, Inc. Pension Plan, et al.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Acat and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The James C. Soper, Inc. Portion of the Philip M. Jelley, Inc. Pension Plan (the Plan) Located in Oakland, California

[Application No. D-5557]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1)(A) through (E) of the Code shall not apply to the past cash sale of certain securities to the Plan by Mr. James C. Soper, at the prices described in this notice of proposed exemption, provided such prices were not greater than the fair market value of the securities on the dates of the sales.[1]

EFFECTIVE DATE: If the proposed exemption is granted, it will be effective January 24, 1983.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with one participant, Mr. Soper. Mr. Soper is also one of the two trustees of the Plan. Mr. Soper is the only shareholder and employee of the Employer. Mr. Soper represents that in the event another employee every becomes eligible to participate in the Plan, a separate but identical plan will be established for such employee, so that Mr. Soper will be the only participant affected by the subject transactions.

2. On January 24, 1983, Mr. Soper sold 400 shares of Eastman Kodak (Kodak) stock to the Plan for $32,000. On February 1, 1983, he sold 200 shares of American Home Products (AHP) stock

[1] Since Mr. Soper is the sole stockholder of James C. Soper, Inc. (the Employer) and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510. 3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

to the Plan for $8,937.50. On February 2, 1983, he sold 650 shares of Dupont stock to the Plan for $25,837.50. On January 24, 1984, he sold 200 shares of IBM Corporation (IBM) stock to the Plan for $23,362.50. On January 25, 1984, he sold 205 shares of R.J. Reynolds (Reynolds) stock to the Plan for $13,594.06. On February 7, 1984, he sold 200 shares of Emerson Electric (Emerson) stock to the Plan for $12,725.

3. The purchase price for each of the securities was determined to be the mean between the high and low prices at which such security was traded on the transfer date in question as reported in the *Wall Street Journal*. The Plan paid cash for the securities, and no brokerage commissions or other fees were paid in connection with the transactions.

4. The Plan had total assets of $155,468 as of Febraury 1, 1983, and total assets of $253,271 as of February 1, 1984. Thus, on the dates of their respective acquisitions the Kodak stock represented approximately 21% of the plan's assets, the APH stock approximately 6%, the Dupont stock approximately 17%, the Emerson stock approximately 5%, the IBM stock approximately 9%, and the Reynolds stock approximately 5% of the Plan's assets. All the securities are common stocks listed and actively traded on the New York Stock Exchange, and all are ranked A+ in quality by Standard & Poor's Corporation.

5. In Summary, the applicant represents that the subject transactions satisfied the criteria of section 4975 (c)(2) of the Code because: 1) each of the securities represented less than 25% of the Plan's assets at the time of its acquisition and is listed on major securities exchanges; 2) The sales were all one-time transactions for cash, and no commissions were paid; and 3) Mr. Soper is the only Plan participant ever to be affected by the transactions, and he as Plan trustee determined that they were appropriate for the Plan and in the Plan's best interest.

Notice to Interested Persons: Because Mr. Soper is the sole stockholder of the Employer and the only participant in the Plan, it has been determined that there is no need to distribute the notice of proposed exemption to interested person. Comments and requests for a public hearing are due 30 days after the publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

The Penn Central Corporation Retirement Plans Master Trust (the Trust) Located in New York, New York

[Application No. D-5959]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the sale by The Penn Central Corporation (the Employer) of its interest in certain coal properties (including rights to certain minimum royalty payments under a lease thereof) to a master trust (the Trust) in which the assets of the twenty-four defined benefit pension plans (the Plans) maintained by the Employer and its subsidiaries are invested, and the guarantee by the Employer of certain minimum royalty payments under a lease thereof; provided that the price paid is no more than the fair market value of the properties on the date the transactions is consummated.

Summary of Facts and Representations

1. The Employer is a diversified corporation with primary interests in electronics, defense, telecommunications, and energy. For the nine months ended September 30, 1984, the Employer and its consolidated subsidiaries reported net sales of $1.9 billion, net income of $131.0 million and total assets of $2.7 billion. For the year ended December 31, 1983, the Employer and its consolidated subsidiaries reported net sales of $2.5 billion, net income of $19.7 million, and total assets of $2.9 billion.

2. The Plans are defined benefit pension plans whose assets are held in the Trust by The Chase Manhattan Bank, N.A., New York, New York, as trustee (the Trustee). The Retirement Plans Finance Committee of the Employer (the Committee) is the named fiduciary with respect to the management and control of the assets of each of the Plans. The Committee is comprised of senior officers of the Employer who are appointed by the Employer's Board of Directors. The Plans have approximately 27,796 participants in total. As of November 30, 1984, the assets in the Trust had an aggregate fair market value of approximately $387 million, divided into twenty-five separate investment accounts. Four of the investment accounts are managed by independent investment advisors, six are managed by the Committee, and fifteen consist of insurance contracts. The assets held in the separate investment accounts (excluding the insurance contracts) are pooled to form two funds. The Near-Term Fund, intended to meet the liquidity needs of the Plans, has an approximate fair market value of $55 million. The Long-Term Fund has an approximate fair market value of $273 million. Participating Plans may hold interests in the Long-Term Fund, the Near-Term Fund, and insurance contracts. As of this date, none of the assets of the Trust are invested in any coal property or royalty interests.

3. Penn Central Properties (PCP) is a wholly-owned subsidiary of the Employer. PCP, incorporated in the Commonwealth of Pennsylvania, is a holding company for all of the Employer's real property in the Commonwealth of Pennsylvania. PCP is the beneficial owner of certain properties which consist of approximately 26,000 acres of coal rights in the Pittsburgh or River Seam of coal in Greene and Washington Counties, Pennsylvania (the Property). The Property contained approximately 132.8 million tons of recoverable coal as of January 1, 1983. The Employer retains record title to the Property as security under a Real Estate Sale Agreement dated December 29, 1982; however, all interests in the Property will be transferred to the Trust under the proposed transaction. The Property is subject to a long-term lease, as amended (the Lease) with Conoco, Inc. (Conoco), a wholly-owned subsidiary of E.I. Dupont de Nemours and Company (Dupont).[2] Conoco has operations in crude oil and natural gas, petroleum products, chemicals and coal. Conoco's credit ratings as determined by Moody's Investors Services and Standard & Poor's Corporation are Aa and AA, respectively. Neither Conoco nor Dupont are related in any way, directly or indirectly, to the Employer.

4. The Lease expires on March 31, 2023 and is renewable at the lessee's option for one further term of 25 years. It

[2] United States Steel Corporation was the original lessee under the Lease. In transactions unrelated to the present proposal, United States Steel Corporation subleased its interest to Conoco in 1981 and in June 1984 assigned to the Employer and PCP its interest as lessee and sublessor. Under the terms of the assignment, Conoco is obligated directly to PCP to perform all obligations of the lessee under the Lease, including the payment of all royalties.

permits the mining and removal of coal on the Property by Conoco. Under the Lease, Conoco is obligated to pay all costs associated with the Property and to make minimum royalty payments to the lessor commencing in the second calendar quarter of 1983 and ending with the first calendar quarter of the year 2023. No minimum royalty payments are payable for the additional 25-year term if Conoco elects to renew the lease. The minimum royalty payments are due quarterly regardless of whether there is any coal production from the Property. The base amount of the minimum royalty payments is $150,000 per calendar quarter and is adjusted upward or downward quarterly (but never below $150,000) for changes in the Producer Price Index, Industrial Commodities grouping (the PPI) from the June 1977 base PPI level. The most recent quarterly payment received for the first calendar quarter of 1985 was $248,844, or an annualized amount of approximately $1 million. The Lease provides that Conoco's obligation to make minimum royalty payments is unconditional, with no exceptions for events of force majeure, except in the event of condemnation under the power of eminent domain. Additional royalty payments may also be payable by Conoco pursuant to a formula based on the actual amount of coal mined; however, because Conoco may credit against these royalties the minimum royalty payments as well as substantial advance royalties previously paid under the Lease, the applicant represents that it is highly unlikely that Conoco will mine sufficient additional coal tonnage to require it to pay any additional royalty payments. Under the Lease, Conoco is responsible for paying all property taxes and assessments and is obligated to indemnify and hold harmless the lessor from any claims resulting from Conoco's use or occupancy of the Property during the term of the Lease or out of any condition of the Property during and after that term. If Conoco defaults in the timely payment of any royalties and fails to cure within 30 days after the lessor has given Conoco written notice, or defaults in the timely performance of any other material obligation and fails to cure within 60 days after the lessor gives written notice, the lessor may either terminate the Lease and recover from Conoco all unpaid royalty payments which accured before termination, or not terminate the Lease and recover from Conoco minimum royalty payments, plus damages, as they become due. Except in the event of condemnation or default, as described above, neither party may terminate the Lease prior to the end of its term.

5. PCP and the Employer (together hereinafter referred to as the Employer) request an exemption for the proposed sale to the Trust of all of their rights, title and interest in the Property and under the Lease for cash at the appraised fair market value at the time of sale. The Property will be held in a separate investment account which will be a part of the Long-Term Fund. Based on the Trust values as of November 30, 1984, the Property would represent approximately 5.5% of the assets in the Long-Term Fund and 3.9% of the total assets of the Trust. The applicant represents that the Property will be purchased with existing liquid assets within the Long-Term Fund, and that the Employer will pay all fees and expenses related to the proposed sale. After completing the sale, the Employer will also pay the costs of administering the Property to the extent that such exceed an average of $1,000 annually exclusive of trust fees and appraisal fees relating to any resale of the Property. The Property will be managed by the Committee as a directed investment account in the Trust, and the Committee will monitor the receipt of payments from Conoco and will take any appropriate enforcement action against Conoco if Conoco defaults on its obligations under the Lease.

6. The Employer has retained PaineWebber Incorporated (PaineWebber) to perform an independent appraisal of the fair market value of the Property. PaineWebber represents that it has had no other relationship with the Employer during the past five years except for brokerage commissions paid by the Trust to a PaineWebber subsidiary in connection with the investment of assets of participating plans, and services for certain subsidiaries of the Employer prior to their acquisition by the Employer. PaineWebber has determined that the fair market value of the Property as of January 9, 1985 is at least $15,380,000. In valuing the Property, PaineWebber analyzed the Lease and the minimum royalty payments thereunder, the creditworthiness of the ultimate obligor, the liquidity of the asset, and the risks inherent in the transaction. Any residual worth of the Property at the expiration of the Lease was disregarded, since PaineWebber determined that the present value of any residual worth would be nominal. Based upon these factors and its experience in valuing similar financial instruments, PaineWebber determined that a real interest rate (i.e., a rate in excess of inflation) of 6% to discount future minimum royalty payments under the Lease was appropriate in valuing the Property.[3] Since the minimum royalty payments are adjusted according to the PPI, PaineWebber determined that the payments could be valued in dollars of equal purchasing power. When the stream of such payments is discounted by 6%, the net result is that the cash flow stream is priced to yield a fixed real rate of return of 6% if held through the initial term of the Lease. PaineWebber will update its valuation of the Property as of the actual date of consummation of the sale in accordance with the above valuation principles, at which point the update evaluation will be reduced by a discount of 2%, which discount represents an estimate of the amount of a private placement fee or commission which the Employer would likely incur if selling the Property to an unrelated party. The Employer has agreed to pay to the Trust, within ten days after the due date of each minimum royalty payment, the amount, if any, by which the base minimum royalty payment utilized by PaineWebber in its updated valuation of the Property exceeds the minimum royalty payment paid by Conoco, as long as the Trust holds the Property.

PaineWebber acknowledges that the market for the Property is more limited than that for other financial obligations, but represents that the Property could be sold to insurance companies or other pension funds at the price it has determined.

7. The Employer has retained Buck Pension Fund Services, Inc., a wholly-owned subsidiary of Buck Consultants, Inc., to act as the independent fiduciary (the Independent Fiduciary) for the Trust with regard to the purchase of the Property. The Independent Fiduciary represents that it provides investment supervision services primarily to retirement plan sponsors, including assistance in the formulation of investment policies and evaluation of investment performance. Its clients are responsible for retirement plans with assets ranging from $10 million to $10 billion. The Independent Fiduciary represents that it has had no direct or indirect relationship with the Employer or its subsidiaries for the past five years, except for actuarial consulting services

[3] PaineWebber was responsible in 1981 and 1983 for structuring, pricing and marketing the San Juan Coal Trust transaction, which involved a leasehold interest in certain coal properties, including an inflation-indexed stream of coal royalty payments. The second part of the transaction, which closed on June 30, 1983, was sold to various institutional investors at a real rate of return of 5.5%.

provided to an indirect subsidiary of the Employer for which fees were incurred of $2,490 in 1983 and $2,964 in 1984. The Independent Fiduciary notes that, although real rates of return are currently very high, historically real rates of return this high have not persisted for extended periods. Therefore, it concludes that the 6% real rate of return provided by the proposed transaction is acceptable given the extended term of the Lease. The Independent Fiduciary has determined that an inflation-indexed investment is appropriate for the Trust because the liabilities of the Participating Plans are also impacted by inflation, and the inflation-indexed feature of the investment improves the diversification of the assets in the Trust. Finally, the Independent Fiduciary has determined that, although this investment is relatively illiquid, it would not have an adverse impact on the financial security or liquidity needs of the Participating Plans. The Independent Fiduciary therefore concludes that the proposed transaction is (i) on terms at least as favorable as the terms that an unrelated third party would receive in an arm's-length transaction, (ii) a prudent investment for the Trust, and (iii) in the best interests of the Participating Plans and their participants and beneficiaries.

9. The Trustee has agreed to monitor the Trust's receipt of the cash flow generated from the Property and the expenses incurred by the Trust in administering the Property. If any minimum royalty payment received from Conoco in less than the base minimum royalty payment utilized by PaineWebber in its updated valuation of the Property, or if no payment is received from Conoco, the Trustee will request the Employer to pay to the Trust within ten (10) days after the due date for that payment the amount of the base minimum royalty payment less the amount, if any, received from Conoco. The Trustee has further agreed to bill the Employer within thirty (30) days after the end of each calendar year for any costs in excess of $1000 annually on a cumulative basis which the Plan incurs in administering the Property, exclusive of trust fees and appraisal fees relating to any resale of the Property. The Trustee acknowledges that it is a fiduciary to the Trust [4] and agrees to take any enforcement action against the Employer which may be necessary with respect to the abovementioned responsibilities. As discussed above, the Committee will retain the responsibility to take any appropriate enforcement action against Conoco if Conoco defaults on its obligations under the lease.

10. In summary, the applicant represents that the sale of the Property to the Trust satisfies the statutory criteria of section 408(a) of the Act because:

(a) the value of the Property was determined by PaineWebber, an independent appraiser;

(b) the Property represents a relatively small percentage of the assets of the Trust;

(c) the Property will provide an inflation hedge for the Trust;

(d) Conoco, the ultimate obligor on the Lease to which the Property is subject, has a high credit rating;

(e) the Employer has guaranteed that the Trust will receive at least the base minimum royalty payment utilized by PaineWebber in its valuation of the Property; and

(f) the Independent Fiduciary has determined that the proposed transaction is in the best interests of the Participating Plans and their participants and beneficiaries.

For Further Information Contact: Ms. Linda Shore of the Department, telephone (202) 523-8196. (This is not a toll-free number.)

Goldstein, Ballen, O'Rourke & Wildstein Target Benefit Plan (the Plan) Located in Passaic, New Jersey

[Application No. D-6084]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective May 1, 1985, to (1) the purchase by the Plan of a parcel of real property (the Property) for the benefit of Goldstein, Ballen, O'Rourke and Wildstein, P.A. (the Employer), the sponsor of the Plan; (2) a lease of the Property by the Plan to the Employer; and (3) the potential purchase of the Property by the Employer from the Plan pursuant to a provision in such lease; provided that all terms of such transactions are at least as favorable to the Plan as those which the Plan could obtain in arm's-length transactions with unrelated parties.

Effective Date: If granted this exemption will be effective May 1, 1985.

Summary of facts and representatives

1. The Plan is a target benefit pension plan with nine participants and total assets of $1,300,000 as of June 30, 1985. The Employer is a New Jersey professional corporation, a law firm located in Passaic, New Jersey. The trustees of the Plan are Howard Ballen and Paul O'Rourke (the Trustees), each of whom is an employee and principal stockholder of the Employer.

2. The Property is a parking lot located at the corner of Garden Street and Howe Avenue in Passaic, New Jersey, situated on the opposite end of the block from the building presently occupied by the Employer on Howe Avenue. The Property is an irregularly shaped paved lot, approximately 100 feet long and 51 feet wide at its narrowest point and 88 feet wide at its widest point. The Property provides 20 unobstructed parking spaces and two obstructed spaces and is bound on two sides by buildings and on the other side two sides by a four-foot chain link fence with gates for ingress and egress. Early in 1985 the Property was offered for sale by its owner at that time, Robert Taylor, who is unrelated to the Plan and the Employer. The Trustees determined that the Plan's purchase of the Property and its lease to the Employer would be an appropriate investment for the Plan, as the Plan held no investments in real property and the Employer was in need of parking facilities. The Trustees investigated the Plan's potential purchase of the Property and its potential lease to the Employer under current market conditions and determined that such an investment could provide the Plan with a "cash-on-cash" return in excess of 17 percent. Pursuant to this determination, prior to March 14, 1985 the Trustees submitted to the Department a request to permit, effective May 1, 1985, the Plan's purchase of the Property and its immediate lease to the Employer.

3. Prior to May 1, 1985, the Trustees appointed James F. Doran (Doran), Vice President and Loan Officer of the Trust Company of New Jersey (the Bank), to act as an independent fiduciary on

[4] In addition to its appointment as Trustee for the Trust, the Trustee has certain outstanding relationships with the Employer. However, the Trustee represents that the aggregate credit lines available to the Employer and its subsidiaries do not constitute more than 1% of its total outstanding loans and that the demand deposit bank accounts which the Employer and its subsidiaries currently maintain do not aggregate more than 1% of the total demand deposit bank accounts currently maintained with it.

behalf of the Plan and to represent the Plan for all purposes with respect to the proposed purchase of the Property and its lease to the Employer. Doran represents that he is independent of and unrelated to the Employer and that he is sufficiently experienced to act as an independent fiduciary on behalf of the Plan in this matter. Doran also represents that there are no relationships between the Bank and the Plan or the Employer. As the May 1, 1985 closing date under the contract approached, Doran undertook a review and analysis of the proposed transaction on behalf of the Plan to determine whether it was in the Plan's best interests. Included in this review and analysis was Doran's consideration of the particular terms of the lease (the Lease) which the Employer was offering, which would commence on May 1, 1985 commensurate with the closing of the contract and the Plan's purchase of the Property. Having determined that both the Plan's investment in the Property and its lease as proposed to the Employer would be in the best interests of the Plan, Doran approved and oversaw the Plan's purchase of the Property for a purchase price of $70,000 pursuant to the contract and the execution of the Lease on May 1, 1985. The Trustees are requesting an exemption, effective May 1, 1985, of the Plan's purchase of the Property and the Lease of the Property to the Employer under the terms and conditions described herein.

4. The interests of the Plan under the Lease are represented for all purposes by Doran. The Lease is a triple net lease under which the Employer pays all real property taxes and all costs of utilities, maintenance and repairs. The Lease requires the Employer to provide public liability insurance on the Property in an amount acceptable to Doran. The Lease has an initial term of five years and is renewable for two additional five-year terms upon agreement by Doran. Rental during the initial term is set at $1,000 per month, such amount having been determined by Doran to be no less than the fair market rental value of the Property. Doran represents that his investigation of the Property's fair market rental value reveals that the initial rental under the Lease is approximately twice the rentals charged for comparable parking space in the vicinity of the Property and results in a rental rate in excess of $45.00 per parking space per month. The Lease provides that rental during each renewal term, if any, shall be the greater of: (1) $1,000 per month, or (2) the fair market rental value of the Property on each renewal date as determined by a qualified appraiser selected by Doran. The Lease contains a provision (the Put) which provides that at the expiration of the renewal terms, or upon expiration of the initial term if not renewed, Doran may require the Employer to purchase the Property from the Plan for cash in the amount of the greater of (1) $70,000, or (2) the fair market value of the Property at the time of such sale as determined by a qualified appraiser selected by Doran. Any sale under the Put will occur without any commissions or other sales costs to the Plan. Doran represents that he would approve the Plan's sale of the Property to the Employer only after his specific determination that such sale would be the most prudent course of action for the Plan in light of all potential alternative uses and dispositions of the Property by the Plan. The Trustees are requesting that the exemption proposed herein will permit the Plan's potential sale of the Property to the Employer pursuant to an exercise of the Put.

5. In summary, the applicants represent that the criteria of section 408(a) are satisfied in the past and proposed transactions described herein for the following reasons: (1) The interests of the Plan have been and will be represented by Doran, an independent fiduciary who reviewed, approved and oversaw the Plan's purchase of the Property and its Lease to the Employer and who has determined that the proposed continuation of the Lease as described herein will be in the best interests of the Plan; (2) The rentals under the Lease ensure the Plan a return on its investment in the Property of no less than the Property's fair market rental value and initial rentals, according to Doran, are substantially in excess of the Property's current fair market rental value; (3) The Lease is a triple net lease providing the Plan a return which is net of all expenses related to the Property; (4) Under the Lease the Plan may require the Employer to purchase the Property from the Plan at the expiration of the renewal terms, or the initial term if not renewed; and (5) The Employer's potential purchase of the Property pursuant to the Put will provide the Plan with the greater of the Plan's original purchase price for the Property or the appraised fair market value of the Property, with no sales costs or expenses to be borne by the Plan.

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 6th day of August, 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-18968 Filed 8-8-85; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 85-131; Exemption Application No. D-5838 et al.]

Grant of Individual Exemptions; Watkins Master Trust et al.

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representatives contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Watkins Master Trust (the Trust) Located in Atlanta, Georgia

[Prohibited Transaction Exemption 85-131; Exemption Application No. D-5838]

Exemption

The restrictions of sections 406(a), 406(b)(1), 406(b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective March 29, 1985, to (1) the leasing of certain improved real property (the Property) by the Trust to Watkins Associated Industries, Inc. (Watkins), a party in interest with respect to the plans participating in the Trust; and (2) the possible cash purchase of the Trust's interest in the Property by Watkins, provided that the terms and conditions of the lease and any subsequent purchase are not less favorable to the Trust than those obtainable in like transactions between unrelated parties.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 7, 1985 at 50 FR 24067.

Effective Date: The exemption is effective March 29, 1985.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8882. (This is not a toll-free number.)

Pension Plan of Wertheim & Co., Inc. (the Plan) Located in New York, New York

[Prohibited Transaction Exemption 85-132; Exemption Application No. D-5929]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the contribution of a certain debt obligation (the Note), as described in the notice of proposed exemption, to the Plan by Wertheim & Co., Inc. (the Employer), provided that the Note is valued at its fair market value at the time it is contributed.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 2, 1985, at 50 FR 13103.

Written Comments

In response to inquiries made following the pubication of the notice of proposed exemption, the Employer and Moore, Juran and Company, Inc. (Moore-Juran) submitted additional information to the Department.

The Employer states that the Plan's Investment Committee (the Committee) discussed the proposed transaction in at least three meetings and that subsequent to the Committee's consideration of the proposed transaction, an exemption application was filed with the Department and Moore-Juran was engaged to represent the Plan.

In its submission Moore-Juran, the Plan's independent fiduciary with respect to the transaction, states that the Note, which had been described as a zero coupon obligation, is not a pure "zero coupon obligation" since it provides for payments to begin in the year 2000 and will not be fully paid off until the year 2019.

Moore-Juran also commented on its role as the Plan's independent fiduciary and the factors it considered during its evaluation of the proposed transaction on behalf of the Plan. Moore-Juran states that it has and is continuing to comply with its duties and responsibilities as an independent fiduciary. Moore-Juran states that it is a fiduciary with respect to the proposed transaction under section 3(21)(A) of the Act as it is rendering investment advice to the Plan regarding the Note. As such, Moore-Juran has accepted responsibility for independently determining whether th Plan's acceptance of the Note is in the interests of the Plan and its participants and beneficiaries, and protective of the rights of its participants and beneficiaries within the meaning of section 408(a) of the Act. Moore-Juran further states that in making its independent determination, it has and will maintain its fiduciary duty of loyalty to the Plan under section 404(a)(1)(A) of the Act by discharging its duties solely in the interest of the Plan's participants and beneficiaries and for the exclusive purpose of providing benefits to participants and their beneficiaries and defraying reasonable expenses of administering the Plan.

Moore-Juran again states, as stated in their prior letters regarding the application, that it has drawn upon its considerable experience in the private placement of securities in valuing the Note and will act in conformity with section 404(a)(1)(B) of the Act by discharging its investment duties with the care, skill, prudence, and diligence that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims. Moore-Juran also states that it has

and will continue to give appropriate consideration to any facts which have a bearing on its determinations, so as to comply with its fiduciary duties under the Act. In particular, Moore-Juran states that it focused on the following factors during its consideration of the proposed transaction: (1) The yield and payment schedule of the Note; (2) the security for the Note; (3) the marketability of the Note; and (4) the diversification of the Plan's assets.

Based upon the above, Moore-Juran states that it believes that the Plan's acceptance of the Note is in the best interests of the Plan and its participants and beneficiaries and that the Note is an adequately secured and prudent investment for the Plan. Moore-Juran will also revalue the Note and reconsider its determinations on the date the Note is contributed to the Plan. In addition, Moore-Juran states that it understands that as a fiduciary it is subject to liability under the Act in the event it breaches its fiduciary duties under the Act.

Moore-Juran further states that its letters dated January 24, 1985, and February 25, 1985 (before the notice of proposed exemption was published in the **Federal Register**), clearly indicate that it was aware of its role as the Plan's independent fiduciary for the transaction. Moore-Juran specifically takes note of its letter of January 24 in which it explicitly states that it had been advised and understood the fiduciary nature of its undertaking.

After consideration of the entire record, the Department has determined to grant the requested exemption.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–7901. (This is not a toll-free number.)

The Citizens and Southern Corporation Pension Plan (the Plan) Located in Columbia, South Carolina

[Prohibited Transaction Exemption 85–133; Exemption Application No. D–6093]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan of several parcels of real property (the Property) to a joint venture comprised of Edens & Avant and third parties, for $2,075,000 in cash, provided such amount is not less than the fair market value of the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 7, 1985 at 50 FR 24068.

For Further Information Contact: Mr. Gary Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 6th day of August, 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85–18969 Filed 8–8–85; 8:45 am]

BILLING CODE 4510–29–M

Occupational Safety and Health Administration

Oregon State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 28, 1972, notice was published in the **Federal Register** (37 FR 28628) of the approval of the Oregon plan and the adoption of Subpart D to Part 1952 containing the decision.

The Oregon plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that where any alteration in the Federal program could have an adverse impact on the "at least as effective as" status of the State program, a program change supplement to a State plan shall be required.

In response to Federal standards changes, the State has submitted by letter dated November 16, 1984, from William J. Brown, Director, to James W. Lake, Regional Administrator, and incorporated as part of the plan, an amendment to State rules comparable to 29 CFR 1910.177, Servicing of Single-piece and Multi-piece Rim Wheels (amended) as published in the **Federal Register** (49 FR 4338) on February 3, 1984.

Regional review revealed discrepancies in the scope portion of the standard relating to erroneous references to State standards. The submission was returned to the State on December 11, 1984, for corrective action.

On March 13, 1985, the State resubmitted the amendment and an amendment correcting the previoulsy identified errors in the scope.

These State standards, which were originally contained in OAR 437–56–055 through 437–56–070, received OSHA approval and notice to that effect was published in the **Federal Register** (45 FR 74104) on November 7, 1980.

On July 10, 1984, the Notice of Proposed Amendment of Rules was

mailed to those persons on the State's mailing list established pursuant to OAR 436–90–505. The Notice was published in the State Administrative Rules Bulletin on July 15, 1984. Subsequently the proposed amendment to correct the scope of the amended standard was mailed to those on the Workers' Compensation Department mailing list on December 31, 1984, pursuant to OAR 436–90–505 and to those on the Department's distribution mailing list as their interest appeared. Both actions failed to elicit requests for a public hearing. The State's rules pertaining to Servicing of Single-piece and Multi-piece Rim Wheels were adopted on February 22, 1985, effective March 1, 1985. The corrections amendment was adopted on February 21, 1985, effective March 1, 1985.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards amendment is substantially idenitcal to the comparable Federal standards amendment. The State has added the term *restraint chain* to OAR 437–56–005(19) in response to 29 CFR 1910.177(b), "Restraining Device". Other differences are the incorporation of the State's rule numbering sytem, references to other State rules, and editorial changes. The above State standard has been reviewed and compared with the relevant Federal standard and OSHA has determined that the State standard is at least as effective as the comparable Federal standard, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal standards are minimal and that the standards are thus substantially identical. OSHA therefore approves this standard; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. *Location of Supplement for Inspection and Copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington, 98174; Workers' Compensation Board, Labor and Industries Building, Salem, Oregon 97310; and the Office of State Programs, Room N–3476, 200 Constitution Avenue NW., Washington, D.C. 20210.

4. *Public Participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Oregon plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The amended sections of the State's rules are substantially identical to those amended by the Federal standard which were promulgated in accordance with Federal law including meeting requirements for public participation. The standards were adopted in accordance with the procedural requirement of State law which included opportunity for public comment and further public participation would be repetitious.

This decision is effective August 9, 1985.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 16th day of July 1985.

James W. Lake,

Regional Administrator.

[FR Doc. 85–19009 Filed 8–8–85; 8:45 am]

BILLING CODE 4510–26–M

Wage and Hour Division

Memorandum of Understanding Between the State of Maryland and the U.S. Department of Labor

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice.

SUMMARY: The Commissioner of the Maryland Department of Labor and Industry has requested that the assistance of the Wage and Hour Division, Employment Standards Administration, United States Department of Labor be continued in implementing Section 80B(E) of Article 100 of the Annotated Code of Maryland. The section reads as follows:

(E) The Commissioner shall make all practicable efforts to minimize the duplication of registration requirements and enforcement procedures under this subtitle and applicable federal laws. This shall be accomplished by execution of an agreement between the Commissioner and the Secretary of the U.S. Department of Labor which establishes a cooperative program to coordinate the registration and enforcement activities of the Commissioner authorized under this subtitle with coextensive federal programs administered by the Department of Labor. The provisions of this subtitle may not be enforced until the agreement required under this section is executed. The Commissioner may accept grants of money from the federal government or any other source to effectuate the purposes of this subtitle.

Pursuant to the Farm Labor Contractor Registration Act, as amended, 7 U.S.C. 2041 et seq., the Wage and Hour Division, on December 30, 1982, entered into a Memorandum of Understanding with the Maryland Department of Labor and Industry. On April 14, 1983, the Federal Farm Labor Contractor Registration Act was replaced by the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.). A new Memorandum of Understanding for the purpose of continuing assistance to the Commission as provided by section 80B(E) of the State law was entered into on May 15, 1985, between the Maryland Department of Labor and Industry and the Wage and Hour Division and the 1982 Memorandum has been superceded. The new Memorandum sets forth the respective agencies' efforts in coordinating registration and enforcement activities with respect to farm labor contractors.

Copies of the Memorandum of Understanding are available at the U.S. Department of Labor.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, Employment Standards Administration, Room S–3502, Department of Labor Building, 200 Constitution Avenue, N.W., Washington, D.C., 20210, telephone No. 202–523–8305.

Signed at Washington, D.C. this 6th day of August, 1985.

Herbert J. Cohen,

Deputy Administrator, Wage and Hour Division, U.S. Department of Labor

Susan Meisinger

Deputy Under Secretary for Employment Standards, U.S. Department of Labor.

[FR Doc. 85–19010 Filed 8–8–85; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting; Media Arts Advisory Panel

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Media Art Centers Section) to the National Council on the Arts will be held on August 26–28, 1985, from 9:00 a.m.–5:30 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC.

If time permits, a portion of this meeting will be open to the public on August 28, 1985, from 4:30 p.m.–5:30 p.m. to discuss Guidelines.

The remaining sessions of this meeting on August 26–27, 1985, from 9:00 a.m.–5:30 p.m. and on August 28, 1985, from 9:00 a.m.–4:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

Dated: August 5, 1985.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 85–18914 Filed 8–8–85; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Ocean Sciences Research.

Date and time: August 26, 27, 28, 29, and 30, 1985; 8:30 a.m.–6:00 p.m.

Place: Rooms 523, 628, 1141, 1242A and 1242B, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Robert E. Wall, Head, Ocean Sciences Research Section, Room 611, National Science Foundation, Washington, D.C. 20550, telephone (202) 357–7924.

Purpose of meeting: To provide advice and recommendations concerning support for research in Oceanography.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b (c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

August 6, 1985.

[FR Doc. 85–18877 Filed 8–8–85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Joint Subcommittees on Emergency Core Cooling Systems and Fluid Dynamics; Meeting

The ACRS Subcommittees on Emergency Core Cooling Systems and Fluid Dynamics will hold a joint meeting on August 27, 1985, Room 1046, at 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:

Tuesday, August 27, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will review: (1) The status of the hydrodynamic loads issue for plants with Mark I–III containments; (2) the AEOD report on Interfacing LOCAs; (3) the implementation proposal for resolution of USI A–43; "Containment Emergency Sump Performance;" (4) results of calculations of the Davis Besse feed-and-bleed capability; and (5) ECCS-related issues of on-going concern to NRR.

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 Subcommittees, 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 Subcommittees 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. Paul Boehnert (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. 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: August 6, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–19011 Filed 8–8–85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on State of Nuclear Power Safety; Meeting

The ACRS Subcommittee on State of Nuclear Power Safety will hold a meeting on August 29, 1985, at the Best Western Airport Park Hotel, 600 South Prairie Street, Inglewood, CA.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, August 29, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will discuss a draft subcommittee report.

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 meeting, the Subcommittee will exchange views regarding matters pertaining to the draft Subcommittee

report on the state of nuclear power safety.

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. Anthony Cappucci (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. 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: August 6, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-19012 Filed 8-8-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-348 and 50-364]

Alabama Power Co. (Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2); Order Modifying License Confirming Additional Licensee Commitments on Emergency Response Capability

I

Alabama Power Company (the licensee or APCo) is the holder of Facility Operating License Nos. NPF-2 and NPF-8 which authorizes the operation of the Farley Nuclear Plant, Unit Nos. 1 and 2 (the facility) at steady-state power levels not in excess of 2652 megawatts thermal. The facility consists of two pressurized water reactors (PWR's) located at the licensee site near the City of Dothan, Alabama.

II

Following the accident at Three Mile Island Unit No. 2 (TMI-2) on March 28, 1979, the Nuclear Regulatory Commission (NRC) staff developed a number of proposed requirements to be implemented on operating reactors and on plants under construction. These requirements include Operational Safety, Siting and Design, and Emergency Preparedness and are intended to provide substantial additional protection in the operation of nuclear facilities and significant upgrading of emergency response capability based on the experience from the accident at TMI-2 and the official studies and investigations of the accident. The requirements are set forth in NUREG-0737, "Clarification of TMI Action Plan Requirements," and in Supplement 1 to NUREG-0737, "Requirements for Emergency Response Capability." Among these requirements are a number of items consisting of emergency response facility operability, emergency procedure implementation, addition of instrumentation, possible control room design modification, and specific information to be submitted.

On December 17, 1982, a letter (Generic Letter 82-33) was sent to all licensees of operating reactors, applicants for operating licenses, and holders of construction permits enclosing Supplement 1 to NUREG-0737. In this letter operating reactor licensees and holders of construction permits were requested to furnish the following information, pursuant to 10 CFR 50.54(f), no later than April 15, 1983:

(1) A proposed schedule for completing each of the basic requirements for the items identified in Supplement 1 to NUREG-0737, and

(2) A description of plans for phased implementation and integration of emergency response activities including training.

III

APCo responded to Generic Letter 82-33 by letter dated April 15, 1983. By letters dated August 5, September 22, and December 15, 1983, and April 6, and 19, 1984, APCo modified several dates as a result of negotiations with the NRC staff. In these submittals, APCo made commitments to complete the basic requirements. APCo's commitments included: (1) Dates for providing required submittals to the NRC, (2) dates for implementing certain requirements, and (3) a schedule for providing implementation dates for other requirements. The staff found that these dates were reasonable and achievable dates for meeting the Commission requirements and concluded that the schedule proposed by the licensee would provide timely upgrading of the licensee's emergency response capability. On June 12, 1984, the NRC issued "Order Confirming Licensee Commitments on Emergency Capability" which confirmed APCo's Commitments.

IV

The June 12, 1984, Order stated that for those requirements for which APCo committed to a schedule for providing implementation dates, those dates would be reviewed, negotiated and confirmed by a subsequent order. In conformance with the milestones in the June 12, 1984 Order, the licensee provided additional completion schedules by letter dated November 30, 1984 for the following requirements:

1. Safety Parameter Display System (SPDS).

1b. SPDS fully operational and operators trained.

2. Detailed Control Room Design Review (DCRDR).

2b. Submit a summary report to the NRC including a proposed schedule for implementation.

3. Emergency Repsonse Facilities (ERF's).

3a. Technical Support Center fully functional.

3b. Operational Support Center fully functional.

3c. Emergency Operations Center fully functional.

The attached Table summarizing APCo's additional schedular commitments for the above items was developed by the NRC staff from the information provided by APCo.

The NRC staff finds that these dates are reasonable and achievable dates for meeting the Commission requirements. The NRC staff concludes that the schedule proposed by the licensee will provide timely upgrading of the licensee's emergency response capability.

In view of the foregoing, I have determined that the implementation of APCo's commitments are required in the interest of the public health and safety and should, therefore, be confirmed by an immediately effective Order.

V

Accordingly, pursuant to Sections 103, 161i, 161o and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.204 and 10 CFR Part 50, It is hereby ordered, effective immediately, that licenses NPF-2 and NPF-8 are modified to provide that the licensee shall:

Implement the specific items described in the Attachment to this ORDER in the manner described in APCo's submittal noted in Section IV herein no later than the dates in the Attachment.

Extension of time for completing these items may be granted by the Director, Division of Licensing, for good cause shown.

The licensee or any other person with an adversely affected interest may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register.** Any request for a hearing should be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy should be sent to the Executive Legal Director at the same adress. A request for hearing shall not stay the immediate effectiveness of this order.

If a hearing is to be held, the Commission will issue an Order designating the time and place of any such hearing.

If a hearing is held concerning this Order, the issue to be considered at the hearing shall be whether the licensee should comply with the requirements set forth in Section V of this Order.

This Order is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated in Bethesda, Maryland, this 27th day of July, 1985.

Hugh L. Thompson, Jr.

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

JOSEPH M. FARLEY NUCLEAR PLANT UNITS 1 AND 2 LICENSEE'S ADDITIONAL COMMITMENTS ON SUPPLEMENT 1 TO NUREG-0737

Title	Requirements	Licensee's completion schedule (or status)
1. Safety Parameter Display System (SPDS)	1b. SPDS fully operational and operators trained.	March 1988: Unit 1 8th RO. October 1987: Unit 2 5th RO. October 1986: 3½ year goal date both units.
2. Detailed Control Room Design Review (DCRDR).	2b. Submit a summary report to the NRC including a proposed schedule for implementation.	4th Quarter 1986: Both Units.
3. Emergency Response Facilities (ERFs).	5a. Technical Support Center full functional.	ERF's fully operational October 1982 as shown during 1983 Emergency Drill. Install SPDS in Technical Support Center and complete ERF display plan modifications.[1]
	5b. Operational Support Center fully functional.	March 1988: Unit 1 8th RO.[1] October 1987: Unit 2 5th RO.[1]
	5c. Emergency Operations Facility fully functional.	October 1986: 3½ year goal date both units.[1]

[1] Applies to requirements 5a, 5b and 5c.

[FR Doc. 85-19013 Filed 8-8-85; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.28, Revision 3, "Quality Assurance Program Requirements (Design and Construction)," describes a method acceptable to the NRC staff for complying with the provisions of Appendix B of 10 CFR Part 50 with regard to establishing and implementing the requisite quality assurance program for the design and construction of nuclear power plants. The guide endorses, with certain additions and modifications, ANSI/ASME NQA-1-1983, "Quality Assurance Program Requirements for Nuclear Power Plants," and the ANSI/ASME NQA-1a-1983 Addenda.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvement in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland, this 5th day of August 1985.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 85-19014 Filed 8-8-85; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Complaint of Tri-Parish Journal, Inc.

[Docket No. C85-2]

August 5, 1985.

Notice is hereby given that a Hearing will be held on August 26, 1985, at 9:30 a.m., Hearing Room, Postal Rate Commission, 1333 H Street NW., Washington, DC, in the matter of the proceeding of Tri-Parish Journal, Inc., in Docket No. C85-2.

Charles L. Clapp,

Secretary.

[FR Doc. 85-18912 Filed 8-8-85; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension

Form 1, Form 1-A, -270-13
Rule 6a-2, Form 1-A-270-18

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval the following Rule/Forms under the Securities Exchange Act of 1934 (15 U.S.C. 78 *et seq.*):

Rule 6a-2—requires the annual filing on Form 1-A amendments to Form 1, Statement Filed in Applying for Registration or Exemption as a National Securities Exchange;

Form 1 and 1-A—application for or exemption from registration as a national securities exchange, and amendment to such registration or exemption statement.

Submit comments to OMB Desk Officer: Ms. Katie Lewin (202) 395-7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

August 5, 1985.

[FR Doc. 85-18878 Filed 8-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. (35-23780; 70-7055]

New England Energy Inc.; Proposed Investment in Oil and Gas Drilling Venture

August 2, 1985.

New England Energy Incorporated ("NEEI"), 25 Research Drive, Westborough, Massachusetts 01581, the fuel supply subsidiary of New England Electric System ("NEES"), a registered holding company, has filed an application with the Commission subject to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act").

NEEI is engaged in various activities relating to fuel supply for the NEES system including participation in ventures for exploration, development and production of oil and gas, the conversion of such production, and the sale of fuel oil to its affiliate, New England Power Company ("NEP"). NEEI is also authorized to engage in fuel procurement and inventory transactions, and transportation of fuel for NEP. NEP is the generation and transmission subsidiary of the NEES system and provides electric energy at wholesale principally to the retail operating companies within the NEES system.

Since October, 1974 NEEI has participated in most of its oil and gas exploration and development through its partnership with Samedan, a subsidiary of Noble Affiliates, Inc. ("Partnership"). The NEEI-Samedan partnership agreement ("Partnership Agreement") provides for capital contributions by the partners to be used to pay the costs and expenses of the Partnership. NEEI pays a disproportionate share of the costs of exploration to compensate Samedan for its accumulated geological and geophysical work in evaluating prospects, as well as for management and expertise in running the Partnership as managing partner. The partners share equally the development and production costs for successful prospects. The Partnership Agreement assigns to Samedan, as managing partner, responsibility for selecting new prospects for exploration and for exploring and developing those prospects. As amended February 5, 1985, the Partnership Agreement provides for Phase I during which the Partnership continues to participate annually in new oil and gas prospects, and upon expiration of Phase I, for Phase II. Under Phase II, the Partnership would cease to participate in new oil and gas prospects, and Samedan would continue to manage the exploration, development and production of oil and gas prospects initiated during Phase I (Phase I Prospects). NEEI is committed during Phase II to continue to pay its share of expenses for exploration, development and production of Phase I Prospects. NEEI estimates that these commitments will total approximately $200 million at December 31, 1985. Phase I expires December 31, 1985 unless NEEI elects on 60 days' notice to Samedan to extend the expiration date to December 31, 1986.

Under the Partnership Agreement, each partner owns a 50% interest in Partnership property. Subject to certain rights of election by NEEI described below, Samedan is required annually to place into the Partnership 100% of any and all interests which it or any of its affiliates may acquire in new oil and gas properties located in, or offshore of, the continental United States (including Alaska). NEEI may elect to reduce this percentage for any calendar year subject to the conditions that (i) the percentage may not be reduced below 50%; and (ii) the percentage as most recently reduced in any year remains in effect until further reduced, and may not be increased without the agreement of Samedan. NEEI elected to reduce the percentage to 80% for prospects initiated in 1984, giving NEEI a 40% interest in such prospects, and to the minimum of 50% for prospects initiated in 1985, giving NEEI a 25% interest in such prospects. Thus, the percentage of participation is currently at the 50% minimum and may not be further reduced. It may be increased with the agreement of Samedan. NEEI proposes that the Partnership maintain this 50% minimum level of participation in 1986.

Through December 31, 1984, NEEI had invested approximately $714 million in oil and gas exploration and development. The investment has resulted in the discovery of 42.4 million equivalent barrels of proved and probable reserves. This figure includes 9.1 million equivalent barrels already produced. Revenue associated with this production has totaled approximately $187 million.

On the basis of Samedan's projections, NEEI estimates that its share of expenses in 1986 for exploration and development of all projects initiated through Decemeber 31, 1985, will be approximately $70 million for development.

NEEI proposed to elect to extend Phase I of the Partnership Agreement through December 31, 1986, and thereby to have the Partnership participate in new prospects initiated by Samedan during 1986 (1986 Prospects). It also proposes to elect that the Partnership maintain its present minimum participation level of 50% (25% for NEEI) in the 1986 Prospects undertaken by Samedan. NEEI estimates that, at this participation level, expenditures in 1986 for exploration and development of the 1986 Prospects will total approximately $15 million.

The foregoing estimates show an estimated total investment in the Partnership during 1986 of $85 million. In order to provide for contingencies, such as unexpected exploration success leading to higher development expenditures, NEEI requests authority in 1986 to invest in the Partnership up to $105 million for all purposes of the partnership's oil and gas program.

Although at present the fossil fuel generation of the NEES system is almost entirely fueled by oil and coal, three small generating units located in Providence, Rhode Island have the ability to burn natural gas as well as residual oil, and gas is burned in these units currently when it is available from a local distribution company. Furthermore, preliminary engineering work is now underway to determine the costs of converting an additional generating unit in Providence to natural gas. The three units, on average, burn about 30 million cubic feet of gas per day; and the other unit, if converted, would burn an additional 20 million cubic feet per day. In addition to the Providence units, serious consideration is being given to converting to gas two large generating units presently fired by oil, one at NEP's Brayton Point generating station in Somerset, Massachusetts, and one at the Salem Harbor station in Salem, Massachusetts.

To date, pipeline transportation rates, plus the inability or unwillingness of pipelines to carry NEEI gas, have prevented use of NEEI gas as fuel for the NEES system. However, changes now underway in natural gas markets, together with related changes in the practices and rates of natural gas pipeline companies have improved the outlook for economic transportation to NEES companies of NEEI gas from the southwest. Discussions have been held and are continuing with a local distribution company in Providence as well as pipelines connecting to the southwest, seeking definitive arrangements for transportation of gas to the units in Providence.

NEEI proposes to finance its 1986 investments in the Partnership from internally generated funds and from:

A. Bank Loan: By order dated April 8, 1985 (HCAR No. 23658), the Commission authorized NEEI to amend its credit agreement with Bank of Montreal, New York Branch, and Citibank, N.A. (the

"New Bank Loan"). The terms of the New Bank Loan provide for borrowings by NEEI under the revolving credit portion up to a total outstanding of $450 million through at least December 31, 1989 and may be increased to $500 million with the addition of another bank. Total borrowings by NEEI at December 31, 1984 were $350 million.

B. NEES Investment: In its order dated April 8, 1985 approving the New Bank Loan, the Commission also extended through the term of the New Bank Loan the authority for NEES to invest up to $45 million in NEEI through acquisition of subordinated notes or common stock. As of December 31, 1984, the total of outstanding common stock and NEEI subordinated notes issued to NEES was approximately $43 million. NEES and NEEI currently have pending before the Commission an application requesting authority, among other things, to have NEES invest up to an additional $50 million in NEEI (HCAR No. 23346). This application also proposes modifications in the Pricing Policy associated with the oil and gas program.

The application is 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 August 29, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the addresses specified above. Proof of service (by affidavit or, in 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, as filed or as it may be amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-16879 Filed 8-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23779; 70-7130]

Western Massachusetts Electric Co.; Proposal to Issue and Sell First Mortgage Bonds

August 2, 1985.

Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, an electric utility subsidiary of Northeast utilities ("NU"), a registered holding company, has filed an application-declaration pursuant to sections 6(a), 7, and 9(c) of the Public Utility Holding Company Act of 1935 and Rules 40 and 50 thereunder.

WMECO proposes to issue and sell up to $50,000,000 of first mortgage bonds ("Bonds"), for the best price obtainable, in one or two series, no later than December 31, 1986. The Bonds of any series would have a maturity of not less than three nor more than thirty years. The Bonds will be issued under the First Mortgage Indenture and Deed of Trust (Mortgage Indenture) and in the case of each series of bonds, by a supplemental indenture, setting out the terms of the Bonds.

The terms applicable to each series of the Bonds will include a provision that none of the Bonds of such series shall be redeemed at the applicable optional redemption price prior to a date in 1990 or 1991 (approximately five years after issuance), if such redemption is for the purpose of or in anticipation of refunding such Bonds through the use, directly or indirectly, of funds borrowed by the Company at an effective cost to the Company of less than the effective interest cost to the Company of the Bonds. If the Bonds have a maturity of less than five years, they cannot be refunded during the life of the Bonds with funds borrowed by the Company at lower effective interest rate.

WMECO will use the net proceeds from the issue and sale of the Bonds to redeem all or part of its Series N First Mortgage Bonds ("Series N") or its Series O First Mortgage ("Series O"), or both ("High Coupon Bonds"). Series N has a due date of September 1, 2010, a first redemption date of September 1, 1985 and a fist redemption price of 111.97%. Series O has a due date of May 1, 1991, a first redemption date of May 1, 1986, and a first redemption price of 107.02%.

The redemption of the entire amount of the High Coupon Bonds would require $46,888,000. Any net proceeds in excess of the amount necessary to redeem the High Coupon Bonds will be used to repay short-term borrowings (consisting of bank loans and commerical paper) and construction trust borrowings. Since the Bonds will probably be sold in advance of the redemption of the High Coupon Bonds, the net procees may be invested temporarily in high grade securities pursuant to section 9(c) of the Act, or they may be used to repay outstanding short-term or construction trust borrowings, pending subsequent short-term or construction trust borrowings to finance the redemptions. The amount of short-term and construction trust borrowings outstanding as of July 9, 1985 are $7,000,000 and $12,500,000 respectively. The interest rate and the price, exclusive of accrued interest, shall not be less than 98% nor more than 102% of the principal (to be determined by competitive bidding).

The declaration and any amendment 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 August 26, 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 granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-16880 Filed 8-8-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of Department of Transportation's Procedural Regulations (See, 14 CFR 302.1701 et. seq.); Week Ended August 2, 1985

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentiative order, or in appropriate cases a final order without futher proceedings.

Date filed	Docket No.	Description
July 29, 1985	43311	Tower Travel Corporation d/b/a Atlantic Express, c/o Morris R. Garfinkle, Galland, Kharasch, Morse & Garfinkle, 1054 Thirty-first Street NW., Washington, DC. 20007. Application of Tower Travel Corporation d/b/a Atlantic Express pursuant to Section 401 of the Act and Subpart Q of the Regulations applies for an amendment of its existing certificate to authorize air transportation of persons, property and mail between a point or points in the United States and Belgium, and Tel Aviv, Israel. Conforming Applications, Motions to Modify Scope and Answers may be filed by August 26, 1985.
July 30, 1985	43314	Wright Air Service, Inc., c/o Bill Miller, Bill Miller Associates, Suite 301, 1341 G Street NW., Washington, DC. 20005. Application of Wright Air Service, Inc. pursuant to Section 401 and Subpart Q of the Regulations requests authority to engage in interstate air transportation of persons, property and mail: Between any point in any state in the United States or the District of Columbia, or any territory or possession of the United States, and any other point in any State of the United States or the District of Columbia, or any territory or possession of the United States. Conforming Applications, Motions to Modify Scope and Answers may be filed by August 27, 1985.
Aug. 2, 1985	43319	Ozark Air Lines, Inc., c/o Thom Field, Neale, Newman, Bradshaw & Freeman, P.O. Box 4203 G.S., Springfield, Missouri 65808. Application of Ozark Air Lines, Inc, pursuant to Secton 401 of the Act and Subpart Q of the Regulations applies for amendment of its certificate of public convenience and necessity for Route 107-F so as to authorize it to engage in nonstop scheduled air transporation of persons, property and mail between Ft. Lauderdale, Miami and West Palm Beach, Florida, on the one hand, and Freeport, Bahama Islands, on the other. Conforming Applications, Motions to Modify Scope and Answers may be filed by August 30, 1985.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 85-18951 Filed 8-8-85; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Smyrna Airport; Smyrna, TN; FAA Acceptance of Noise Exposure Map

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its acceptance of Noise Exposure Maps submitted by Smyrna Airport (MQY) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150.

EFFECTIVE DATE: The effective date of the FAA's acceptance of the MQY Noise Exposure Maps is July 2, 1985.

FOR FURTHER INFORMATION CONTACT: Michael J. Agnew, Civil Engineer, Memphis Airports District Office, Federal Aviation Administration, Suite 105, 3973 Knight Arnold Road, Memphis, Tennessee 38118, telephone (901) 521-3495.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has accepted the Noise Exposure Maps for MQY effective July 2, 1985.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted a noise exposure map that is accepted by FAA as meeting Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

MQY submitted to the FAA on December 20, 1984, Noise Exposure Maps, descriptions, and other documentation which were produced during the Airport Noise Exposure Maps (Part 150) Study conducted at MQY from 1983 to 1984. It was requested that the FAA accept this material as a noise exposure map as described in section 103(a)(1) of the Act.

The FAA has completed its review of the Noise Exposure Maps and related descriptions submitted by MQY. The specific maps under consideration are depicted in Part 150 Noise Exposure Map, Smyrna Airport, Smyrna, Tennessee, 1984 Civil and Military (Rotor) Operations and Part 150 Noise Exposure Map, Smyrna Airport, Smyrna, Tennessee, 1989, Civil, Military (Rotor) and Air Cargo Operations contained in the final report of the Part 150 Noise Exposure Maps Study. The FAA has accepted these materials as the noise exposure maps for MQY effective on July 2, 1985.

FAA's acceptance of an airport operator's noise exposure map is limited to the determination that the map was developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information, or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under Section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties

with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of Section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's acceptance of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the accepted noise exposure maps and the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, National Headquarters, 800 Independence Avenue, SW.; Room 615, Washington, D.C. 20591

Federal Aviation Administration, Southern Regional Office, 3400 Norman Berry Drive; Room 673, East Point, Georgia 30334

Federal Aviation Administration, Airports District Office, 3973 Knight Arnold Road; Suite 105, Memphis, Tennessee 38118

Metropolitan Nashville Airport Authority, "A" Street, Smyrna Airport, Smyrna, Tennessee

Questions may be directed to the individual named above under the heading, **"FOR FURTHER INFORMATION CONTACT:"**.

Issued in Memphis, Tennessee, on July 2, 1985.

John M. Dempsey,

Manager, Airports District Office.

[FR Doc. 85-18863 Filed 8-8-85; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Orange County,

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION. Rescind notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will not be prepared for a proposed highway project in Orange County, Florida.

FOR FURTHER INFORMATION CONTACT: D.B. Luhrs, District Engineer, Federal Highway Administration, 227 N. Bronough Street, Room 2015, Tallahassee, Florida 32301, Telephone (904) 681-7239.

SUPPLEMENTARY INFORMATION: A Notice of Intent to prepare an Environmental Impact Statement (EIS) for a proposed highway project to reconstruct Conway Road (State Road 15) from Lake Underhill Drive (State Road 526) south for six miles to the Beeline Expressway (State Road 528) in Orange County was issued on April 9, 1984 and published in the April 19, 1984 **Federal Register** (49 FR. 15650). The FHWA, in cooperation with the Florida Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed project and hereby rescinds the previous Notice of Intent.

Issued on: August 1, 1985.

P.E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 85-18911 Filed 8-8-85; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

[Docket No. S-770]

Lykes Bros. Steamship Co., Inc.; Domestic Operation of a Subsidized Vessel While Under Time Charter to the Military Sealift Command

Notice is hereby given that Lykes Bros. Steamship Co., Inc. (Lykes) intends to submit an offer in response to a Military Sealift Command Request for Proposals for the time charter of a U.S.-flag multipurpose vessel for one round trip voyage of 60-90 days commencing about the beginning of February 1986.

The voyage is for the purpose of transporting the NASA Space Telescope from Port Canaveral, Florida, to Oakland, California.

Lykes' intention is to offer one of its Seabee vessels for the time charter. Inasmuch as the voyage under the proposed charter will be in domestic intercoastal trade, Lykes will need written permission pursuant to section 805(a) of the Merchant Marine Act, 1936, as amended, if its subsidized vessel should be chartered.

Lykes has requested such written permission by letter application of July 25, 1985.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in Lykes' request and desiring to submit comments concerning the request must by 5:00 PM on August 23, 1985, file written comments in triplicate with the Secretary, Maritime Administration, together with petition for leave to invervene. The petition shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petition for leave to intervene is received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Administrator.

Dated: August 5, 1985.

Georgia P. Stamas,

Secretary.

[FR Doc. 85-18974 Filed 8-8-85; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Amendment to Department Circular—Public Debt Series—No. 29-84]

11⅝% Treasury Bonds of 2004

Washington, July 29, 1985.

Department of the Treasury Circular, Public Debt Series—No. 29-84, dated October 5, 1984, as amended and supplemented, descriptive of 11⅝% Treasury Bonds of 2004, is hereby amended effective July 29, 1985.

Attachment A contained in the Amendment dated May 7, 1985, is hereby replaced by the revised Attachment A set forth below. This change is made to implement the use of generic CUSIP numbers, each generic number to be assigned to all payments made on one date of Interest Components for securities held under the STRIPS program.

CUSIP numbers previously assigned to Interest Components of these bonds

will be automatically converted to their respective generic designations on the records of the Federal Reserve Banks effective July 29, 1985.

The other terms and conditions remain unchanged.

The foregoing Amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

Attachment A (Revised 7/85)

CUSIP Numbers and Designations for the Principal Component and Interest Components of 11⅝% Treasury Bonds of November 15, 2004, CUSIP No. 912810 DM 7

The Principal Component is designated 11⅝% Treasury Principal (TPRN) 2004 due November 15, 2004, CUSIP No. 912803 AB 9.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) 2004 Due		Treasury Interest (TINT) 2004 Due	
Nov. 15, 1985	EF 3	Nov. 15, 1995	FB 1
May 15, 1986	EG 1	May 15, 1996	FC 9
Nov. 15, 1986	EH 9	Nov. 15, 1996	FD 7
May 15, 1987	EJ 5	May 15, 1997	FE 5
Nov. 15, 1987	EK 2	Nov. 15, 1997	FF 2
May 15, 1988	EL 0	May 15, 1998	FG)
Nov. 15, 1988	EM 8	Nov. 15, 1998	FH 8
May 15, 1989	EN 6	May 15, 1999	FJ 4
Nov. 15, 1989	EP 1	Nov. 15, 1999	FK 1
May 15, 1990	EQ 9	May 15, 2000	FL 9
Nov. 15, 1990	ER 7	Nov. 15, 2000	FM 7
May 15, 1991	ES 5	May 15, 2001	FN 5
Nov. 15, 1991	ET 3	Nov. 15, 2001	FP 0
May 15, 1992	EU 0	May 15, 2002	FQ 8
Nov. 15, 1992	EV 8	Nov. 15, 2002	FR 6
May 15, 1993	EW 6	May 15, 2003	FS 4
Nov. 15, 1993	EX 4	Nov. 15, 2003	FT 2
May 15, 1994	EY 2	May 15, 2004	FU 9
Nov. 15, 1994	EZ 9	Nov. 15, 2004	FV 7
May 15, 1995	FA 3		

[FR Doc. 85-18970 Filed 8-6-85; 3:26 pm]

BILLING CODE 4810-40-M

[Amdt. to Department Circular—Public Debt Series—No. 34-84]

11⅝% Treasury Notes, Series C-1994

Washington, July 29, 1985.

Department of the Treasury Circular, Public Debt Series—No. 34-84, dated November 1, 1984, as amended and supplemented, descriptive of 11⅝% Treasury Notes of Series C-1994, is hereby amended effective July 29, 1985.

Attachment A contained in the Amendment dated March 8, 1985, is hereby replaced by the revised Attachment A set forth below. This change is made to implement the use of generic CUSIP numbers, each generic number to be assigned to all payments made on one date of Interest Components for securities held under the STRIPS program.

CUSIP numbers previously assigned to Interest Components of these notes will be automatically converted to their respective generic designations on the records of the Federal Reserve Banks effective July 29, 1985.

The other terms and conditions remain unchanged.

The foregoing Amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

Attachment A (Revised 7/85)

CUSIP Numbers and Designations for the Principal Component and Interest Components of 11⅝% Treasury Notes of November 15, 1994, Series C-1994, CUSIP No. 912827 RM 6

The Principal Component is designated 11⅝% Treasury Principal (TPRN) Series C-1994 due November 15, 1994, CUSIP No. 912820 AB 3.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) C-1994 Due		Treasury Interest (TINT) C-1994	
Nov. 15, 1985	EF 3	May 15, 1990	EQ 9
May. 15, 1986	EG 1	Nov. 15, 1990	ER 7
Nov. 15, 1986	EH 9	May 15, 1991	ES 5
May. 15, 1987	EJ 5	Nov. 15, 1991	ET 3
Nov. 15, 1987	EK 2	May 15, 1992	EU 0
May. 15, 1988	EL 0	Nov. 15, 1992	EV 8
Nov. 15, 1988	EM 8	May 15, 1993	EW 6
May. 15, 1989	EN 6	Nov. 15, 1993	EX 4
Nov. 15, 1989	EP 1	May 15, 1994	EY 2
		Nov. 15, 1994	EZ9

FR Doc. 85-18971 Filed 8-6-85; 8:45 am]

BILLING CODE 4810-40-M

[Amdt. to Department Circular—Public Debt Series—No. 3-85]

11¼% Treasury Notes, Series A-1995

Washington, July 29, 1985.

Department of the Treasury Circular, Public Debt Series—No. 3-85, dated January 30, 1985, as supplemented, descriptive of 11¼% Treasury Notes of Series A-1995, is hereby amended effective July 29, 1985.

Attachment A contained in the original offering circular is hereby replaced by the revised Attachment A set forth below. This change is made to implement the use of generic CUSIP numbers, each generic number to be assigned to all payments made on one date of Interest Components for securities held under the STRIPS program.

CUSIP numbers previously assigned to Interest Components of these notes will be automatically converted to their respective generic designations on the records of the Federal Reserve Banks effective July 29, 1985.

The other terms and conditions remain unchanged.

The foregoing Amendment was effected under authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

CUSIP Numbers and Designations for the Principal Component and Interest Components of 11¼% Treasury Notes of February 15, 1995, Series A-1995, CUSIP No. 912827 RW 4

The Principal Component is designated 11¼% Treasury Principal (TPRN) Series A-1995 due February 15, 1995, CUSIP No. 912820 AA 5.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) A-1995 due		Treasury Interest (TINT) A-1995 due	
Aug. 15, 1985	AW 0	Feb. 15, 1991	BH 2
Feb. 15, 1986	AX 8	Aug. 15, 1991	BJ 8
Aug. 15, 1986	AY 6	Feb. 15, 1992	BK 5
Feb. 15, 1987	AZ 3	Aug. 15, 1992	BL 3
Aug. 15, 1987	BA 7	Feb. 15, 1993	BM 1
Feb. 15, 1988	BB 5	Aug. 15, 1993	BN 9
Aug. 15, 1988	BC 3	Feb. 15, 1994	BP 4
Feb. 15, 1989	BD 1	Aug. 15, 1994	BQ 2
Aug. 15, 1989	BE 9	Feb. 15, 1995	BR 0
Feb. 15, 1990	BF 6		
Aug. 15, 1990	BG 4		

[FR Doc. 85-18972 Filed 8-6-85; 3:26 pm]

BILLING CODE 4810-40-M

[Amdt. to Department Circular—Public Debt Series—No. 13-85]

11¼% Treasury Notes, Series B-1995

Washington, July 29, 1985.

Department of the Treasury Circular, Public Debt Series—No. 13-85, dated May 1, 1985, as supplemented, descriptive of 11¼% Treasury Notes of Series B-1995, is hereby amended effective July 29, 1985.

Attachment A contained in the original offering circular is hereby replaced by the revised Attachment A set forth below. This change is made to

implement the use of generic CUSIP numbers, each generic number to be assigned to all payments made on one date of Interest Components for securities held under the STRIPS program.

CUSIP numbers previously assigned to Interest Components of these notes will be automatically converted to their respective generic designations on the records of the Federal Reserve Banks effective July 29, 1985.

The other terms and conditions remain unchanged.

The foregoing Amendment was effected under Authority of Chapter 31 of Title 31, United States Code. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

Attachment A (Revised 7/85)

CUSIP Numbers and Designations for the Principal Component and Interest Components of 11¼% Treasury Notes of May 15, 1995, Series B–1995, CUSIP No. 912827 SE 3

The Principal Component is designated 11¼% Treasury Principal (TPRN) Series B–1995 due May 15, 1995. CUSIP No. 912820 AC 1.

INTEREST COMPONENTS

Designation	CUSIP No. 912833	Designation	CUSIP No. 912833
Treasury Interest (TINT) B–1995 Due		Treasury Interest (TINT) B–1995 Due	
Nov. 15, 1985	EF 3	Nov. 15, 1990	ER 7
May 15, 1986	EG 1	May 15, 1991	ES 5
Nov. 15, 1986	EH 9	Nov. 15, 1991	ET 3
May 15, 1987	EJ 5	May 15, 1992	EU 0
Nov. 15, 1987	EK 2	Nov. 15, 1992	EV 8
May 15, 1988	EL 0	May 15, 1993	EW 6
Nov. 15, 1988	EM 8	Nov. 15, 1993	EX 4
May 15, 1989	EN 6	May 15, 1994	EY 2
Nov. 15, 1989	EP 1	Nov. 15 1994	EZ 9
May 15, 1990	EQ 9	May 15, 1995	FA 3

[FR Doc. 85–18973 Filed 8–6–85; 3:26 am]

BILLING CODE 4810–40–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 154
Friday, August 9, 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

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:55 p.m. on Friday, August 2, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Farmers State Bank, Rising City, Nebraska, which was closed by the Acting Director of Banking and Finance for the State of Nebraska on Friday, August 2, 1985; (2) accept the bid for the transaction submitted by Union Bank and Trust Company, Lincoln, Nebraska, an insured State nonmember bank; (3) approve the application of Union Bank and Trust Company, Lincoln, Nebraska, for consent to purchase certain assets of and assume the liability to pay deposits made in Farmers State Bank, Rising City, Nebraska, and for consent to establish the sole office of Farmers State Bank as a branch of Union Bank and Trust Company; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Farmers State Bank of Round Lake, Round Lake, Minnesota, which was closed by the Commissioner of Commerce in Charge of Financial Institutions for the State of Minnesota on Friday, August 2, 1985; (2) accept the bid for the transaction submitted by Famrers State Bank of Mountain Lake, Mountain Lake, Minnesota, an insured State nonmember bank; (3) approve the application of Farmers State Bank of Mountain Lake, Mountain Lake, Minnesota, for consent to purchase certain assets of and assume the liability to pay deposits made in Farmers State Bank of Round Lake, Round Lake, Minnesota, and for consent to establish the main office and branch of Farmers State Bank of Round Lake as branches of Farmers State Bank of Mountain Lake; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 6, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85-19064 Filed 8-7-85; 11:24 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, August 5, 1985, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Michael A. Mancusi, acting in the place and stead of Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,289-L

The First National Bank of Midland, Midland, Texas

A request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(9)(B), and (c)(10)).

DATE: August 6, 1985.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 85-19063 Filed 8-7-85; 11:24 am]

BILLING CODE 6714-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., August 14, 1985.

PLACE: Hearing Room One, 1100 L Street, NW, Washington, DC 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Consideration of a report on Tariff Automation prepared by the Commission's Automated Tariff Filing Committee.

2. Special Docket No. 1168: Application of United States Lines (S.A.) Inc., for the Benefit of Miles Laboratories, Inc.—Consideration of presiding administrative law judge's initial decision.

Portions Closed to the Public

1. Trailer Marine Transport Corporation 10 Percent General Rate Increase in the trade between SanJuan, Puerto Rico and ports in the U.S. Virgin Islands.

2. Further consideration of Agreement No. 202-010776: Asia North America Eastbound Rate Agreement.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Acting Secretary, (202) 523–5725.

Bruce A. Dombrowski

Acting Secretary.

[FR Doc. 85–19035 Filed 8–7–85; 9:47 am]

BILLING CODE 6730–01–M

4

FEDERAL RESERVE SYSTEM

TIME AND DATE: 9:30 a.m., Wednesday, August 14, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a number of the Board requests that the item be moved to the discussion agenda.

1. Proposals regarding data collection for the Board's *ex post* monitoring of automated clearing house transactions. (Proposed earlier for public comment; Docket No. R–0515D)

Discussion Agenda

2. (A) Final revisions (proposed earlier for public comment; Docket No. R–0520); and (B) Publication for comment of additional proposed revisions to Regulation K (International Banking Operations) regarding affiliate lending by Edge corporations.

3. Any items carried forward from a previously announced meeting.

Note. This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: August 7, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85–19053 Filed 8–7–85; 10:10 am]

BILLING CODE 6210–01–M

5

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 10:30 a.m., Wednesday, August 14, 1985, to following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20st and 21th Streets, NW, Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 7, 1985.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 85–19054 Filed 8–7–85; 10:10 am]

BILLING CODE 6210–01–M

6

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting

TIME AND DATE: 2:00 p.m., Wednesday, August 14, 1985.

PLACE: Neighborhood Reinvestment Corporation, 1850 K Street, NW., Suite 400, Washington, D.C. 20006.

STATUS: Opening Meeting.

CONTACT PERSON FOR MORE IMFORMATION: Timothy S. McCarthy, Associate Director, Communications, 202/653–2705.

Agenda

I. Call to Order and Remarks of the Chairman
II. Approval of Minutes, May 15, 1985
III. Executive Director's Activity Report
IV. Personnel Committee Report
V. Budget Committee Report
  Approval of FY 1985 Budget Reallocation
  Approval of FY 1986 Line-Item Budget
  Approval of FY 1987 Budget Submission
VI. Treasurer's Report

Carol J. McCabe,

Secretary.

No. 37, August 7, 1985.

[FR Doc. 85–18999 Filed 8–6–85; 5:01 am]

BILLING CODE 7570–01–M

Friday
August 9, 1985

Federal Register

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions; Notice

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Orders 9–83, 48 FR 35736 (1983), and 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 5.1 (including the statutes listed at 36 FR 306 (1970) following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations. Procedure for Predetermination of Wage Rates, 48 FR 19533 (1983) and of Secretary of Labor's Order 6–84, 49 FR 32473 (1984). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Program Operations, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Alabama:	
AL83-1001	Jan. 21, 1983.
AL83-1010	Feb. 2, 1983.
Arizona:	
AZ84-5005	Mar. 9, 1984.
California:	
CA84-5022	Oct. 5, 1984.
District of Columbia:	
DC84-3009	Apr. 6, 1984.
Indiana:	
IN83-2069	Sept. 2, 1983.
Kentucky:	
KY84-1008	Mar. 16, 1984.
KY84-1003	Jan. 9, 1984.
Maryland:	
MD85-3041	July 25, 1985.
Minnesota:	
MN84-5015	May 25, 1984.
MN85-5006	Feb. 1, 1985.
New Jersey:	
NJ85-3032	July 19, 1985.
Vermont:	
VT84-3029	Sept. 28, 1984.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Louisiana:	
LA83-4060 (LA85-4028)	Aug. 5, 1983.
LA84-4006 (LA85-4029)	Feb. 17, 1984.
LA84-4055 (LA35-4020)	Sept. 28, 1984.
Missouri:	
MO84-4062 (MO85-4027)	Oct. 12, 1984.
MO84-4098 (MO85-4024)	Oct. 5, 1984.
MO84-4060 (MO85-4025)	Oct. 5, 1984.
MO84-4061 (MO85-4026)	Oct. 12, 1984.
Pennsylvania:	
PA83-3001 (MO85-3037)	Aug. 9, 1983.

Signed at Washington, D.C. this 2d day of August, 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AL83-1001 Mod # 5 (48 FR 2929 - January 21, 1983) Colbert & Lauderdale Cos., Alabama	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	$16.20	4.105

DECISION NO. AL83-1010 Mod # 2 (48 FR 7364 - February 2, 1983) Baldwin, Choctaw, Clarke, Conecuh, Escambia, Marengo, Monroe, Mobile, Washington & Wilcox Cos., Alabama	Basic Hourly Rates	Fringe Benefits
ADD:		
POWER EQUIPMENT OPERATORS:		
Classification Definitions:		
Group D: Oilers		

DECISION NO. AL84-5005 Mod. #8 (49 FR 9059- March 9, 1984) Statewide, Arizona	Basic Hourly Rates	Fringe Benefits
OMIT:		
Millwrights:		
Northern Area	$17.94	$2.55
Central and Southern Areas	15.44	2.55
ADD:		
Millwrights	15.69	2.84

DECISION NO. CA84-5022 - Mod. #10 (49 FR 39416 - October 5, 1984) Alameda, Alpine, Amador, Counties, etc., CA	Basic Hourly Rates	Fringe Benefits
Change:		
Roofers:		
Area 1:		
Roofers	$17.37	$6.75
Mastic Workers; Kettlemen (2 kettles without pumps)	17.62	6.75
Bitumastic; Coal Tar Build-up; Enameler; Pipewrappers	19.37	6.75
Area 5:		
Roofers	16.35	7.29
Mastic Workers; Kettlemen (2 kettles without pumps)	16.60	7.29
Bitumastic; Coal Tar Pitch; Enameler; Pipewrapper	18.35	7.29
Area 7:		
Roofers	17.00	7.09
Mastic Workers; Kettlemen (2 kettles without pumps)	17.25	7.09
Bitumastic; Coal Tar; Enamelers; Pipewrappers	19.00	7.09

DECISION NO. DC84-3009- MOD. #20 (49 FR 13800-April 6, 1984) DISTRICT OF COLUMBIA, MARYLAND-MONTGOMERY & PRINCE GEORGES COUNTIES, THE D.C. TRAINING SCHOOL, VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA & ARLINGTON & FAIRFAX COUNTIES	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PLASTERERS	15.31	2.00

DECISION NO. IN83-2069 - MOD. #4 (48 FR 40069 - September 2, 1983) Clay, Davies, ..., and Warrick Counties, Indiana	Basic Hourly Rates	Fringe Benefits
Change:		
ASBESTOS WORKERS:		
Area 1	$18.90	$2.90
Area 2	20.19	2.47
BRICKLAYERS; CAULKERS; POINTERS; CLEANERS and STONEMASONS:		
Area 1	17.98	2.83
Area 2	15.25	2.17
Area 3	16.83	2.75
CARPENTERS:		
Area 2:		
Carpenters and Soft Floor Layers	15.29	2.80
Area 4:		
Carpenters	15.95	3.35
Area 5:		
Carpenters	15.87	2.10
Area 6:		
CEMENT MASONS:		
Area 2:	14.27	2.08
Area 4:	15.95	2.10
ELECTRICIANS:		
Area 1:	18.15	2.26+ 3%
Area 2:	19.63	1.25+ 9.5%
Area 3:	18.00	19.5%
ELAVATOR CONSTRUCTORS:		
Mechanics:		
Area 1:	17.815	3.00+ a&b
Area 2:	18.22	3.00+ a&b
GLAZIERS:		
Area 3:	15.735	2.41
IRONWORKERS:		
Area 1:	19.35	2.46
Area 2:	17.79	4.25+ 1%
Area 3:	14.54	4.87
Area 5:	15.95	4.40

DECISION NO. IN83-2069- MOD. #4(Cont'd)	Basic Hourly Rates	Fringe Benefits
MARBLE SETTERS; TILE SETTERS and TERRAZZO WORKERS:		
Area 1:	$16.80	$2.20
Area 2:	15.25	2.17
MARBLE, TILE and TERRAZZO FINISHERS:		
Area 1:		
Tile and Terrazzo Finishers	16.50	
Marble Finishers	16.90	
Area 2:		
Marble and Tile Finishers	16.96	
MILLWRIGHTS:		
Area 1:	15.95	3.35
Area 3:	16.24	2.36
PAINTERS:		
Area 1:		
Brush, Roller, Dry-wall Tapers and Finishers	16.30	1.40
Spray and Sandblasting	17.30	1.40
Area 2:		
Brush, Roller, Dry-wall (without tools)	14.75	2.02
Spray	15.75	2.02
Sandblast	16.75	2.02
Area 3:		
Brush, Paperhangers, Rollers and Drywall	15.17	
Spray and Sandblast	17.45	
Structural Steel	15.92	
Area 4:		
Brush and Roller	15.15	2.57
Spray; Sandblast	16.15	2.57
Drywall Tapers	15.40	2.57
PLASTERERS:		
Area 1:	14.27	2.08
Area 3:	17.38	
PLUMBERS and STEAMFITTERS:		
Area 1:	18.63	2.90
Area 2:	19.20	2.51
Area 3:	20.82	2.55

DECISION NO. IN83-2069- MOD. #4(Cont'd)	Basic Hourly Rates	Fringe Benefits
ROOFERS:		
Area 1:	$15.00	$1.75
Area 2:		
Composition	15.65	2.63
Slate and Tile	15.90	2.63
Area 3:		
Composition	15.08	2.75
Slate, Tile, Concrete Slab and Gypsum Plank	16.98	2.75
SHEET METAL WORKERS:		
Area 1:	17.53	3.72
Area 2:	17.24	2.65+ 3%
SPRINKLER FITTERS:	16.67	3.23

DECISION NO. KY84-1008 Mod # 4 (49 FR 10000 - March 16, 1984) Boone, Campbell, Kenton & Pendleton Cos., Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLYERS & STONE MASONS	$11.00	1.97

DECISION NO. KY84-1003 Mod # 8 (49 FR 9057 - January 9, 1984) McCracken County, Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	$18.45	3.52

DECISION NO. KY84-1007 Mod # 7 (49 FR 9999 - March 16, 1984) Hardin, Jefferson & Meade Cos., Kentucky	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	$18.45	3.52

DECISION NO. MD 85-3041 MOD #1 (50 FR 30587-July 25, 1985) ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND, AND FOR HEAVY CONSTRUCTION FOR ALL OF THE ABOVE AND INCLUDING HARFORD & HOWARD COUNTIES, MARYLAND	Basic Hourly Rates	Fringe Benefits
CHANGE COUNTIES TO READ: COUNTIES: ANNE ARUNDEL (EXCLUDING THE D.C. TRAINING SCHOOL), BALTIMORE AND BALTIMORE CITY, MARYLAND (Building and Heavy Construction)		
HARFORD & HOWARD COUNTIES, MARYLAND (Heavy Construction Only)		
CHANGE:		
BRICKLAYERS	12.21	2.29

DECISION NUMBER MN84-5015 - MOD. #6 (49 FR 22184 - May 25, 1984) Aitkin, Becker,...Wright and Yellow Medicine Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Change:		
Glaziers:		
Area 1	$16.44	$3.06
Sheet Metal Workers:		
Area 1	15.40	3.92+c

DECISION NUMBER MN85-5006 - MOD. #6 (50 FR 4837 - February 1, 1985) Anoka, Benton, Carlton, Carver, Cook, Dakota, Hennepin, Itasca, Koochiching, Lake, Ramsey, St. Louis, Scott, Sherburne, Stearns, & Washington Counties, Minnesota	Basic Hourly Rates	Fringe Benefits
Change:		
Glaziers:		
Area 1	$16.44	$3.06
Sheet Metal Workers:		
Area 3:		
Commercial Building	15.40	3.92+j
Residential	9.86	3.92+j
Add:		
Footnote:		
j. $.58 to SASMI		

DECISION NO. VT84-3029 - MOD. #3 (49 FR 38456 - September 28, 1984) STATEWIDE, VERMONT	Basic Hourly Rates	Fringe Benefits
CHANGE:		
CHITTENDON COUNTY:		
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.39	
TRUCK DRIVERS:		
2-axle	5.50	
3-axle	6.00	
GRAND ISLE COUNTY:		
POWER EQUIPMENT OPERATORS:		
Earth Auger/Post Driver	6.39	
TRUCK DRIVERS:		
2-axle	5.50	
3-axle	6.00	
OMIT:		
CHITTENDON COUNTY:		
POWER EQUIPMENT OPERATORS:		
Oilers		
GRAND ISLE COUNTY:		
POWER EQUIPMENT OPERATORS:		
Oilers		

DECISION NO. NJ85-3032 MOD. NO. 2 (50 FR 29594 - July 19, 1985) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey	Basic Hourly Rates	Fringe Benefits
CHANGE:		
HEAVY & HIGHWAY CONSTRUCTION		
Zone 1:		
Group 1	$13.10	3.30
Group 2	13.30	3.30
Group 3	13.60	3.30
Group 4	13.80	3.30
Group 5	14.05	3.30
Group 6	15.60	3.30
Zone 2		
Group 1	13.20	3.30
Group 2	13.40	3.30
Group 3	13.70	3.30
Group 4	13.90	3.30
Group 5	14.15	3.30
Group 6	15.70	3.30
FREE AIR TUNNEL JOBS:		
Group 1	15.95	3.30
Group 2	14.25	3.30
Group 3	14.10	3.30
Group 4	13.60	3.30

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA85-4029
PARISHES: Bossier & Caddo
DATE: Date of Publication
Supersedes Decision No. LA83-4060, dated 8/5/83 in 48 FR 35846.
DESCRIPTION OF WORK: Residential Projects consisting of single family homes & apartments up to & including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 9.61	
BRICKLAYERS	10.95	1.20
CARPENTERS	10.96	1.04
CEMENT MASONS	10.20	.40
ELECTRICIANS	12.55	2.40+4%
IRONWORKERS	12.10	1.41
INSULATORS	7.28	.57
LABORERS:		
Laborers	7.28	.57
Mason tenders	7.38	.57
Mortar mixers	7.43	.57
PAINTERS	$10.60	.75
PLUMBERS	13.80	2.20
ROOFERS	11.38	.24
SHEET METAL WORKERS	11.30	.83
SOFT FLOOR LAYERS	12.28	1.04
SHEETROCKERS	11.46	
TILE SETTERS	10.73	.55
TRUCK DRIVERS	8.11	
POWER EQUIPMENT OPERATOR:		
Backhoes	10.79	
Bulldozers	10.66	
Trenchers	8.80	

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provied in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA85-4020
PARISH: Statewide
DATE: Date of Publication
Supersedes Decision No. LA84-4055 dated September 28, 1984 in 49 FR 38445.
DESCRIPTION OF WORK: Building projects (does not include single family homes & apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONE 1	19.145	2.335
ZONE 2	16.71	2.94
ZONE 3	16.00	3.14
ZONE 4	14.94	2.05
BOILERMAKERS	16.125	2.95
BRICKLAYERS & STONEMASONS:		
ZONE 1	12.50	2.26
ZONE 2	13.22	1.90
ZONE 3	13.67	2.32
ZONE 4	14.50	2.04
ZONE 5	13.75	
ZONE 6	12.30	1.90
ZONE 7	14.10	.30
ZONE 8	14.15	.75
ZONE 9	14.50	
ZONE 10	13.09	
CARPENTERS:		
ZONE 1:		
Carpenters	11.26	.60
Millwrights	11.98	.60
Piledrivermen	12.16	.60
ZONE 2:		
Carpenters, Piledrivermen & Soft Floor Layers	11.18	1.60
Millwrights	15.46	.07
ZONE 3:		
Carpenters & Drywall	13.45	2.50
Millwrights	14.15	2.50
Piledrivermen	13.85	2.50
ZONE 4:		
Carpenters & Piledrivermen	13.50	1.96
Millwrights	15.60	1%
ZONE 5:		
Carpenters & Soft Floor Layers	14.76	2.60
Millwrights	15.15	2.60
Piledrivermen	14.86	2.60
ZONE 6:		
Carpenters & Soft Floor Layers	14.60	2.60
Millwrights	15.15	2.60
Piledrivermen	14.86	2.60
CARPENTERS (CONT'D):		
ZONE 7:		
Carpenters & Soft Floor Layers	13.35	
Millwrights	14.10	
Piledrivermen	13.85	
ZONE 8:		
Carpenters & Soft Floor Layers	12.00	1.98
Millwrights	12.75	1.98
Piledrivermen	12.25	1.98
ZONE 9:		
Carpenters & Soft Floor Layers	12.30	1.85
Millwrights	13.20	1.85
Piledrivermen	12.80	1.85
ZONE 10:		
Carpenters, Piledrivermen, Soft Floor Layers	9.90	1.60
Millwrights	15.46	.07
ZONE 11:		
Carpenters	11.05	
Millwrights	13.90	
Piledrivermen	13.90	
CEMENT MASONS:		
ZONE 1	13.55	
ZONE 2	13.42	
ZONE 3	12.45	2.20
ZONE 4	14.21	1.68
ZONE 5	13.75	
ZONE 6	10.50	
ZONE 7	10.80	.85
ZONE 8	12.65	.75
ZONE 9	11.90	.30
ZONE 10	9.65	.85
ELECTRICIANS:		
ZONE 1: Electricians	17.64	13.30% +5/10%
Cable Splicers	17.89	"
ZONE 2: Electricians	15.90	1.02+ +3%
Cable Splicers	16.40	"
ZONE 3: Electricians	17.70	2.00+ 3-5/10%
Cable Splicers	18.20	"
ZONE 4: Electricians	18.00	.80+ 3-2/10%
Cable Splicers	18.25	"

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (CONT'D):		
ZONE 5: Electricians	16.45	1.68+9%
Cable Splicers	16.45	"
ZONE 6: Electricians	16.15	1.15+ 3.5%
Cable Splicers	16.65	1.15+ 3.5%
ZONE 7: Electricians	12.55	2.40+4%
Cable Splicers	13.05	2.40+4%
ZONE 8: Electricians	15.28	1.00+ 3.5%
Cable Splicers	15.53	"
ELEVATOR CONSTRUCTORS:		
ZONE 1: Mechanics	14.87	3.29+a
Helpers	70%JR	3.29+a
Helpers (Prob.)	50%JR	
ZONE 2: Mechanics	13.03	3.00+a
Helpers	70%JR	3.00+a
Helpers (Prob.)	50%JR	
GLAZIERS:		
ZONE 1	15.25	.02+b
ZONE 2	13.25	.01
ZONE 3	16.92	1.41
ZONE 4	9.88	.34
ZONE 5	10.99	
IRONWORKERS:		
ZONE 1	15.00	2.43
ZONE 2:		
Rodmen	11.04	2.55
All other classifications	12.27	2.55
ZONE 3:		
Rodmen	9.94	2.55
All other classifications	11.04	2.55
ZONE 4:		
Rodmen	10.75	2.55
All other classifications	12.25	2.55
ZONE 5:		
Rodmen	10.79	2.51
All other classifications	12.29	2.51
ZONE 6:		
Rodmen	9.00	2.29
All other classifications	12.51	2.29
ZONE 7	11.02	2.42
LABORERS:		
ZONE 1:		
Group 1	7.20	.30
Group 2	7.40	.30
Group 3	7.45	.30

	Basic Hourly Rates	Fringe Benefits
LABORERS (CONT'D):		
ZONE 2:		
Group 1	8.92	.80
Group 2	9.12	.80
ZONE 3	9.85	1.04
ZONE 4	7.40	1.04
ZONE 5:		
Group 1	11.67	.85
Group 2	11.77	.85
Group 3	11.82	.85
ZONE 6:		
Group 1	11.27	.85
Group 2	11.37	.85
Group 3	11.42	.85
ZONE 7:		
Group 1	10.89	1.08
Group 2	10.99	1.08
Group 3	11.14	1.08
Group 4	11.05	1.08
Group 5	11.15	1.08
ZONE 8:		
Group 1	10.57	1.08
Group 2	10.72	1.08
Group 3	10.77	1.08
ZONE 9:		
Projects $2,000,000 & less:		
Group 1	6.78	.80
Group 2	6.98	.80
Group 3	7.03	.80
Group 4	7.08	.80
Group 5	7.43	.80
Projects over $2,000,000:		
Group 1	8.11	.80
Group 2	8.31	.80
Group 3	8.36	.80
Group 4	8.41	.80
Group 5	8.76	.80
ZONE 10:		
Group 1	7.40	.90
Group 2	7.50	.90
ZONE 11:		
Group 1	8.45	.80
Group 2	8.60	.80
Group 3	8.75	.80
LATHERS:		
ZONE 1	14.78	2.30
ZONE 2	13.58	1.96
ZONE 3	11.26	.60
ZONE 4	11.18	1.60
ZONE 5	9.90	1.60
ZONE 6	12.50	1.98
ZONE 7	13.35	
ZONE 8	12.30	1.85

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION:		
Lineman	12.10	1.25+ 3.75%
Groundman	5.85	1.25+ 3.75%
Winch Truck Operator & Tractor Driver	8.72	1.25+ 3.75%
Hole Digger Operator	10.47	1.25+ 3.75%
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS:		
ZONE 1:		
Marble Setters	14.50	2.04
Tile & Terrazzo Workers	14.65	.70
Marble, Tile & Terrazzo Finishers	10.60	1.15
ZONE 2:		
Marble & Terrazzo Workers	13.67	2.32
Tile Setters	15.07	1.70
ZONE 3:		
Marble Setters	14.50	
Terrazzo Workers	11.65	
ZONE 4:		
Marble, Tile & Terrazzo Workers	12.85	.75
ZONE 5:		
Marble, Tile & Terrazzo Workers	11.00	.95
ZONE 6:		
Marble, Tile & Terrazzo Workers	17.25	
Marble, Tile & Terrazzo Finishers	10.60	1.15
ZONE 7:		
Tile Setters	13.75	
Tile Finishers	10.60	1.15
PAINTERS:		
ZONE 1:		
New Construction	12.45	.60
Maintenance	11.65	.60
ZONE 2:		
Group 1	10.75	1.38
Group 2	11.00	1.38
Group 3	10.00	1.38
ZONE 3:		
Group 1	13.235	2.11%
Group 2	13.61	2.11%
Group 3	15.535	2.11%

	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D):		
ZONE 4:		
Group 1	10.99	
Group 2	11.43	
Group 3	11.12	
Group 4	12.25	
Group 5	12.59	
Group 6	11.09	
Group 7	11.33	
ZONE 5:		
Painters, taped & pointing, drywall & paperhanger	10.50	1.10
ZONE 6:		
Group 1	10.05	
Group 2	10.55	
Group 3	11.05	
ZONE 7:		
Painters	10.85	.83
Industrial	11.00	1.38
PLASTERERS:		
ZONE 1	13.20	
ZONE 2	14.25	.01
ZONE 3	14.20	
ZONE 4	16.40	.01
ZONE 5	12.08	1.58
ZONE 6	12.00	.01
ZONE 7	12.10	.85
ZONE 8	14.15	.75
ZONE 9	14.10	.30
PLUMBERS & PIPEFITTERS:		
ZONE 1	16.80	2.43
ZONE 2	13.42	2.58
ZONE 3:		
When contract price of air conditioning is $150,000 or less or where the contract price of plumbing is less than $100,000	11.35	1.65
When contract price of air conditioning is in excess of $150,000 or where the contract price of plumbing is in excess of $100,000	13.35	1.65
ZONE 4	13.80	2.20
ZONE 5	12.46	3.00

(12)

	Basic Hourly Rates	Fringe Benefits
PLUMBERS & PIPEFITTERS (CONT'D):		
ZONE 6:		
Journeymen	15.05	2.15
Helpers (exterior sewer & all related work including bell holding & crawling, cutting holes unloading & loading of materials, equipment & tools to & from jobsite & distribution & stock piling of same, dismantling, erecting & dismembering scaffold, general clean up of site	4.80	.03
POWER EQUIPMENT OPERATORS:		
ZONE 1 - GROUP 1	12.00	2.20
GROUP 2	10.00	2.20
GROUP 3	8.50	2.20
ZONES 2, 3 & 4 - GROUP 1	9.55	2.20
GROUP 2	10.58	2.20
GROUP 3	10.68	2.20
GROUP 4	11.15	2.20
GROUP 5	13.32	2.20
GROUP 6	12.32	2.20
ZONE 5 - GROUP 1	13.36	2.50
GROUP 2	9.25	2.50
GROUP 3	13.61	2.50
GROUP 4	13.86	2.50
GROUP 5	14.11	2.50
GROUP 6	14.36	2.50
GROUP 7	14.86	2.50
GROUP 8	8.59	2.50
ZONE 6 - GROUP 1	16.11	2.50
GROUP 2	16.36	2.50
GROUP 3	16.61	2.50
GROUP 4	16.86	2.50
GROUP 5	17.36	2.50
GROUP 6	17.11	2.50
GROUP 7	15.86	2.50
GROUP 8	13.18	2.50
GROUP 9	11.61	2.50
GROUP 10	9.45	2.50
GROUP 11	10.78	2.50
ZONE 7 - GROUP 1	15.23	2.50
GROUP 2	12.49	2.50
GROUP 3	12.68	2.50
GROUP 4	15.73	2.50
GROUP 5	10.79	2.50

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS (CONT'D):		
ZONE 7 (cont'd)		
GROUP 6	9.08	2.50
GROUP 7	15.48	2.50
GROUP 8	15.73	2.50
GROUP 9	15.98	2.50
GROUP 10	16.23	2.50
GROUP 11	16.73	2.50
GROUP 12	17.23	2.50
ZONE 8		
GROUP 1	10.40	2.20
GROUP 2	8.40	2.20
GROUP 3	7.30	2.20
ROOFERS:		
ZONE 1:		
Roofers	12.90	.20
Roofer's helpers remove old roofing, hustle material and cleanup under supervision of a journeyman	8.10	.20
ZONE 2		
Roofers	10.11	3.20
Preparers remove old roofing, place, stock or move materials, tools or equipment for journeymen	4.90	1.50
ZONE 3		
Roofers	12.78	1.94
Preparers remove old roofing, place, stock or move materials, tools or equipment for journeymen	5.00	
ZONE 4		
Roofers	11.70	.30
Kettlemen	8.80	.30
ZONE 5 - Roofers	12.86	.24
SHEET METAL WORKERS:		
ZONE 1	17.28	3.12+ 3%
ZONE 2	15.47	3.03+ 3%
ZONE 3	16.26	1.86+ 3%+c
ZONE 4	13.92	1.83+ 3%
SPRINKLER FITTERS	15.07	3.23

	Basic Hourly Rates	Fringe Benefits
SOUND INSTALLERS:		
The installation (except the installation of conduit, the wiring of light circuits & the wiring of power circuits up to the final distribution panel), operation, maintenance & repair of video sound or audio & associated signal equip. & apparatus by means of which electricity is applied in the transmission or transference, production or reproduction of voice or sound with or without ethereal aid, including all types of signal systems that may be required:		
JEFFERSON, ORLEANS, PLAQUEMINES, ST. BERNARD & ST. CHARLES PARS.	11.82	1.86+ 3%+d
TRUCK DRIVERS:		
ZONE 1:		
Pickups, stake bodies; dumps; trailer trucks winch truck; Mississippi wagon	11.24	1.10
ZONE 2:		
GROUP 1	9.05	.60
GROUP 2	9.30	.60
GROUP 3	9.85	.60
GROUP 4	9.70	.60
GROUP 5	10.15	.60
GROUP 6	10.25	.60
GROUP 7	10.55	.60
GROUP 8	10.70	.60
ZONE 3:		
GROUP 1	9.87	
GROUP 2	9.95	
GROUP 3	10.20	
GROUP 4	10.35	
GROUP 5	10.50	
GROUP 6	10.70	
GROUP 7	11.05	
ZONE 4:		
GROUP 1	13.18	
GROUP 2	13.48	
GROUP 3	13.63	
GROUP 4	13.83	
GROUP 5	13.98	
GROUP 6	13.78	
ZONE 5:		
GROUP 1	10.89	1.20

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D):		
ZONE 5 (cont'd)		
GROUP 2	11.50	1.20
GROUP 3	11.55	1.20
GROUP 4	11.81	1.20
ZONE 6:		
Pickups, stake bodies, dumps; trailer trucks; winch truck; Mississippi wagon	8.50	1.10

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% of basic hourly rate & 7 paid holidays A thru G
b - 5 days paid vacation and 6 paid holidays A thru F
c - Labor Day shall be paid holiday at the straight time rate only for employees who have been on the payroll at least 2 weeks & who have worked the 5 full working days prior to Labor Day unless no work was available, employee was excused from attendance by employer or can provide a statement from his physician that he was ill & unable to work
d - Paid Holidays A, C, D, E, G, Mardi Gras Day & Christmas Eve

PAID HOLIDAYS:
A - New Years' Day; B - Memorial Day;
C - Independence Day; D - Labor Day;
E - Thanksgiving Day; F - the Friday after Thanksgiving Day; G - Christmas Day

ZONE DEFINITIONS FOR ASBESTOS WORKERS

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

ZONE DEFINITIONS FOR BRICKLAYERS AND STONEMASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Pars.
ZONE 2 - Avoyelles, Catahoula, Concordia, Grant, LaSalle & Rapides Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from Tangipahoa Par. on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 90) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.
ZONE 10- Evangeline, Pointe Coupee & St. Landry Parishes

ZONE DEFINITIONS FOR CARPENTERS:

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Calcasieu Parish & Fort Polk in Vernon Parish
ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars.; Parts of St. Tammany & Tangipahoa (south of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes

ZONE DEFINITIONS FOR CARPENTERS (Cont'd)

ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Webster Parishes
ZONE 9 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Fort Polk)
ZONE 11 - Catahoula & Concordia Parishes

ZONE DEFINITIONS FOR CEMENT MASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bossier, Caddo Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes
ZONE 10 - Bienville, Claiborne, DeSoto, Red River, & Webster Parishes

ZONE DEFINITIONS FOR ELECTRICIANS

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northest of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS:

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS (Cont'd):
ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR GLAZIERS:
ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Pars.
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster
ZONE 5 - St. Tammany (northern 2/3 everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north ofa straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE DEFINITIONS FOR IRONWORKERS:
ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La. - Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - Ascension,East BatonRouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars. Parts of Livingston & St. James Pars. (west of a straight line drawn from the La. - Miss. border, west ofthe city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 3 - Assumption, Avoyelles, Iberia, St. Helena, St. Martin, St. Mary; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limitsof Abbeville to the Gulf of Mexico); Parts of Lafourche, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La. - Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line, then west along the southern border of Rapides Par.)

ZONE DEFINITIONS FOR IRONWORKERS (Cont'd):
ZONE 4 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Peason to the Tex.-La. border)
ZONE 5 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line)
ZONE 6 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 7 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southWest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline)

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction
GROUP 2 - Stone mason tenders, mechanical tool operators, sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op. (jackhammer, vibrator, tamper, chipping gun, soil tillers); sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrugated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers

LABORERS (CLASSIFICATION DEFINITIONS)(Cont'd):

LABORERS - ZONES 5 & 6
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrator, power buggies, concrete chippers & cutters, chain saw ops.,etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement maxers (wet or dry)

LABORERS - ZONE 7
GROUP 1 - Laborers
GROUP 2 - Laborers handling pans, stone mason tenders, mechanical tool ops., sewermen, sandblaster; laying non-metallic pipe over 4' deep, including sewer pipe, drain pipe, & underground tile; septic tank diggers & installers over 4' deep; gas & oil pipeline laborers & wrappers; scalers using boatswain's chair, safety belt or power tool; scaler & cleaners
GROUP 3 - Gunnite tool operators
GROUP 4 - Bricklayer & mason tender
GROUP 5 - Hod carrier using a prime mover to serve a bricklayer; mortar mixer, either hand or machine

LABORERS - ZONE 8
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plaster tenders, stone mason tenders, vibratormen
GROUP 3 - Mortar mixers

LABORERS - ZONE 9
GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone mason tenders; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders
GROUP 5 - Powderman

LABORERS - ZONE 10
GROUP 1 - Includes all laborers except jackhammerman
GROUP 2 - Jackhammerman

LABORERS - ZONE 11
GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers), stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artificial stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunnite op., tile, terrazzo & marble setter finishers
GROUP 3 - Pipe dopers & burners

ZONE DEFINITIONS FOR LABORERS:
ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all butsouthwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Par. to the Calumet Locks west) & Vermilion
ZONE 3 - Calcasieu Parish & Ft. Polk in Vernon Parish
ZONE 4 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Ft. Polk) Parishes
ZONE 5 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. Line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U.S. Hwy. 61 (Airline Hwy.) then west on U.S. 61 to Blind River & on a direct line to Manchac)
ZONE 6 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 7 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Pars.
ZONE 8 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes
ZONE 9 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 10 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes
ZONE 11 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE DEFINITIONS FOR LATHERS:
ZONE 1 - Assumption, Iberia (east of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Miss. River), St. John the Baptist, St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River), St. Tammany, Tangipahoa, Terrebonne and Washington Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - All of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafayala River)

ZONE DEFINITIONS FOR LATHERS (Cont'd):
ZONE 4 - Calcasieu Parish
ZONE 5 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR MARBLE, TILE & TERRAZZO WORKERS AND FINISHERS
ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, De Soto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 7 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes

PAINTERS CLASSIFICATION DEFINITIONS
ZONE 2
GROUP 1 - Brush; drywall, taping & floating, sheetrock, texture
GROUP 2 - Sandblasting, industrial & steel, spray
GROUP 3 - Maintenance repaint
ZONE 3
GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new building under construction; the following overall of 30 ft.: tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray
GROUP 3 - Industrial

ZONE 4
GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel, sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers
ZONE 6
GROUP 1 - Painters, paperhangers, tapers & floaters
GROUP 2 - Stage,window jacks,bosun chairs,structural steel,rollers,equipment painting;sandblasting, spray, stack sign,tank painting,steeple jack
GROUP 3 - Structural steel brush

PAINTERS ZONE DEFINITIONS
ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, & Jefferson Davis Parishes
ZONE 2 - Ascension (north of Hwy. 22), Assumption (north of Hwy.22), Concordia, East Baton Rouge, East Feliciana, Iberville, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, Tangipahoa (west of Hwy. 51), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Lafoycrhe, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonvillethrough Ponchatoula) & Washington Pars.
ZONE 5 - Avoyelles, Bienville (western half), Bossier, Caddo, Catahoula, Claiborne, DeSoto, Evangeline, Grant, LaSalle, Natchitoches (except northeast corner) Rapides, Red River, Sabine, St. Landry (northern portion), Vernon, Webster & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71 including the town of Winnfield at that intersection) Pars.
ZONE 6 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Natchitoches (northeast corner), Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winnfield, excluding Winnfield) Parishes
ZONE 7 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes

LASTERERS ZONE DEFINITIONS
ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (Par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy. 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

PLUMBERS & PIPEFITTERS ZONE DEFINITIONS

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par.), St. Martin (southern part of eastern 1/2 of Par.), St. Mary, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (south of Hwy. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Rapides, Vernon (northeast of Hwy. 10 & Winn (south of Hwy. 84) Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens) Parishes
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/2 of Par.), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Parishes
ZONE 6 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn north of Hwy. 84) Parishes

POWER EQUIPMENT OPERATORS - ZONE 1 & ZONE 8 - CLASSIFICATION DEFINITIONS

GROUP 1 - Asphalt spreader;backhoes,track mounted,over ¾ CY;backhoe,rubber tired;crawler tractors,bulldozers & front end loaders (over D-4 & equivalent);cableways;concrete mixers,over 16-S;Cranes w/lattice boom;cranes w/hydraulic boom;clamshells;derricks;draglines;forklifts,over 10,000 lbs. capacity;grease serviceman;hoist,material,2 drums & over;hoist, 1 drum 6 stories or more or 60 ft.;heavy duty mechanic and/or welder;hydraulifts & boom trucks;motor patrols;piledrivers;pump.concrete (6" & over);road pavers; scoopmobiles; scrapers; sideboom cats; shovels;trenching & ditching machines,over 66" digging depth;tractorvators; winch cats (hoisting)
GROUP 2 - Air compressors,over 500 CFM;asphalt plant op.;bull floats;crane, hydraulic,7½ tons & less;crawlertractors,bulldozers & front end loaders (D-4 & equivalent & under);concrete spreader;finish machines;forklifts to 10,000 lbs.;distributor (bitum surface);dowel bar machine;elevator op. riding inside cab;rubber tire tractor with all attachments (excluding backhoe); fireman;hoist,1 drum,less than 6 stories or 60 ft.;kolum buff machine;pull cats;pump,concrete (under 6");rollers ; straddle buggies;motorized sweepers on streets & roads; winch trucks, A-frame; water pumps, gasoline or diesel (over 6"); unit operator; oiler/driver; weill point operator
GROUP 3 - Oiler

POWER EQUIPMENT OPERATORS - ZONE 2 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman
GROUP 4 - Air compressor; Asphalt plant op.; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)

POWER EQUIPMENT OPERATORS - ZONE 2 - CLASSIFICATION DEFINITIONS (CONT'D)

GROUP 5 - Asphalt spreader, Backhoe, Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes, Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)
GROUP 6 - Well point system & unit operator

POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman

GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)
GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman
GROUP 6 - Well point & unit operator

POWER EQUIPMENT OPERATORS - ZONE 4 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman
GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 & equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)
GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)
GROUP 6 - Unit operator

POWER EQUIPMENT OPERATORS: ZONE 5

GROUP 1 - Crane, all types; derricks; deck winches (2); Hi-Ho & similar type equipment; three drum (or more) stabilizers; pulls, all types; concrete mixer 1 yd. & over; all pavers; ditching or trenching machines (track type); mechanics & equipment welders; wellpoint systems; hoist, 2 drums or more; hoist, 1 drum, 40 vertical ft. or more; scrapers; bulldozers, rubber-tired or track, other than farm-type; scoopmobiles; motor patrol; gradeall; rollers on hot mix; asphalt paving machines; front-end loaders, other than farm-type, one cubic yard or over; shovels & backhoes, all types, & equivalent equipment; piledriver operator; side-boom cats; boom trucks; bush hog; cableways; cherry pickers (all types); dredges; foundation drill locomotives (all types); motorized street sweepers (self-propelled) push cat; test pump (internal combustion engine powered)

GROUP 2 - 2 drum & single drum stabilizers;frontend loaders under 1 cubic yard; A-frame truck when handling steel or pipe;finishing machines (concrete);power subgraders;2 tractors (crawler type);1 drum hoist under 40 vertical ft.;fireman;concrete spreader;pugmill op.;bituminous distributor on surface treatment & equivalent equipment;bull floats & equivalent equipment;job greaseman;work boats,not requiring licensed ops.;inboard & outboard motored crew boats;concrete mixer under 1 yd.;spray curing machines;rollers on subgrade;1 air compressor over 125 cu. ft.;form graders;asphalt finisher screedman;pump over 4 inches;scale ops.;crusher ops.;concrete jointing machines;concrete saw;tack machines & equivalent equipment;pumpcrete;electric elevator (inside);oiler drivers;farm-type,rubber-tired tractor,with attachments,except backhoes;Folum buff & similar equipment;fork lifts,10-ton capacity & under; batch plant op.;oiler on crane using air to drive piles,fireman operating steam valve,unit ops.;fireman;mixers (1 sack under);oiler;oiler-compressor op. oiler-driver on motor crane;oiler-fireman;pump (under 3" suction);scale op.; water blast pump;welding machine

GROUP 3 - Op. on crane 60 to 99 tons;crane w/boom 100 ft. to 149 ft.

GROUP 4 - Op. on crane 100 to 125 tons;crane w/boom 150 ft. to 224 ft.

GROUP 5 - Op. on crane 126 to 200 tons

GROUP 6 - Op. on crane 201 to 300 tons;crane w/boom 225 ft. to 299 ft.

GROUP 7 - Op. on crane over 300 tons;crane w/boom 300 ft. & over

GROUP 8 - Oiler

POWER EQUIPMENT OPERATORS - ZONE 6 - CLASSIFICATION DEFINITIONS

GROUP 1 - Crane op. 60 tons & over; Crane op boom 100 ft. & over but less than 150 ft.; Piledriver op. leads 100 ft. & over but less than 150 ft.

GROUP 2 - Crane op. 100 tons up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Piledriver op. leads 150 ft. & over but less than 225 ft.

GROUP 3 - Crane op. 125 tons up to 200 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Piledriver op. leads 225 ft. & over but less than 300 ft.

GROUP 4 - Crane op. 200 tons up to 300 tons

GROUP 5 - Crane op. 300 tons

GROUP 6 - Crane op. boom 300 ft. & over;Piledriver Op. 300 ft. & Over

GROUP 7 - Crane; Backhoe; Cableway; Concrete mixer, 16S & up; Derrick; Dragline; Dredge; Hoist-2 drums; Locomotvie crane; Paving mixer; Piledriver; Road paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom cat; Bulldozer; Motor patrol; Scraper; Hydrolift crane; Hydrolift truck, yard crane, cherry picker, etc.; Foundation, boring & reaming machine; Cement stabilizer; Trenching machine; Asphalt spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; Tug boat op.; Turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; Concrete pump (not pumpcrete);Computer Batch Plant

POWER EQUIPMENT OPERATORS - ZONE 6 - CLASSIFICATION DEFINITIONS (CONT'D)

GROUP 8 - A-frame truck; Crew boat op.; Fireman; Fork lift; Straddle buggy; Traxcavator, scoopmobile & similar front end loading equipment with scoop or bucket under 1 cu. yd. capacity; Locomotive; Well point system; Unit operator; Hoist-1 drum, 4 stories & over

GROUP 9 - Air compressor; Asphalt plant engineer; Blade grader; Distributor (bitum surface); Finishing machine (concrete, paving); Hoist-1 drum, less than 4 stories; Concrete mixer under 16-S; Oiler driver; Pump crete; Street & road sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operator bush hog & similar grass or bush cutting equipment; Batch Plant Op.

GROUP 10 - Oiler

GROUP 11 - Pumps, over 3 inch suction; Snatch cat

POWER EQUIPMENT OPERATORS - ZONE 7 - CLASSIFICATION DEFINITIONS

GROUP 1 - A-Frame truck when working with ironworkers, pipefitters, boilermakers & electricians; Bulldozers & tractors; Cableways; Concrete mixer (over 16S) paving machines, crane, derricks, draglines & clamshells; Concrete pump/boom combinations; Deck winches (2); Economobile model #620B or equivalent or heavier equipment; Gradealls; Hi-Ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanics; Motor patrols; Piledrivers; Rollers on brick & asphalt; Rubber-tired front end loader, with or without blade attachment, 1 cu. yd. capacity or more; Scraper; Shovels, Backhoes (all types); Side boom cats; Stabilizers, 3 drums or more; Traxcavators; Trenching machines; Welder, journeyman; Firemen, when firing more than one boiler mounted on one machine

GROUP 2 - A-frame truck except when working with ironworkers or pipefitters; Air compressor; Asphalt plant engineer; Asphalt finisher, screed men; Blade graders; Small boat op.; Bullfloats; Concrete joining machines; Concrete mixer, 16S & under; Concrete spreader; Crusher op.; Deck winch (1); Distributors, asphalt; "Ditch witch" & similar equipment; Electric elevator (inside); Finishing machine; Firemen; Form graders; Fork lifts; Hoist, 1 drum, under 4 stories; Power subgraders; Pug mill; Pull tractors; Pump; Pump crete; Rollers except on brick & asphalt; Rubber-tired front end loader (with or without attachments) less than 1 cu. yd. capacity; Scale op.; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddle buggy; Track machines & equivalent machine; Outside Electric Elevator Operator

GROUP 3 - Unit and well point operator

GROUP 4 - Work Boat requiring license

GROUP 5 - Batch plant operator, oilers(driver)

GROUP 6 - Oiler

GROUP 7 - Crane op. 60 tons & above; Crane op. boom 100 ft. & over but less than 150 ft.; Tower crane op. boom height 100 ft. & over but less than 150 ft.

GROUP 8 - Crane op. 100 tons & up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Tower crane op. boom height 150 ft. & over but less than 225 ft.

GROUP 9 - Crane op. 125 tons & up to 200 tons

GROUP 10 - Crane op. 200 tons & up to 300 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Tower crane op. boom height 225 ft. & over up to 30 fl ors

GROUP 11 - Crane op. 300 tons & up to 400 tons; Crane op. boom 300 ft. & over but less than 400 ft.; Tower crane over 30 floors

GROUP 12 - Crane op. over 400 tons; Crane op boom 400 ft & over

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POWER EQUIPMENT OPERATORS ZONE DEFINITIONS

ZONE 1 - Bossier & Caddo Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitches, Rapides, Sabine, St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the City of Berwick to the junction of Iberville,St. Landry Pars. border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the City of Berwick to the City of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the City of Berwick north to the eastern boundary of the City of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the City of Lutcher to the east side of the City of Hammond to the Louisiana-Mississippi border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi & the Mississippi Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Par., due north of the town of Hackley, then southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to the Atchafalaya Bay & in a line due south to the Gulf of Mexico

ZONE 8 - Bienville, Claiborne, DeSoto, Red River & Webster Parishes

ZONE DEFINITIONS FOR ROOFERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes

ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR ROOFERS (CONT'D):

ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

ZONE DEFINITIONS FOR SHEET METAL WORKERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.

ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, Assumption, East Baton Rouge, East Feliciana, Evangline, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR TRUCK DRIVERS

ZONE 1 - Calcasieu Parish & Ft. Polk in Vernon Parish

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes

ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster

ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes

ZONE 6 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon (excluding Ft. Polk) Parishes

TRUCK DRIVER CLASSIFICATION DEFINITIONS:

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks up to & including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpster, tanden dumps & similar dirt moving equip, up to & including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tanden dumps & similar dirt moving equipment over 8 yds.

ZONE 3 - GROUP 1 - Pick-ups, spotters & dumpers of dirt, gravel, etc.
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpster, Koehring dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

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TRUCK DRIVER CLASSIFICATION DEFINITIONS (CONT'D):

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks, carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting
ZONE 5 - GROUP 1 - Up to but not including 1-1/2 tons
GROUP 2 - 1-1/2 tons up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri COUNTIES: Boone,Cooper and Howard
DECISION NUMBER: MO85-4027 DATE: Date of Publication
Supersedes Decision No. MO84-4062 dated October 12, 1984 in 49 FR 40149.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.29	$ 4.85
BOILERMAKERS	17.345	3.25
BRICKLAYERS,STONEMASONS & TILE LAYERS	14.50	1.00
CARPENTERS:		
Carpenters & Lathers	13.85	1.68
Millwrights	14.50	1.68
Piledrivers	14.25	1.68
CEMENT MASONS	15.85	
ELECTRICIANS:		
Area 1:		
Electricians	15.71	3.47 +10%
Cable Splicers	15.96	3.47 +10%
Area 2:		
Electricians (contracts exceeding 2000 man hrs.)	16.18	3.01 +10%
Electricians (contracts not exceeding 2000 man hrs.)	14.58	3.01 +10%
ELEVATOR CONSTRUCTORS:		
Area 1:		
Mechanics	17.445	3.29 +a
Helpers	70%JR	3.29 +a
Probationary Helpers	50%JR	
Area 2:		
Mechanics	18.47	3.29 +a
Helpers	70%JR	3.29 +a
Probationary Helpers	50%JR	
GLAZIERS:		
Area 1	14.665	3.56 +17.14%
IRONWORKERS	14.51	3.37
LINE CONSTRUCTION:		
Lineman and Cable Splicers	$16.53	$ 1.25+ 23-3/4%
Groundman,Winch Drivers	12.15	1.25+ 23-3/4%
Groundman Driver	11.72	1.25+ 23-3/4%
Equipment Operators	14.79	1.25+ 23-3/4%
Groundman	11.72	1.25+ 23-3/4%
PAINTERS:		
Area 1:		
Brush	13.70	.45
Spray, Structural Steel, Sandblasting	14.20	.45
Area 2:		
Brush	14.50	
Spray	15.50	
PLASTERERS	15.35	
PLUMBERS,PIPEFITTERS	16.38	2.27
ROOFERS:		
Roofers	15.10	.65
Roofers in Coat Tar Pitch	15.60	.65
SHEET METAL WORKERS:		
Area 1	12.86	.91
Area 2	16.75	2.78
SPRINKLER FITTERS	19.13	3.36
LABORERS:		
Group 1	12.10	2.05
Group 2	12.35	2.05
Group 3	12.45	2.05
POWER EQUIPMENT OPERATORS:		
Cooper & Howard Cos.:		
Group 1	16.91	3.00
Group 2	16.56	3.00
Group 3:		
(a)	11.50	3.00
(b)	14.66	3.00
(c)	12.30	3.00
(d)	14.91	3.00

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS: (CONT'D):		
Cooper & Howard Counties:		
Group 4	17.16	3.00
Group 5	16.81	3.00
Group 6	17.41	3.00
Group 7:		
(a)	16.76	3.00
(b)	16.51	3.00
(c)	14.51	3.00
Group 8	17.91	3.00
Group 9	17.41	3.00
Boone County:		
Group 1	15.17	3.00
Group 2	15.17	3.00
Group 3	13.92	3.00
Group 4	13.47	3.00
Group 5:		
(a)	15.87	3.00
(b)	16.72	3.00
(c)	17.17	3.00
(d)	17.92	3.00
(e)	15.67	3.00
(f)	17.07	3.00
(g)	17.57	3.00
(h)	18.07	3.00
TRUCK DRIVERS:		
Boone County:		
Group 1	13.305	1.50+a
Group 2	13.455	1.50+a
Group 3	13.955	1.50+a

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays
b. After 1 year a weeks vacation, also 7 Paid Holidays Athur G.

PAID HOLIDAYS: A-Christmas Day, B-New Year's Day, C-Independence Day, D-Memorial Day, E-Thanksgiving Day, F-Labor Day, G-Friday after Thanksgiving Day.

AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: Boone and Howard Counties
Area 2: Cooper County

ELEVATOR CONSTRUCTORS:
Area 1: Cooper and Howard Counties
Area 2: Boone County

GLAZIERS:
Area 1: Cooper and Howard Counties

PAINTERS:
Area 1: Boone and Howard Counties
Area 2: Cooper County

SHEET METAL WORKERS:
Area 1: Boone and Cooper Counties
Area 2: Howard County

LABORERS CLASSIFICATIONS

Group 1: General Laborer; Watchman; Flagman; Heaters; Material Plant Man; Carpenter Tender; Landscaper; Signalman; Wrecker (old/new structures); Form Handler; Post Hole Diggers; Cleaning and clearing of all debris for all crafts; Loading and unloading, conveying, distributing, collecting and hoisting of construction material and debris; Backfilling, Grading and Landscaping; Covering of tanks, structures and material piles with Tarpaulins or other materials; Handling and cleaning of Concrete Chutes; Cleaning of Concrete Spills and Chipping where hand tools are required; Cleaning of masonry and other type walls and windows; Signal and Hoisting Concrete Buckets; Rodman; All tools run by gas, electricity, or air except Vibrator, Jackhammer and Paving Breaker; Air Compressors; Motor Buggies; Pumps, except Set-up Men and Nozzle Men; Unloading and handling steel; Chipping Tool Operator; Concrete Mixer Operator

Group 2: First Semi-skill - Brickmason, Plasterer and Cement Finishers' Tenders; Mortarmen; Scaffold Builders for brick; Plasterer and Cement Masons; Forklift (walk-behind or other similar types)

LABORERS CLASSIFICATIONS (Cont'd)

Group 3: Second Semi-skill - Concrete Pumps Set-up Men and Nozzle Men; Tile Layers, Bottom Men, Sewers and Drains; Cutting Torch; Burning Bar; Trench or Pier Holes 12' or over; Wagon Drill; Air Track or any mechanical Drill; Powder Man; Tamper, 100 lbs. or over; Paving Breaker; Jackhammer and Vibrator; Laser Beam Man for Sewer; Grade Checker for roads and railroads

POWER EQUIPMENT OPERATORS CLASSIFICATIONS
Cooper and Howard Counties

Group 1: Asphalt Paver and Spreader; Asphalt Plant Mixer Operator; Asphalt Plant Operator; Back Fillers; Backhoe; Barber-Greene Loader; Blade, power; Boats, power; Boilers (2); Boring Machines; Cableways; Cherry Pickers; Chip Spreader; Concrete Ready-mix Plant, portable (job site); Concrete Mixer Paver; Crane, Overhead; Crusher, rock; Derricks and Derricks Cars (power operated); Ditching Machines; Dozers; Dredges, any type power; Grade-all, similar type; Hoist; Endless Chain, power operated with power travel; Loaders; Mechanic and Welder; Mucking Machine; Orange Peels; Pumps, material; Push Cats; Scoops; Self-propelled Rotary Drill; Shovel, power; Side Boom; Skimmer Scoop; Testhole Machine; Throttle Man

Group 2: Boilers (1); Brooms, power operated; Chip Spreader (Front Man; Clef Plane Operator; Compressors (1) 125' or over; Concrete Saws, self-propelled; Crab, power operated; Curb Finishing Machine; Fireman on Rigs; Flex Plane; Floating Machine; Form Grader; Greaser; Hoist, Endless Chain, power operated; Hopper, power operated; Hydra Hammer; Lad-a-vator, similar type; Rollers; Siphons, Jets, and Jennies, Sub-grader; Tractors over 50 H.P.; Compressors (2) 125' or over not more than 20' apart, Compressors, Tandem; Compressors, single, truck mounted; Elevator; Finishing Machine

Group 3:
(a) Oilers
(b) Fork Lift, masonry
(c) Oiler Driver
(d) A-frame Trucks; Fork Lift, all types (except masonry); Mixers (with Side Loaders); Pumps (with Well Points) Dewatering Systems, Test or Pressure Pumps; Tractors (except when hauling material) less than 50 H.P.

Group 4: Clamshells, 100 feet of boom or over (excluding jib); Crane or Rigs, 100 feet of boom or over (excluding jib); Draglines, 100 feet of boom or over (excluding jib); Pile Drivers, 100 feet of boom or over (excluding jib)

Group 5: Hoists, each additional drum over 1 drum

Group 6: Crane or Rigs over 200 feet of boom

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Cont'd)
Cooper and Howard Counties (Cont'd)

Group 7: Ready Mixed Concrete Plants;
(a) Crane Operator
(b) Loader Operator and Plant Man
(c) Conveyor Operator

Group 8: Master Mechanic

Group 9: Crane, Tower or Climbing

Boone County

Group 1: Backhoe, Cableway; Crane, Crawler or Truck; Crane, Hydraulic Truck or Crusier mounted 16 tons and over; Crane, Locomotive, Derrick, Steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradall, Crawler or tire mounted; Locomotive, gas, steam and other power; Piledriver, Land or Floating; Scoop Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boats; Whirley

Group 2: Air Tugger, with Air Compressor; Anchor Placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Backfilling Machine; Boat Operator; Push Boat or Tow Boat (job site); Boiler, high pressure breaking in period; Boom Truck, placing or erecting; Boring Machine; Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer such as Mixer-mobile; Compressor (when operator runs throttle); Compressors, two not more than 50' apart; Compressor Generator Combination; Compressor Pump Combination; Compressor Welder Combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine; Concrete Spreader; Conveyor, large (not self-propelled) Hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Hydraulic Rough Terrain, self-propelled; Crane; Hydraulic Truck or Cruiser mounted under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or boring (Wagon Drills and any Hand Drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco Equipment no engineer required); Elevating Grader, Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Fork Lift; Grader, road with power blade; Highlift; Hoist, concrete and brick (Brick Cages or Concrete Skips operating in or on tower, Towermobile, or similar equipment; Hoist, Stack; Hydro-hammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking Machine; Pipe Wrapping Machine; Plant, asphalt; Plant, concrete producing or Ready-mix job site; Plant, heating job site; Plant, mixing job site; Plant, power generating job site; Pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4"; Quad-Track; Roller, Asphalt, Top or Subgrader; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor, Crawler, or wheel type with or without power unit, power take offs and attachments regardless of size; Trenching Machine, Tunnel Boring Machine, Vibrating Machine, automatic, propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machine

POWER EQUIPMENT OPERATORS (Cont'd)
Boone County (Cont'd)

Group 3: Air Tugger with plant air; Boiler for power or heating shell of buildings or temporary enclosures in connection with construction work; Boiler, temporary; Compressor, air one; Compressor, air (mounted on truck); Concrete Saw (self-propelled); Conveyor, large (not self-propelled); Conveyor, large (not self-propelled moving brick and concrete distributing) on floor level; Curb Finishing Machine, Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator; Manlift; Mixer, Asphalt, over 8 cubic feet capacity; Mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an Operator is required; Mixer, without Side Loader, 2 bag capacity or more; Mixers, with Side Loader, 2 bag capacity of more; Mixer, with Side Loader, regardless of size, not Paver; Oiler on Dredge; Oiler on Truck Crane; Pug Mill Operator; Pump, Sump-self powered, automatic controlled over 2" during use in connection with construction work; Scissor Lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 HP and under with Grade-blade and similar equipment; Welding Machine, one over 400 amp.; Winch operating from Truck; Mechanic in shop

Group 4: Boat Operator Outboard Motor (job site); Conveyors, (such as Con-vay-it) regardless of how used; Oiler; Sweeper, floor

Group 5:
(a) Air-pressure; Oiler Engineer operating under 10 lbs.
(b) Air-pressure; Oiler Engineer operating over 10 lbs.
(c) Air-pressure Engineer operating under 10 lbs.
(d) Air-pressure Oiler Engineer operating over 10 lbs.
(e) Crane, climbing (such as Linden); Crane, Pile driving and Extracting; Crane, using Rock Socket Tool; Derrick, diesel, gas or electric, hoisting material erecting steel (150' or more above ground); Dragline, 7 cu. yds. and over; Hoist, three or more drums in use; Scoop, Tandem; Shovel, power, 7 cu. yds. and over; Tractor, Tandem Crawler Tunnel Man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane, Booms (including jib) 100 feet to 150 feet
(f) Crane, Boom (including jib) 150 feet to 200 feet
(g) Crane, Boom (including jib) 200 feet to 250 feet
(h) Crane, Boom (including jib) 250 feet to 300 feet

TRUCK DRIVERS
Boone County

Group 1: Warehouseman; Dump Truck; Flat Bed; Pick-up; Farm Tractor; Single-axle Water Truck; Fuel Truck, single axle

Group 2: Tandem; Tractor-trailer; Winch Truck; Forklift; Tandem Water Truck; Tandem Fuel Truck

Group 3: Pitman; Hydro Boom Truck; Tandem-slip bed operation; Transit Mixer; Euclid; Belly Dump; Cat Wagon; Mechanic; Oil Distributor; Water Pull; Ross Carrier; Dumpster; Halftruck

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Missouri
DECISION NUMBER: MO85-4024
COUNTIES: Jasper, McDonald & Newton
DATE: Date of Publication
Supersedes Decision No. MO84-4098 dated October 5, 1984 in 49 FR 39433.
DESCRIPTION OFWORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	16.94	2.40
BOILERMAKERS	17.345	3.25
BRICKLAYERS; STONEMASONS	12.85	1.95
CARPENTERS:		
Carpenters and Lathers	12.92	1.60
Millwrights and Pile-drivermen	13.17	1.60
ELECTRICIANS	13.09	1.67+ 8%
ELEVATOR CONSTRUCTORS:		
Mechanics	17.445	3.29+a
Helpers	70%JR	3.29+a
Probationary Helpers	50%JR	
GLAZIERS	15.04	.25
IRONWORKERS	14.60	2.67
LINE CONSTRUCTION:		
Lineman	17.54	1.25+ 8-1/2%
Linemen Operators	16.73	1.25+ 8-1/2%
Groundman	11.36	1.25+ 8-1/2%
Groundman, Powderman	12.27	1.25+ 8-1/2%
PAINTERS:		
Brush, Roller, Tapers, Floor Tile and Carpet Layers, Paperhangers	13.37	.60
Spray	13.87	.60
PLASTERERS	13.05	
PLUMBERS & PIPEFITTERS	13.72	2.13
ROOFERS	13.82	2.57
SHEET METAL WORKERS	16.18	1.95
LABORERS:		
General Laborers	10.50	1.95
Mason & Plaster Tenders & Powderman	10.90	1.95
POWER EQUIPMENT OPERATORS:		
Group 1	13.13	2.60
Group 2	12.45	2.60
Group 3	12.05	2.60
Group 4	11.45	2.60
TRUCK DRIVERS:		
Pick-up or station wagon	11.30	.95
Flat bed; dump under 5 tons	11.40	.95
Dump, tandem (over 5 tons; winch, semi-trailer; and lowboy	11.67	.95
Transit mix	11.63	.95
Euclids or other similar equipment	11.67	.95

FOOTNOTE
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays A thru G.

PAID HOLIDAYS:
A-Christmas Day, B-New Year's Day, C-Independence Day, D-Memorial Day, E-Thanksgiving Day, F-Labor Day, G-Friday after Thanksgiving Day

LABORERS CLASSIFICATIONS

Group 1: General Laborers, Carpenter Tenders, Trackmen, Wreckers handling and carrying of reinforced steel

Group 2: Pipelayers (conduit pipe, sewer tile, drain tile, duct line with mains); Air Tool Operators; Pier Hole Diggers (over 10'); Vibrators; Jackhammer; Chipping Hammer Operator (air or electric); Asphalt Rakers; Mastic Kettlemen; Sandblasting; Gunnite Nozzlemen; Cutting Torch and Welders; Barco; Jackson or similar Tamp Operators; Powderman

Group 3: Plasterers and Mason Tenders

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1: Crane; Dragline; Derrick; Drum or Tower Hoist (2 drum); Power Shovel or Back Hoe (on tracks); Piledriver; Power Blade; Motor Patrol; Mechanic; Hydraulic, self-propelled Crane; Stringer or Cherry Picker Crane

Group 2: Bulldozer; Dirt Scoop or Pan; Elevating Grader; Drum or Tower Hoist (1 drum); Loader (track or rubber tire); Tractor, Pusher Roller (asphalt); Tractor or Back Hoe (on rubber tires); Tractor (Compaction Roller or Pull Blade Track)

Group 3: Fork Lift; Roller; Industrial Tractor; Tractor (Compaction Roller or Pull Blade, rubber tire); Distributor (Bituminous); Finishing Machine (concrete paving); Concrete Saw (self-propelled); Air Compressor (600 cu. ft. or over)

Group 4: Oiler; Oiler, driver

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Missouri
COUNTY: Greene
DECISION NO.: MO85-4025
DATE: Date of Publication
Supersedeas Decision No. MO84-4060 dated October 5, 1984 in 49 FR 39432.
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
ASBESTOS	16.94	2.40
BOILERMAKERS	17.345	3.25
BRICKLAYERS, STONEMASONS & TUCK POINTERS	14.07	1.75
CARPENTERS:		
Carpenters	13.73	1.75
Millwrights & Pile-drivermen	13.98	1.75
CEMENT MASONS	12.75	
ELECTRICIANS:		
Electricians	14.55	9%+ 1.89
Cable Splicers	14.95	9%+ 1.89
ELEVATOR CONSTRUCTORS:		
Elevator Constructors	17.445	3.29
Elevator Constructors, Prob. Helpers	50%JR	
Helpers	70%JR	a+3.29
GLAZIERS, Outside	16.50	b
IRONWORKERS	14.51	3.37
LABORERS:		
Group 1	10.95	2.10
Group 2	11.23	2.10
Group 3	11.38	2.10
Group 4	11.55	2.10
MARBLE MASONS, TILE LAYERS & TERRAZZO WORKERS	13.82	1.45
PAINTERS:		
Brush & Roller	13.73	1.28
Spray, Sandblasting, Tapers & paperhangers	14.23	1.28
PLASTERERS	12.75	
PLUMBERS & PIPEFITTERS	16.01	1.56
ROOFERS	12.00	.66
SHEET METAL WORKERS	16.18	1.95

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Group 1	13.13	2.60
Group 2	12.65	2.60
Group 3	12.05	2.60
Group 4	11.45	2.60
TRUCK DRIVERS:		
Warehouseman, pickup driver, flatbed, single axle, dump truck-single & double axle, oiler, greaser	11.25	c+1.10
Flat bed-double axle, wheel tractor (when used for towing), semi-truck drivers and low boys	11.30	c+1.10
Heavy hauling, A-frame and winch trucks, fork trucks, hydro-lift, hydraulically operator aerial lifts	11.40	c+1.10
Mechanics	11.45	c+1.10

LABORERS CLASSIFICATION DEFINITIONS

Group 1 - Common labor, handling and carrying of reinforcing steel pumps of all types and heaters
Group 2 - Asphalt raker, crusher feederman, cement finisher tender, jackhammer and air tool operator, power tamper operator, pipe layer (concrete or clay), sand blast and gunnite nozzlemen, vibrator operator, wagon drill operator, cat-drill operator, and all work of a semi-skilled nature not listed
Group 3 - Mason tenders: Including plasterers tender, mortar mixer and fork lift operator
Group 4 - Powderman

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Crane, dragline, derrick, drum or tower hoist (2 drum), power shovel or back hoe (on tracks), piledriver, power blade, motor patrol, mechanic, hydraulic, self-propelled crane, stinger or cherry picker crane
Group 2 - Bulldozer, dirt scoop or pan, elevating grader, drum or tower hoist (1-drum), loader (track or rubber tire), tractor pusher, roller (asphalt), tractor or backhoe (on rubber tires), tractor (compaction roller or pull blade track)
Group 3 - Fork lift, roller, tractor (compaction roller or pull blade-rubber tire), distributor, (bituminous), finishing machine (concrete paving), concrete saw (self-propelled), air compressor (600 cu. ft. or over)
Group 4 - Oiler, oiler-driver

FOOTNOTE: a - Employer contributes 8% of basic hourly rate for over 5 years' service, and 6% of basic hourly rate for 6 months to 5 years Vacation Pay Credit, also 7 Paid Holidays A thru G.
b - 1 Paid Holiday (Labor Day)
c- $51.00 per week

PAID HOLIDAYS:
A-Christmas Day; B-New Year's Day, C-Independence Day, D-Memorial Day, E-Thanksgiving Day, F-Labor Day, G-Friday after Thanksgiving Day.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

STATE: Missouri COUNTY: Cole
DECISION NUMBER: MO85-4026 DATE: Date of Publication
Supersedes Decision No. MO84-4061 dated October 12, 1984, in 49 FR 40146.
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$ 20.57	$ 3.48
BOILERMAKERS	17.495	3.25
BRICKLAYERS; STONEMASONS; TILE LAYERS	14.50	1.00
CARPENTERS:		
Carpenters & Lathers	14.20	1.53
Millwrights	14.95	1.53
Piledrivers	14.60	1.53
CEMENT MASONS	14.85	
ELECTRICIANS:		
Electricians	15.71	3.47+ 10%
Cable Splicers	15.96	3.47+ 10%
ELEVATOR CONSTRUCTORS:		
Mechanics	18.47	3.29 +a
Helpers	70%JR	3.29 +a
Probationary Helpers	50%JR	
IRONWORKERS	16.575	3.67
PAINTERS:		
Brush Spray; Structural Steel; Stage or Saddle; Blasting	13.70 14.20	.45 .45
PLASTERERS	14.30	
PLUMBERS & PIPEFITTERS	19.85	6.88
ROOFERS:		
Roofers	15.10	.65
Roofers in coal tar Pitch	15.60	.65
SHEET METAL WORKERS	12.86	.91
SPRINKLER FITTERS	21.11	3.42
LABORERS:		
Group 1	12.10	2.05
Group 2	12.35	2.05
Group 3	12.45	2.05
POWER EQUIPMENT OPERATORS:		
Group 1	15.17	3.00
Group 2	15.17	3.00
Group 3	13.92	3.00
Group 4	13.47	3.00
POWER EQUIPMENT OPERATORS (CONT'D):		
Group 5:		
(a)	15.87	3.00
(b)	16.72	3.00
(c)	17.17	3.00
(d)	17.92	3.00
(e)	15.67	3.00
(f)	17.07	3.00
(g)	17.57	3.00
(h)	18.07	3.00
TRUCK DRIVERS:		
Group 1	12.30	2.00+ d
Group 2	12.70	2.00+ d
Group 3	13.00	2.00+ d

FOOTNOTES:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit, also 7 Paid Holidays A thur G.
d. After 1 year a week's vacation

PAID HOLIDAYS: A-Christmas Day, B-New Year's Day, C-Independence Day, D-Thanksgiving Day, E-Memorial Day, F-Labor Day, G-Friday after Thanksgiving Day.

LABORERS CLASSIFICATIONS

Group 1: General Laborer; Heaters; Material Plant Man; Carpenter Tender; Landscaper: Signalman; Wrecker (old/new structures); Form Handler; Post Hole Digger; Cleaning and Clearing of all debris for all crafts; Loading and unloading, conveying, distributing, collecting and hoisting of construction material and debris; Backfilling, Grading and Landscaping; Covering of tanks, structures and material piles with Tarpaulins or other materials; Handling and cleaning of concrete chutes; Cleaning of concrete spills and chipping where hand tools are required; Cleaning of masonry and other type walls and windows; Signal and Hoisting Concrete Buckets; Rodman; All tools run by gas, electricity, or air except Vibrator, Jackhammer and Paving Breaker; Air Compressors; Motor Buggies; Pumps, except Set-up Men and Nozzle Men; Unloading and handling steel; Chipping Tool Operator; Concrete Mixer Operator

Group 2: First Semi-Skill - Brick Mason, Plasterer and Cement Finishers Tenders; Mortarmen; Scaffold Builders for Brick, Plasterer and Cement Masons; Forklifts (walk-behind or other similar types)

Group 3: Second Semi-Skiller - Concrete Pumps Set-up Men and Nozzle Men; Tile Layers, Bottom Men, Sewers and Drains; Cutting Torch; Burning Bar; Trench or Pier Holes 12' or over; Wagon Drill; Air Track or any Mechanical Drill; Power Man; Tamper 100 lbs. or over; Paving Breaker; Jackhammer and Vibrator; Laser Beam Man for Sewer; Grade checker

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

Group 1: Backhoe, Cableway; Crane, Crawler or Truck; Crane, Hydraulic Truck or Cruiser mounted 16 tons and over; Crane, Locomotive, Derrick, Steam; Derrick Car and Derrick Boat; Dragline; Dredge; Gradall; Crawler or tire mounted; Locomotive, gas, steam and other powers; Piledriver, land or floating; Scoop, Skimmer; Shovel, power (steam, gas, electric or other powers); Switch Boat; Whirley

POWER EQUIPMENT OPERATORS: (Cont'd)

Group 2: Air Tugger with Air Compressor; Anchor placing Barge; Asphalt Spreader; Athey Force Feeder Loader (self-propelled); Backfilling Machine; Boat Operator Push Boat or Tow Boat (job site); Boiler, High Pressure Breaking in period; Boom Truck, placing or erecting; Boring Machine, Footing Foundation; Bullfloat; Cherry Picker; Combination Concrete Hoist and Mixer such as Mixermobile; Compressor (when operator runs throttle); Compressors, two not more than 50' apart; Compressor, Generator Combination; Compressor Pump Combination; Compressor Welder Combination; Concrete Breaker (truck or tractor mounted); Concrete Pump, such as Pumpcrete Machine; Concrete Spreader; Conveyor, large (not self-propelled) Hoisting or moving brick and concrete into, or into and on floor level, one or both; Crane, Hydraulic Rough Terrain, self-propelled; Crane, Hydraulic Truck or Cruiser mounted under 16 tons; Drilling Machines, self-powered, used for earth or rock drilling or Boring (Wagon Drills and any Hand-drills obtaining power from other sources including Concrete Breakers, Jackhammers and Barco equipment on engineer required); Elevating Grader, Engine Man, Dredge; Excavator or Powerbelt Machine; Finishing Machine, self-propelled Oscillating Screed; Fork Lift; Grader Road with power blade; Highlift; Hoist, concrete and brick (Brick Cages or Concrete Skips operating in or on Tower, Tower-mobile, or similar equipment); Hoist, stack; Hydrohammer; Lad-a-vator, hoisting brick or concrete; Loading Machine (such as Barber-Greene); Mechanic, on job site; Mixer, paving; Mixer-mobile; Mucking Machine; Pipe Wrapping Machine; Plant, asphalt; Plant Concrete producing or Ready-mix job site; Plant, Mixing job site; Plant, power, generating job site; Pumps, two self-power over 2" through 6"; Pumps, electric submersible, one through three, over 4" Quad-Track; Roller, Asphalt, Top or Subgrade; Scoop, tractor drawn; Spreader Box; Subgrader; Tie Tamper; Tractor-Crawler, or wheel type with or without power unit, power Take Off, and attachments regardless of size; Trenching Machine, Tunnel Boring Machine; Vibrating Machine, Automatic propelled; Welding Machines (gasoline or diesel) more than one but not over four (regardless of size); Well Drilling Machines; plant heating job site.

Group 3: Air Tugger with plant air; Boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; Boiler, temporary; Compressor, air one; Compressor, air (mounted on truck); Concrete Saw, (self-propelled); Conveyor, large (not self-propelled); Conveyor, large (not self-propelled) moving brick and concrete (distributing) on floor level; Curb Finishing Machine, Ditch Paving Machine; Elevator (building construction or alteration); Endless Chain Hoist; Fireman; Form Grader; Generator, one over 30 KW or any number developing over 30 KW; Greaser; Hoist, one drum regardless of size (except brick or concrete); Lad-a-vator; Manlift; Mixer, aspahlt, over 8 cu. ft. capacity; Mixer, if two or more of one bag capacity or less are used by one Employer on job, an Operator is required; Mixer, without Side Loader 2 bag capacity or more; Mixers, with Side Loader, 2 bag capacity or more; Mixers, with Side Loader, regardless of size, not Paver; Oiler on Dredge; Oiler on Truck Crane; Pug Mill Operator; Pump; Pump-self powered, automatic controlled over 2" during use in connection with construction work; Scissor Lift (used for hoisting); Sweeper, street; Tractor small wheel type 50 HP and under with Grader Blade and similar equipment; Welding Machine, one over 400 amp.; Winch Operating from truck; Mechanic in shop

POWER EQUIPMENT OPERATORS (Cont'd)

Group 4: Boat Operator Outboard Motor (job site); Conveyors (such as Con-Vay-it) regardless of how used; Oiler; Sweeper, floor

Group 5:
(a) Air-pressure; Oiler Engineer operating under 10 lbs.
(b) Air-pressure; Oiler Engineer operating over 10 lbs.
(c) Air-pressure Engineer operating under 10 lbs.
(d) Air-pressure Oiler Engineer operating over 10 lbs.
(e) Crane, Climbing (such as Linden); Crane, Pile Driving and extracting; Crane, using Rock Socket Tool; Derrick; Diesel, gas or electric, hoisting material erecting steel (150' or more above ground); Dragline, 7 cu. yds. and over; Hoist, 3 or more drums in use; Scoop, Tandem; Shovel, power 7 cu. yds. and over; Tractor, Tandem, Crawler, Tunnel Man assigned to work in tunnel or tunnel shaft; Wrecking, when machine is working on second or higher; Crane - Booms (including jib) 100 ft. to 150 ft.
(f) Crane, Boom (including jib) 150 ft. to 200 ft.
(g) Crane, Boom (including jib) 200 ft. to 250 ft.
(h) Crane, Boom (including jib) 250 ft. to 300 ft

TRUCK DRIVERS CLASSIFICATIONS

Group 1: Warehousemen; Dumper; Flat Bed and Pick-up; Farm Tractor; Water Truck, single-axle; Fuel Truck, single axle

Group 2: Tandem; Tractor Trailer; Winch; Fork Lift; Tandem Water Truck; Tandem Fuel Truck

Group 3: Tandem-slip-bed operation Pitman; Hydro Broom Truck; Transit Mixer; Euclid, Belly Dump; Cat Wagon; Oil Distributor; Ross Carrier; Dumpster; Half Track; Water Pull; Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTIES: Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming and York

DECISION NUMBER: PA85-3037 DATE: DATE OF PUBLICATION

Supersedes Decision No1: PA83-3001 dated August 19, 1983, in 48 FR 37805.

DESCRIPTION OF WORK: Heavy and Highway Construction excluding Sewage and Water Treatment Plants Projects.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS/PILEDRIVERMEN	13.17	2.60
CEMENT MASONS:		
Starting at the Franklin County line of Route 30 at the Tuscarora Mountains, follow the Franklin County line to Juniata County line; following Juniata Co. line to Susequehanna River then across Susequehanna River to the Dauphin Co. line; continue on the Dauphin County line to the Lebanon County line to where Route 501 intersects the Lebanon Co., then follow Route 501 to Lancaster County line; thence West to Susquehanna River to Route 920 and continue to Goldsboro, Lewisberry, and Rossville, to Dillsburg; thence on Route 15 to Heidlersburg; thence on Route 234 to junction with Route Route 334, up Routes 334 and 34 to junction of road immediately South of Fayetteville; thence through New Franklin to Marion; then to St. Thomas, then on Route 30 through Fort Loudon to Franklin County line at Tuscarora Mountains and West to include all of Fulton County, Cumberland, Dauphin, Juniata, Perry, Adams, Lebanon, New Cumberland Army Depot in York County	14.27	2.60
Berks County	13.79	1.65
Bradford, Lycoming, Sullivan & Union Cos.	13.22	2.55
Columbia County	14.35	2.06
Scranton & Carbondale in Lackawanna County, Susquehanna, Pike, Tioga, Wayne, Wyoming Counties, Tobyhanna Army Depot in Monroe County, Remainder of Luzerne County	16.85	
Lancaseter and remainder of York County	13.54	.93
Leigh County	17.78	2.55
Luzerne County: Hazelton, Berwick and Freeland Townships	13.05	.01
Wilks Barre	17.20	
Monroe County: Remainder of County	16.31	2.57
Snyder, Montour, & Northumberland cos.	13.45	.01
Northampton County	18.15	2.17
Schuylkill County	13.84	2.91

DECISION NO. PA85-3037

	Basic Hourly Rates	Fringe Benefits
IRONWORKERS:		
Structural, Ornamental & Reinforcing:		
Adams, Cumberland, Dauphin, Lebanon, Western part of Lancaster County, Lycoming, Montour, Northumberland, Juniata, Perry, Snyder, Union & York Counties	17.515	4.75
Berks, Schuylkill Cos. Eastern part of Lancaster County Structural, Ornamental & Reinforcing	17.90	4.75
Columbia, Lackawanna, Lurerne, Sullivan, Wayne, Wyoming, Pike Cos.: (Monroe County Tobyhanna Depot only) Structural & Ornamental	17.75	4.30
Reinforcing	17.50	4.30
Carbon, Legigh, Northampton, Cos. (Monroe County entire County except Tobyhanna Army Depot) Structural, Ornamental & Reinforcing	18.45	4.20
Bradford, & Tioga Cos.: Structural, Ornamental & Reinforcing	14.40	3.10
Susquehanna County: Structural, Ornamental & Reinforcing	14.55	2.75
LABORERS:		
Asphalt, tampers, concrete pitmen, puddlers & rubbers, Highway guardrail, right of way and property line fence, Highway slab reinforcing placers, laborers, landsxape, planters, seeders and arborists, magazine tenders, railroad trackmen, & Signalmen, leaser beam men (pipe laying, paving machine)	11.56	1.65
Pneumatic and Electric tool op. jackhammers, paving breakers, concrete saws, whacker vibrators, sheet hammers, steward, chain saws, pipelayers, asphalt rake, lute or screed men, concrete block layers	11.76	1.65
Caisson-open air below 8 feet, cofferdam open air below 8 feet where excavations for circular caissons and cofferdams 8 ft. and below level of natural grade adjacent to starting point, form setters (road) wagon drill diamond point drill, gunite nozzle operators	12.11	1.65
Blasters	12.34	1.65
Reinforcing steel placers, bonding, aligning and securing and burning and welding in conjunction with reinforcing steel	12.40	1.65
Concrete surfaces	12.78	1.65
FREE AIR TUNNELS AND ROCK SHAFTS		
Outside laborers in conjunction tunnels & rock shafts	12.20	1.65
Chuck Tenders, Muckers, Nippers, Miners, & Drillers Helpers, Inside Laborers	12.49	1.65
Miners, Drillers, Blasters, Pneumatic Shield Operators Lining, Spotting & Timers Workmen, Reinforcing Steel placer placers, Bonding, Aligning and Securing and Concrete Surfacers	12.97	1.65
LINE CONSTRUCTION: Adams, Cumberland, Dauphin, Lancaster, Lebanon, Juniata, Perry & York Counties, Pennsylvania:		
Linemen	15.06	.80+3 3/8%

DECISION NO. PA85-3037	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION: CONT'D		
Winch Truck Operators	10.54	.80+3 3/8%
Truck Driver	9.79	"
Groundman	9.04	"
Berks & Lehigh Cos.		
Linemen	16.88	"
Winch truck operators	11.82	"
Truck Driver	10.97	"
Groundman	10.13	"
Northampton County		
Lineman, Cable Splicers	17.61	1.55+10 3/8%
Groundman	10.57	"
Bradford, Carbon, Columbia, Lackawanna, Luzerne, Lycoming, Monroe, Montour, Northumberland, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming Counties		
Lineman	16.29	1.00+3 3/8%
Winch Truck Operators	11.59	"
Truck Driver	11.37	"
Groundman	10.30	"
LINE CONSTRUCTION: (RAILROAD ONLY)		
Adams, Berks, Cumberland Dauphin, Juniata, Lancaster, Lebanon, Lehigh Northampton, Perry		
Linemen	12.34	.60+6% +b
"A" Equipment Operator	12.34	"
"B" Equipment Operator	10.78	"
MILLWRIGHTS:		
Adams, Bradford, Cumberland, Columbia, Dauphin, Juniata, Lebanon, Luzerne, Lycoming, Montour, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga, Union & Lancaster Counties & Townships in Carbon County: Banks, Lausanne, Lehigh & Northern part of Packer Wyoming Co., York County, New Cumberland Army Depot & Harrisburg- York State Airport	16.57	2.55

	Basic Hourly Rates	Fringe Benefits
Berks County	13.70	2.22
Lehigh & Northampton Counties	16.61	3.31
Monroe County	10.13	
Lackawanna, Susquehanna, Pike, Wayne Counties	15.04	2.70
Remainder of Carbon Co.	12.15	
Remainder of York Co.	14.19	1.88
POWER EQUIPMENT OPERATOR (HEAVY CONSTRUCTION)		
Zone I		
Group 1	15.89	26.6%+a
Group 2	15.60	"
Group 3	14.72	"
Group 4	13.95	"
Group 5	13.47	"
Group 6	12.55	"
Group 7	16.14	"
Group 7-A	16.41	"
Group 7-B	16.64	"
Zone II		
Group 1	16.52	26.6%+a
Group 2	16.23	"
Group 3	15.17	"
Group 4	14.52	"
Group 5	13.26	"
Group 6	12.36	"
(HIGHWAY CONSTRUCTION AND WATER LINES CONSTRUCTION (OFF PLANT SITE)		
Group 1	14.26	.50+26.6%
Group 2	13.42	"
Group 3	12.92	"
Group 4	12.48	"
Group 5	11.93	"
Group 6	14.50	"
Group 6-A	14.75	"
Group 6-B	15.00	"
TRUCK DRIVERS:		
Class I Helper, stake body truck (single axle), dumpster	13.57	
Class II Dump Trucks, Tanden, & Batch Trucks, Semi-trailer, Agitator Mixer Trucks, Ready-mix and Dumpcrete Type Vehicles, Asphalt Distributor when used for transportation		

DECISION NO. PA85-3037	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D)		
Stake Body Truck (Tandem)	13.64	
Class III Euclid type, Off-Highway Equipment Back or Belly Dump Truck and Double Hitched Equipment, Straddle (Ross) Carrier, Lowbed Trailers	14.13	

WELDERS - Receive rate prescribed for crafts to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5 (a)(1)(ii)).

FOOTNOTE:

a. Paid Holidays: New Year's Day; Delaration Day; Independence Day; Labor Day; Thanksgiving Day; Christmas Day and Good Friday.

b. Paid Holidays: New's Day, Memorial Day, Independence Day, Labor Day, Election Day, Thanksgiving Day and Chirstmas Day, provided the employee works the day before and after the holiday.

CLASSIFICATION DEFINITION FOR LIKE CONSTRUCTION (RAILROAD ONLY)

"A" Equipment Operators:

1. Hoisting equipment- when erecting complete towers, erecting framed structures, erecting steel transmisson poles, erecting railroad pole extensions and crossbeams and when operating personnel lift baskets.

2. Tension pulling equipment under energized conditions - parallel with other energized circuits or above energized circuits on same structure not to include crossovers. Bundled conductor stringing including static conductors on bundled conductor lines.

3. Excavating augers 36" inches in diameter or larger, 5/8 cubic yard, backhoe and larger, trencher over four feet in depth, bulldozer D-6 (caterpillar) or larger, and blade on finish grade work

"B" Equipment Operators:
Operators of all other equipment.

DECISION NO. PA85-3037

AREA COVERED BY POWER EQUIPMENT OPERATORS (ZONE I)

ZONE I - Lackawanna, Susquehanna, Wyoming, Pike, Wayne, Monroe, and Luzerne Counties.

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS
(Heavy Construction) (Zone I)

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters.

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, derricks, trench shovels, trench machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3½ c.y. and over, tandem scrapers, pipping type backhoes, boat Captains batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over.

GROUP 3: Conveyors, building hoist (single drum) scrapers and tournapulls spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing) ditch witch type trencher, all loaders under 3½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator forklift trucks under 20 ft. lift.

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line grader, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment),

GROUP 5: Fireman, Grese Truck.

GROUP 6: Oilers and Deck Hands (personnel boats), Core Drill Helper.

GROUP 7: All machines with Booms (Including Jib, Mast, Leads, Etc.): 100 ft. and over.

GROUP 7-A: 150 ft. and over.

GROUP 7-B: 200 ft. and over.

DECISION PA85-3037

AREA COVERED BY POWER EQUIPMENT OPERATORS (ZONE II)

ZONE II - Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin Juniata, Lancaster, Lebanon, Lehigh, Lycoming, Montour, Northumberland, Perry, Schuylkill, Snyder, Sullivan, Tioga, Union and York Counties.

POWER EQUIPMENT OPERATORS CLASSIFICATIONS DEFINITIONS
(Heavy Construction) (Zone II)

GROUP 1: Machines doing hook work any machine handling machinery Cable spinning machines Helicopters,

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, Keystones, all types of shovels, derricks, trench shovels, trenching machines, hoists with two towers Pavers 21E and over, All types overhead cranes, building hoists (double drum) gardalls, mucking machines in tunnel, tandem scrapers, pippin type backhoes, boat captains, batch plant operators (concrete), drills, self-contained rotary drills, forklifts, 20 ft., lift and over, scrapers and tournapulls, spreaders, bulldozers and tractors, rollers (high grade finishing), mechanic-welder, motor patrols

GROUP 3: Conveyors, building hoists (single drum), high or low pressure boilers, concrete pumps, well drillers, asphalt plant engineers, ditch witch type trenchers, drill helper - self-contained rotary drills, core drills operator, fork lift trucks under 20 ft. lift.

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman puliverzing mixer, power broom, seeding spreader, tireman (for power equipment)

GROUP 5: Fireman, grese truck

GROUP 6: Oilers and decks hands, core drill helper

POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION, AND WATER LINES CONSTRUCTION-OFF PLANT SITE)

GROUP 1: Pile drivers, all types of cranes, all types of backhoes, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, paver 21E and over, gradalls, all front end loaders, 4 cu. yds. and over, tandem scrapers, pippin types backhoes, boat captains, batch plant with mixer, drill self contained (drill-master type), CMI Autograde, machines similar to above.

GROUP 2: Conveyor loader (EUC type), scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, bulldozers, and tractors, asphalt plant engineers, rollers (high grade finishing), all loaders under 4 cu. yds., mechanic-welders, motor patrols, machines similar to above.

DECISION NO. PA85-3037

POWER EQUIPMENT OPERATORS (HIGHWAY CONSTRUCTION, AND WATER LINES CONSTRUCTION- OFF PLANT SITE) (CONTINUED)

GROUP 3: Welding machine, well points, compressors, pump heaters, farm tractors, form line graders, fine grade machine, ditch witch type trencher, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman - (for power equipment) conveyors loaders other than EUC type, conveyors, machines similar to above.

GROUP 4: Fireman

GROUP 5: Oilers and deck hands

GROUP 6: On all machines with booms (including jibs, masts, Leads etc.) 100 ft. and over.

GROUP 6-A: 150 ft. and over.

GROUP 6-B: 200 ft. and over.

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federal register

Friday
August 9, 1985

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Mechanical Reliability Reports; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 24192; Amdt. No. 121-187]

Mechanical Reliability Reports; Change in Requirement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule changes the mechanical reliability reporting requirement contained in Part 121 of the Federal Aviation Regulations by allowing certificate holders to mail or deliver mechanical reliability reports to the responsible FAA Flight Standards District Office within 72 hours after the 24-hour reporting period. The current rule requires Part 121 certificate holders to deliver reports to the FAA maintenance inspector assigned to its operation within 24 hours after the 24-hour reporting period. This change allows reports to be mailed or delivered and provides a more realistic compliance requirement. The relief afforded by this amendment is fully consistent with the President's regulatory policies and Executive Order 12291.

EFFECTIVE DATE: September 9, 1985.

FOR FURTHER INFORMATION CONTACT: Fred Crenshaw, Air Transportation Branch (AWS-330), Aircraft Maintenance Division, Office of Airworthiness, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 426-3440.

SUPPLEMENTARY INFORMATION:

Background

On July 6, 1984, the Federal Aviation Administration (FAA) issued Notice of Proposed Rulemaking No. 84-13 (49 FR 32306; August 13, 1984). This notice proposed a more realistic and current approach to mechanical reliability reporting by permitting Part 121 certificate holders to mail or deliver mechanical reliability reports (MRR's) to the responsible FAA Flight Standards District Office charged with the inspection of a certificate holder within 72 hours after the close of a reporting period.

Section 121.703(d) of the Federal Aviation Regulation (FAR) places a reporting burden on operators for compliance that is not required for safety. When § 135.415(d) was promulgated, a more realistic and current approach was taken for reporting MRR's by permitting MRR's to be mailed or delivered to the FAA Flight Standards District Office charged with the overall inspection of a certificate holder within 72 hours after the close of a 24-hour reporting period. Section 121.703(d) was never amended to require similar reporting for Part 121 certificate holders. Experience gained regarding compliance with § 135.415(d) shows that compliance standards have not been lowered, and there has been no degradation of safety. Further, FAA improved methods of analysis and data processing have resulted in improvement in the timeliness of reports being entered into the system. This amendment allows Part 121 certificate holders the same considerations for reporting MRR's now provided to Part 135 certificate holders. This amendment permits Part 121 certificate holders to mail or deliver their MRR's to the responsible FAA Flight Standards District Office within 72 hours after the close of a reporting period. Based on the experience gained with the similar requirement in § 135.415(d), this amendment will result in no degradation of safety and will not lower compliance standards for MRR reporting.

Many FAA maintenance inspectors had received complaints from their assigned certificate holders that it is physically impossible to deliver their MRR's to the assigned maintenance inspectors within 24 hours as required by § 121.703(d) before this amendment. In addition, the Air Transport Association of America, on behalf of its member airlines and other operators, appealed to the FAA to reconsider the 24-hour requirement and allow MRR's to be mailed or delivered so that they can realistically comply with the regulations.

The MRR's are published in the Aviation Standards Service Difficulty Report Summary by the FAA Aviation Standards National Field Office at Oklahoma City. The summary consists of air carrier MRR's and is available to FAA personnel, industry affiliates, and others with a demonstrated need for the service. It was recently changed from a daily to a weekly publication. The amended reporting requirement will not delay publication of reports in the summary.

Public Participation

This amendment is based on Notice 84-13. All interested parties were given an opportunity to participate in the making of this amendment, and due consideration was given to all matters presented. This amendment and the reasons for its adoption are the same as those stated in Notice 84-13. Two comments were received in response to this Notice, one from the Air Transport Association of America and another from the Regional Airline Association. Both commenters support the notice. Therefore, the amendment to § 121.703 is adopted as proposed.

Economic Evaluation

There is a minor economic benefit associated with this amendment since an operater reporting requirement is relaxed. The saving for any one firm is minimal since a small amount is saved for each report required, and the reports are made only infrequently. There is no cost associated with the proposal as the essential integrity of the reporting system is retained, and there are on other direct or indirect costs which are apparent.

Trade Impact

The FAA can foresee no impact on U.S. or foreign trade if this proposal is adopted since it would merely grant relief from a reporting burden.

Paperwork Reduction Act

Information collection requirements in this regulation (§ 121.703(d)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0008.

Conclusion

This amendment will reduce the burden of a reporting requirement by providing Part 121 certificate holders with a regulation that will permit them to mail or deliver MRR's to the responsible FAA Flight Standards District Office within 72 hours after the 24-hour reporting period. It changes the current rule which requires them to deliver reports to the FAA maintenance inspector assigned to its operations 24 hours after the 24-hour reporting period. Updating this requirement will provide certificate holders with sufficient time to submit their report to be in compliance with the regulations. In addition, this amendment will not lower compliance standards or degrade safety. It will allow Part 121 certificate holders the same considerations as Part 135 certificate holders for MRR reporting. Accordingly, the Federal Aviation Administration has determined that this amendment is not a major rule under Executive Order 12291 or a significant regulation under the Department of Transportation Regulatory Policies and Procedures (44 FR 11023; February 26, 1979). The expected impact of this regulatory action is minimal, involves no cost, will have a positive economic impact by eliminating the costs

associated with an unrealistic reporting time, and does not warrant preparation of a regulation evaluation. In addition, for the reasons discussed under the criteria of the Regulatory Flexibility Act, I certify that this amendment will not result in a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Aircraft, Airplanes, Airworthiness directives and standards, Transportation, Common carriers.

Adoption of the Amendment

Accordingly, § 121.703 of the Federal Aviation Regulations (14 CFR 121.703) is amended as follows, effective September 9, 1985:

PART 121—CERTIFICATION OPERATIONS: DOMESTICS, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for Part 121 is revised to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–499, January 12, 1983).

2. By amending § 121.703 by revising paragraph (d) as follows:

§ 121.703 Mechanical reliability reports.

* * * * *

(d) Each certificate holder shall send each report required by this section, in writing, covering each 24-hour period beginning at 0900 local time of each day and ending at 0900 local time on the next day, to the FAA Flight Standards District Office charged with the overall inspection of the certificate holder. Each report of occurrences during a 24-hour period must be mailed or delivered to that office within the next 72 hours. However, a report that is due on Saturday or Sunday may be mailed or delivered on the following Monday, and one that is due on a holiday may be mailed or delivered on the next work day.

* * * * *

Issued in Washington, D.C., on August 2, 1985.

Donald D. Engen,

Administrator.

[FR Doc. 85–18871 Filed 8–8–85; 8:45 am]

BILLING CODE 4910–13–M

federal register

Friday
August 9, 1985

Part IV

Department of the Treasury

Office of Revenue Sharing

Data Improvement Program for Entitlement Period Seventeen; Notice

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

Data Improvement Program for Entitlement Period Seventeen

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Data notice.

SUMMARY: This notice provides the data definitions and effective dates for the Data Improvement Program for Entitlement Period 17 (October 1, 1985–September 30, 1986) of the Revenue Sharing Program, and provides challenge procedures. The Data Improvement Program notices scheduled to be mailed to all eligible governments on or about August 22, 1985 provides data for each government based on these data definitions.

DATES: Data challenges for Entitlement Period 17 should be submitted to the Office of Revenue Sharing by September 16, 1985. Demands for allocation adjustments for Entitlement Period 17 must be made by September 30, 1987.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, Treasury Department, Washington, D.C. 20226, (202) 634–5166.

SUPPLEMENTARY INFORMATION: On or about August 22, 1985, the data used by the Office of Revenue Sharing in calculating the Revenue Sharing allocations for all State areas and eligible local governments for Entitlement Period 17 are scheduled to be mailed to each government. These data have been compiled by the Bureau of the Census, Bureau of Economic Analysis, and the Internal Revenue Service. The definition of each data element is printed in this notice.

These data may be corrected under this review program or other data improvement procedures. The Office of Revenue Sharing will notify each recipient government of its data and the amount of its initial Entitlement Period 17 allocation, plus any adjustments for previous entitlement periods, on its Recipient Account Statement form scheduled to be mailed in late 1985. Although Entitlement Period 17 is the last entitlement period authorized in the 1983 renewal of the Revenue Sharing Program, the appropriation of funds for this entitlement period cannot be assured.

The State area data will be mailed to the Governor of each State and to the Mayor of Washington, D.C. The City of Washington is treated, for Revenue Sharing purposes, as the only municipality in the State area of the District of Columbia. State governments are not eligible to receive Revenue Sharing funds for Entitlement Period 17, since funds were not authorized for State governments for this period. States will receive a letter showing their State's data used to calculate the amount for distribution among the State areas. If a State government believes that there are errors in the data relative to the definitions and effective dates, the State government should send its written data challenge with supporting documentation to the Office of Revenue Sharing by September 16, 1985. Upon receipt of a challenge from a State government, the Office of Revenue Sharing will work with the appropriate Federal agency to confirm or correct the questioned data. The Office of Revenue Sharing will advise the State government of the results of this review. Any resulting data changes for State areas will be used in computing the initial allocations of all eligible governments for Entitlement Period 17, which are currently scheduled for October 1985.

The data for each unit of local government will be mailed to the official of record for the government. Each recipient local government will receive either an Official Form 90–18.3 or 90–18.5. The Form 90–18.3 will be sent only to those governments in areas declared major disaster areas since April 1, 1974 under the Disaster Relief Act of 1974 (42 U.S.C. 5141), whose data were possibly adversely affected by a major disaster. In order to be eligible for the stabilization benefit of the Disaster Relief Act (which permits them to use their pre-disaster data figures rather than their post-disaster figures), the local governments which receive a Form 90–18.3 are required to verify that one or more of their data elements were adversely affected by the disaster. All other recipient governments will receive Form 90–18.5.

If a government believes that there are errors in the data relative to the definitions and effective dates, it should return either the Form 90–18.3 or 90–18.5 to the Office of Revenue Sharing by September 16, 1985, with evidence justifying the proposed data corrections. Governments which do not wish to question their data or to certify a disaster need not return the form. When the Office of Revenue Sharing receives a written challenge from a recipient government, it will work with the appropriate Federal agency to substantiate or correct all data questioned, and will advise the government of the results of this review. Any resulting changes in the data for local governments will be used in computing the initial allocations for Entitlement Period 17, if they have been processed by the time of the allocation. Otherwise, these changes will be incorporated in subsequent allocations for Entitlement Period 17.

According to the provisions of 31 U.S.C. 6702(c), the Office of Revenue Sharing must make allocation adjustments where the recipient government or the Director (under powers and duties given by the Secretary of the Treasury) makes a demand for adjustment within one year after the end of the entitlement period. For Entitlement Period 17, the Director had determined that all data corrections made by this Office, based on the revisions of a data source agency (i.e., Bureau of the Census, Bureau of Economic Analysis, Internal Revenue Service) and which are received by the close of business on September 30, 1987, will be treated as an adjustment demand under this provision. In addition, any written demand for adjustment containing adequate supporting documentation sent by a State or eligible local government (or by the Secretary or his designee), and which is received by the ORS by the September 30, 1987 deadline, will be researched and resolved. Corrections to the data will be incorporated into the calculation of the final allocations for Entitlement Period 17 during 1987. Any resulting adjustments in the Revenue Sharing allocations for Period 17 will be reflected in governments' future payments.

The data definitions for State areas used in the interstate allocation process and for local governments used in the intrastate allocation process for Entitlement Period 17 are as follows:

State Area Data Definitions

1. Population

The population of a State for Entitlement Period 17 (October 1, 1985–September 30, 1986) of the Revenue Sharing Program is the provisional estimate of the total resident population on July 1, 1984 as determined by the Bureau of the Census.

The Census Bureau developed the provisional 1984 population estimates by using an average of the Administrative Records method and a Composite method to obtain State totals for the household population under age 65. Estimates for the population 65 years and older were obtained using changes in Medicare enrollments. In addition, estimates of the population under 65 in group quarters were added to create an estimate of the total population.

The Administrative Records method uses reported births and deaths to estimate natural change since the last census, individual Federal tax exemptions to estimate net internal migration, and Immigration and Naturalization Service data to estimate immigration since the census. The Composite method uses reported births and deaths to estimate natural change since the last census and school enrollment data to estimate migration for the population under age 15. For ages 15 to 64, the method uses changes in Federal income tax returns, school enrollment, and housing units in a regression approach to estimate change in the population. The result of the Administrative Records and Composite Methods were averaged to develop an estimate of the household population under age 65.

Estimates of the civilian population for the States were obtained by subtracting estimates of the number of persons in the Armed Forces from the resident total for each State. Data on the Armed Forces were obtained from the Department of Defense and the individual services.

For a definition of the population data and the methodology, please see the Census Bureau's *Current Population Reports*, Series P–25, issued in June 1985. The estimates were rounded to the nearest thousand without being adjusted to group totals, which were independently rounded.

II. Urbanized Population

The urbanized population of a State for Entitlement Period 17 is the 1980 urbanized population of a State as determined by the Bureau of the Census.

A State's 1980 urbanized population is that State's 1980 Census population living in "Urbanized Areas." For a complete definition of Urbanized Areas, please consult the Bureau of the Census publication for each State entitled *1980 Census of Population: Vol. 1, Characteristics of the Population, PC80–1–A, Number of Inhabitants.*

III. Income

The per capita income (PCI) of a State for Entitlement Period 17 is the 1983 per capita income of the State as determined by the Bureau of the Census. The per capita income is the estimated mean or average amount of total money income received during calendar year 1983 by all persons residing in the State in April 1984. The 1983 PCI estimates are based on data from the 1980 Census and reflect corrections to the census data which have been made since 1980.

Total money income is the sum of:

- Wage and salary income,
- Net nonfarm self-employment income,
- Net farm self-employment income,
- Interest, dividend, and net rental income,
- Social security and railroad retirement income,
- Supplemental Security Income (SSI), Aid for Families with Dependent Children (AFDC), and other public assistance income,
- All other income such as veteran's payments, pensions, unemployment insurance, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes, social security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: Money received from the sale of personal property; capital gains; the value of income "in-kind" such as food produced and consumed in the home or free living quarters; withdrawals of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, and other types of lump sum receipts.

The 1979 PCI data from the 1980 Census were updated to 1983 based on income data from the 1979 to 1983 Federal income tax returns, and State income estimates prepared by the Bureau of Economic Analysis to measure the change from 1979 to 1983.

At the State level, 1983 per capita income estimates were developed by carrying forward the 1980 Census aggregate wage and salary income and per capita income for the remaining types of income itemized above, and dividing the sum of the 1983 aggregates for each State by the estimated April 1984 population. The percent change in wage and salary income as reflected by the Internal Revenue Service data was used to update the 1980 Census wage and salary amount, while the remaining income types were carried forward using the percent change implied in estimates developed by the Bureau of the Economic Analysis.

The 1983 PCI estimates will be published by the Bureau of the Census in the *Current Population Reports* series. The estimates being used for Revenue Sharing purposes may not agree exactly with the figures in these reports, since corrections may have been made to the estimates subsequent to their publication.

IV. State Individual Income Tax

The State individual income tax data of a State for Entitlement Period 17 is the total calendar year 1984 collections of the tax imposed upon the income of individuals by such State and described as a State income tax under section 164(a)(3) of the Internal Revenue Code of 1954. These data also include collections of taxes on special types of income (e.g., interest, dividends, income from intangibles, etc).

Actual calendar year 1984 State individual income tax collections data were obtained from the Bureau of the Census publication entitled *Quarterly Summary of State and Local Tax Revenue, October-December 1984.* The calendar year 1984 State individual income tax collections data used for Revenue Sharing purposes may not agree exactly with the published figures, since corrections to these data may have been made subsequent to publication.

V. Federal Individual Income Tax Liabilities

The Federal individual income tax liability of a State for Revenue Sharing purposes is the total annual Federal individual income tax liability of the residents of the State as provided by the Internal Revenue Service (IRS). This data consists of income tax after credits, tax from prior-year investment credit, minimum tax, alternative minimum tax, social security tax on tip income, and tax on individual retirement arrangements less self-employment tax and earned income credit used to offset other taxes.

Income tax before credits is the tax liability computed on taxable income based on:

1. The regular combined normal tax,
2. Alternative tax, or
3. Tax computed using the income averaging provisions.

Examples of credits which are supplied against income taxes are:

1. Retirement income credit,
2. Investment credit,
3. Foreign Tax credit, and
4. Other tax credits.

The most recently available Federal individual income tax liabilities are the 1983 IRS estimates of Federal individual income tax liabilities of States. These estimated tax amounts for calendar year 1983 are the preliminary 1983 estimates from the Internal Revenue Service's "Returns Transaction File," which classified all Federal individual tax returns processed during calendar year 1984 according to the taxpayers' mailing addresses as shown on the tax returns.

VI. State and Local Taxes

The State and local tax data of a State are the compulsory contributions exacted by the State government or by any local government or other political

subdivision of the State for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay) as such contributions are determined by the Bureau of the Census for general statistical purposes. For Revenue Sharing purposes, the taxes of Indian governments and Alaskan Native villages are included in the State and local tax data of a State.

State and local tax data used for Revenue Sharing purposes are the fiscal year 1983–84 State and local taxes as reported by the Bureau of the Census in Table 5 of *Governmental Finances 1983–84* (GF 84, No. 5). Fiscal year 1983–84 is a government's 12-month accounting period that ended between July 1, 1983 and June 30, 1984, except for three State governments and the school districts in two States. The State governments of Alabama and Michigan had fiscal years ended September 30, 1984, and the Texas State government has a fiscal year ended August 31, 1984. Also, the school districts in Alabama had fiscal years ended September 30, 1984, and those in Texas ended August 31, 1984. All of these governments are treated as though they are part of the group with fiscal years ended by June 30, 1984.

Tax revenue comprises amounts collected from all taxes which are imposed by a government and collected by that government, or which are collected for it by another government acting as its agent. This includes interest and penalties, but does not include amounts refunded or taxes paid under protest and held in suspense accounts subject to possible refund. These latter amounts are not regarded as revenue, except as awarded to the governments concerned. For purposes of this definition, local governments and other political subdivisions include counties (parishes in Louisiana and boroughs in Alaska), municipalities, townships, school districts, special districts, and Indian governments and Alaskan Native villages. A government also includes, in addition to the central authority of the unit, any semi-autonomous boards, commissions, or other agencies dependent on it that do not in themselves meet requirements as to fiscal and administrative independence, even though as to accounting aspects these agencies may operate outside the central accounting and administrative pattern of the government.

The State government information contained in State and local taxes is based on the annual Bureau of the Census survey of State finances. State finance statistics are compiled by representatives of the Bureau of the Census from official records and reports of the various States. The local government portion of the State and local tax data are estimates based on information received from all general purpose governments and from a sample of school districts and special districts. The sample consisted of districts whose relative importance in their State based on expenditure or debt was above a specified size, and a random sample of remaining units.

The fiscal year 1983–84 State and local taxes data may not agree exactly with the figures in *Governmental Finances 1983–84*, because corrections may have been made to these data subsequent to their publication and because this publication does not include taxes of Indian governments and Alaskan Native villages among its finance data for State and local governments.

VII. General Tax Effort Factor

The general tax effort factor of a State for Entitlement Period 17 is the amount of fiscal year 1983–84 State and local taxes of the State divided by the aggregate personal income of the State for 1983. State and local taxes for fiscal year 1983–84 are as defined above, and as reported by the Bureau of the Census in Table 5 of *Governmental Finances 1983–84* (GF 84, No. 5).

Aggregate personal income of a State in calendar year 1983 is the income of individuals as estimated by the Bureau of Economic Analysis of the Department of Commerce for national income accounts purposes, and which are scheduled to be reported in "Personal Income By States and Regions for Selected Years," Table 1, *Survey of Current Business*, August 1985, Volume 65, Number 8. These estimates will supersede the currently available 1983 estimates reported in *Survey of Current Business*, August 1984, Volume 64, Number 8.

Aggregate personal income represents the total current income received by persons residing in the State from all sources, including transfers from government and business, but excluding transfers among "persons." Not only individuals (including owners of unincorporated enterprises), but also nonprofit institutions, private trust funds, and private pension, health and welfare funds are classified as "persons." Personal income is measured on a before-tax basis, as the sum of wages and salary disbursements, other labor income, proprietors' and rental income, interest and dividends, and transfer payments, minus personal contributions such as for social insurance, etc.

Local Governments Data Definitions

I. Population

The population of a local government for Entitlement Period 17 of the Revenue Sharing Program is the resident population as of July 1, 1984 as determined by the Bureau of the Census. The July 1, 1984 population estimates are published by the Bureau of the Census in *Current Population Reports*, Series P–26, in State reports numbered in alphabetical sequence from Alabama through Wyoming.

The 1984 population estimates were derived by the Census Bureau using a component procedure whereby components of population change are estimated separately, and then added to the July 1, 1982 population estimates of the local governments. The 1982 population base reflects all population corrections made to the 1980 Census counts after the initial Census Bureau publications and any corrections made as a result of the Census Bureau's Administrative Challenge Procedures or the Office of Revenue Sharing's Data Improvement efforts.

The components of population change are:

1. *Natural increase, i.e., the excess of births over deaths:* Annual births and deaths for counties were compiled from State vital statistics offices supplemented by data from the National Center for Health Statistics. For subcounty areas, births and deaths were estimated using census data and adjusted to agree with county-level figures.

2. *Net Migration:* This component of population change was estimated for each unit of government by developing net migration rates from Federal income tax return data. Returns were matched from one filing date to another in order to determine mover/nonmover status. For the July 1, 1984 population estimates, these rates were derived from 1981 and 1983 returns, which were filed by April 1982 and 1984, respectively. The methodology is described in *Current Population Reports*, Series P–25, No. 699, "Population and Per Capita Money Income Estimates for Local Areas: Detailed Methodology and Evaluations." The number of those who moved in, minus the number who moved out, yields the net migration. The rate computed from these data was applied to the total nongroup quarters population in an area, which was the population that was not residing in an institution, college dormitory, or military

barracks. These latter special population groups were accounted for separately, as were legal immigrants from abroad.

For all areas where special censuses were conducted by the Bureau of the Census close to the 1984 estimate date, and in selected areas where special censuses are conducted locally, the special census counts were used in the preparation of the estimates. For these cases, the special census counts were adjusted to the July 1, 1984 estimate date. In addition, the subcounty estimates in seven States prepared by the Bureau of the Census were averaged with estimates produced by State agencies participating in the Federal-State Cooperative Program for Local Population Estimates. These States are: California, Florida, New Jersey, New Hampshire, Oregon, Vermont, and Wisconsin. For the State of Washington, the State-produced estimates are used alone.

For counties, the provisional July 1, 1984 population estimates published in *Current Population Reports*, Series P-26, No. 84-52-C, were used. These estimates used a variation of the Administrative Records Method and the revised July 1, 1983 county population estimates, published in *Current Population Reports*, Series P-26, Nos. 82-1-C through 83-50-C, as the base. The county populations were adjusted to be consistent with State estimates published by the Bureau of the Census in *Current Population Reports*, Series P-25, just as the population estimates for the governments in each county were adjusted to be consistent with county population figures.

The population estimates for local governments generally relate to governmental boundaries as of December 31, 1983, and reflect all qualifying annexations through that date. Annexations qualify for inclusion in one of two ways: Either (i) the annexation is automatically processed where the 1980 total population for the government is at least 5,000 *and* the estimated population annexed is at least 5 percent of the total population, or (ii) if the annexation does not meet the above requirements, a government may pay the Census Bureau for the work necessary to include the annexed areas in the government's data on a cost-reimbursable basis. In addition, later adjustments to the 1984 population estimates will be made for new incorporations, disincorporations, and mergers or consolidations occurring through September 30, 1985.

Population of American Indian Tribes and Alaskan Native Villages

The population for a recognized governing body of an American Indian tribe is the resident American Indian population as of July 1, 1984, as determined by the Bureau of the Census. (See below regarding Alaskan Native villages.) This determination was made by estimating population change for the period July 1, 1982 to July 1, 1984. The 1984 estimates were obtained by incorporating the estimated changes to the 1982 population estimates. However, the Census Bureau cannot provide the 1984 resident Indian population estimates until September 1985. Providing the 1984 estimates are received in time, these data will first be used in October 1985 to compute the initial allocations for Entitlement Period 17 on which the initial entitlement payments are based.

The population for American Indian tribes was the number of American Indians living on the reservation plus any American Indians living in adjacent tribally-owned trust lands of that tribe. For the 1980 Census, the Bureau of the Indian Affairs (BIA) delineated the boundaries of American Indian reservations based on boundaries established by treaty, statute, and executive and/or court order. Also, the BIA identified adjacent tribal trust lands located outside the reservation boundaries. These boundaries may not conform exactly to actual boundaries, since the boundaries used extend to the nearest physical or natural feature bordering the trust lands. Resident non-Indian members of families with an American Indian householder or spouse are also included in the tribal population data. The population of the Osage Tribal Council of Oklahoma will be determined on this basis, since it has its own current reservation.

For the other Oklahoma tribes which are located within the historic reservation area (excluding urbanized areas), the estimates of the resident Indian population for Revenue Sharing purposes is based on the Indian persons who identified with an eligible Indian tribe in the 1980 Census, and who lived within the boundaries of the historic reservation area in a county which contains trust lands associated with the eligible tribe. In cases where two or more tribes had reservation land within a county, the historic area as a whole within that county are treated jointly as the land of those tribes. Resident non-Indian members of families with an Indian householder or spouse identifying with a tribe are included in that tribe's population data. However, parts of the historic areas located within incorporated cities or towns are excluded from the land of the tribes.

For Alaskan Native villages, the 1984 resident population is the number of American Indians, Eskimos, and Aleuts living in the village on July 1, 1984. Resident non-Alaskan Native members of families with an Alaskan Native householder or spouse are also included in the village's population data.

The concept of race reflects self-enumeration by respondents according to the race with which they identified themselves in the 1980 Census. Additionally, persons who did not report themselves in one of the specific race categories, but reported the name of an Indian tribe, were classified as American Indian. For a complete description of the Census base data, see the Census Bureau report entitled *American Indian Areas and Alaskan Native Villages: 1980*, PC80-S1-13, issued August 1984.

The 1984 population estimates are developed by a component procedure in which each of the components of population change (births, deaths, and net migration) are estimated separately for the period July 1, 1982 to July 1, 1984. The net change is added to (or subtracted from) the 1982 base population to produce the new estimate. The components of population change are:

1. *Natural Change:* A computer file of registered Indian births and deaths maintained by the Indian Health Service provides total figures for each county for the estimated time period. The estimate of births for each reservation is determined by the proportion of Indian women aged 15 to 44 years living on the reservation to those living in the county. Deaths are allocated by the same type of proportion, but for the total Indian population. Natural change for each reservation is obtained by subtracting estimated deaths from the estimate of births.

2. *Net Migration:* To estimate a net migration rate for each reservation, a series of special tabulations of Federal income tax returns are prepared. These special tabulations are similar to those used to produce net migration rates for other general-purpose local governments. The methodology is described in *Current Population Reports*, Series P-25, No. 699, "Population and Per Capita Money Income Estimates for Local Areas: Detailed Methodology and Evaluation." The method estimates migration from Federal income tax returns by matching returns for two separate tax years, and

noting the address on the two matched returns (especially the Zip code.)

Address changes which indicate migration from one local government to another are tabulated, providing an estimate of inmigration and outmigration, and therefore the "net migration" (inmigrants minus outmigrants) for each government. This net migration is converted to a rate by dividing by the total number of taxpayers and dependents on matched returns. The total population of the government is multiplied by this rate to estimate total net migration.

In modifying this method for the estimates of Indian reservations, a migration rate more specific to the reservation is developed by distinguishing those tax returns filed by American Indians, and by identifying the Zip codes used to deliver mail to each reservation. For each reservation, the appropriate Zip codes are identified, and net migration rate is tabulated using the tax returns carrying these Zip codes. In some cases, where it is not possible to select Zip codes which define reservation residents, the net migration rate is multiplied by the number of American Indians living on the reservation to obtain the net migration estimate.

The estimate of births, deaths, and net migration represent population change for the period July 1, 1982 to July 1, 1984. The 1984 estimate is obtained by adding births to the 1982 base population, subtracting deaths, and adding or subtracting net migration as appropriate.

II. Per Capita Income

The 1983 per capita income (PCI) of a local government for Entitlement Period 17 is the estimated mean or average amount of total money income received during calendar year 1983 by all persons residing in that political jurisdiction in April 1984. The 1983 PCI estimates are based on data from the 1980 Census and reflect corrections to the census data as well as changes in income, population, and geographic boundaries which have occurred since 1980. The 1983 PCI estimates will be published by the Bureau of the Census in one of the *Current Population Reports* series. The estimate being used for Revenue Sharing purposes may not agree exactly with all of the figures in the reports, since corrections may have been made to the data subsequent to publication.

The 1980 Census PCI data were updated to 1983 based on income data from Federal income tax returns (1979 to 1983), and State and county money income estimates prepared by the Bureau of Economic Analysis (BEA) to measure the change from 1979 to 1983.

Total money income is the sum of:

- Wage and salary income,
- Net nonfarm self-employment income,
- Net farm self-employment income,
- Interest, dividend, and net rental income,
- Supplemental Security Income (SSI), Aid for Families with Dependent Children (AFDC), and other public assistance income,
- All other income such as veteran's payments, pensions, unemployment insurance, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes, Social Security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: money received from the sale of personal property; capital gains; the value of income "in-kind" such as food produced and consumed in the home or free living quarters; withdrawals of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipts.

County Estimates

At the county level, 1983 PCI estimates were developed by carrying forward the 1980 Census per capita amount for each income type listed above. Census wage and salary per capita income amounts were updated using the percent change in the IRS wage and salary per exemption. For the remaining income types, the percent change in the BEA per capita amounts were used. The 1983 per capita amounts for each income type were then multiplied by the April 1, 1984 population estimates, and the resulting county income aggregates were adjusted to State income aggregates. For each county, the aggregate amounts for each income type were added to get an estimated 1983 total money income, which was then divided by the estimated population to derive the 1983 PCI estimate.

Subcounty Governmental Estimates

For all townships and municipalities, the updates were also developed using per capita amounts. Updated census estimates of Adjusted Gross Income per capita were developed using the percent change in IRS Adjusted Gross Income per exemption. The estimates for Social Security, public assistance, and other forms of transfers income were made by assuming that the 1980 Census per capita amounts for this income type grew at the same rate as that for the county.

The PCI estimates for all townships and for all municipalities outside of townships were adjusted to the county estimates to ensure conformity. The estimates for municipalities located within townships were adjusted to the township estimates.

Due to the high degree of sampling variability associated with PCI estimates for small geographic areas, the Bureau of the Census, after consultation with the office of Revenue Sharing, has replaced the 1983 PCI estimates for governments (or parts of governments for multi-county places) which have a 1980 Census sample population of less than 100 persons with the 1983 PCI estimate for the county. Similar income adjustments were made for small places for the 199 PCI estimates. Since this procedure was used where the 1980 *sample* population was below 100 persons, a government with a 1984 *total* population estimate of 100 or more could have its PCI changed to the country PCI and a government with a 1984 population estimate of less than 100 persons could have no change.

The 1983 per capita income estimates generally relate to governmental boundaries as of December 31, 1983, and reflect all qualifying annexations through that date. In addition, later adjustments to the 1983 PCI estimates will be made for all new incorporations, disincorporations, and mergers or consolidations occurring through September 30, 1985.

III. Adjusted Taxes

The adjusted taxes for a local government for Entitlement Period 17 are the total taxes of the government in fiscal year 1984 (that government's 12-month accounting period that ended between July 1, 1983 and June 30, 1984) excluding taxes for schools and other educational purposes. The adjusted taxes data are derived from the General Reveune Sharing Survey and Survey of Local Government Finances conducted by the Bureau of the Census for fiscal year 1984.

A government's total fiscal year 1984 taxes are those which were exacted by the government, and which were collected by or for the government during fiscal year 1984. Total taxes, as defined by the Bureau of the Census for general statistical purposes, include a government's:

1. Property taxes—county, municipal, or township taxes levied on the value of real or personal property.

2. Sales taxes—county, municipal, or township taxes, either general or

selective, on goods and services measured as a percent of sales or receipts, or as an amount per unit sold.

Sales taxes are of two types:

a. General sales or gross receipts taxes.

b. Selective sales or gross receipts taxes.

Examples of selective sales taxes are:

- Gasoline taxes.
- Liquor taxes.
- Cigarette and tobacco taxes.
- Public utilities excise taxes.
- Amusement taxes.
- Hotel and motel room occupancy and meals taxes.

3. Licenses, permits, and other taxes—county, municipal or township taxes not included in items 1 and 2 above.

Examples of license taxes are:

- Alcoholic beverage licenses.
- Business privilege licenses.
- Motor vehicle and operator licenses.
- Hunting and fishing licenses.
- Marriage licenses.
- Inspection fees charged in connection with the granting or renewal of a license.

Examples of permits:

- Building permits.
- Permits for a business or nonbusiness privilege.

Examples of other taxes are:

- Income, payroll, or earning taxes.
- Mortgage transfer and recordation taxes.
- Severance taxes.
- Inheritance and gift taxes.

Taxes do not include receipts from services charges, special assessments not based on value, interest earnings, or fines and forfeits.

All locally imposed taxes are credited to the local government, even if there is a mandatory distribution of funds required in the enabling legislation. This holds true even if the State collects the tax as administrative agent, and makes distribution directly to all participating governments. State-imposed taxes that are State-collected and retained are credited as State taxes.

An example of the handling of various State-collected taxes would be a five percent sales tax of which four percent was imposed by the State government and one percent was imposed by local governments. In such a case, the amount of revenue realized by the four percent (State-imposed) portion would be credited to the State government, and the revenue from the one percent (locally-imposed) portion would be credited as local taxes. This situation should be distinguished from a wholly State-imposed tax, where part of the tax revenue is shared with local governments. An example of a shared State tax would be five percent sales tax wholly imposed by the State government, but which provides a 20-percent share to the local governments. The local government share of this State-imposed tax would be classified as an intergovernmental transfer and not as local taxes. Thus, in determining local taxes the point of reference is the government which imposed the tax, rather than the government which expended the resulting tax revenue. Besides the "Memphis Rule" provision described in the next paragraph, the only other exception to the foregoing description is that locally collected and retained shares of the State-imposed taxes (including any collection fees retained) are classified as tax revenue of the government which collects and retains the proceeds.

Certain sales taxes imposed by counties which meet the requirements of 31 U.S.C. 6709(a)(3) may be considered to be taxes of the local governments within the county rather than the county government. The "Memphis Rule," as this section is called, applies where a county government imposes a sales tax within the geographic area of local governments within the county, and then shares part or all of the applicable tax revenue with those local governments. These taxes must be transferred by the county government without specifying the purposes for which the local governments may spend the revenues. In such cases, the governor of the State must certify to the Secretary of the Treasury that the requirements of the "Memphis Rule" are met. This certification must be made by the governor before the beginning of the entitlement period when the "Memphis Rule" is to take effect. The taxes which are transferred by the county to other local governments are then considered for Revenue Sharing purposes to be taxes of the other local governments and not the taxes of the county government.

Amounts in lieu of taxes received by a government from a utility it operates are treated as internal transfers and are excluded from taxes. Amounts in lieu of taxes received from utilities operated by other governments are reported as intergovernmental transfers.

The amount of total taxes of a local government is adjusted for revenue sharing purposes to exclude taxes for educational purposes. Taxes for education include those allocated for school operation or facilities, support of other public or private schools, retirement of school debt principal, interest payments on school debt, payments to a teacher's retirement system, etc.

For some governments, tax revenues for educational purposes are not separately identifiable, since education and at least one other expenditure category is financed from a general-type fund or funds containing tax revenues. In these instances, an education tax amount must be derived. The governments affected are some places in Alabama, Alaska, Maine, Maryland, North Carolina, New Jersey, New York (including New York City), Oregon, Tennessee, and generally in Connecticut and Virginia. Education taxes are calculated by multiplying the ration of the available taxes to total available revenue amounts by the education expenditures excluding dedicated amounts. Available taxes are defined as local tax revenues not restricted to any particular expenditure category. Total available revenue amounts are the sum of unrestricted revenues, and cash and investment assets spent during the year. Dedicated amounts are moneys that must be spent on one or more specific expenditure categories.

The 1983 Amendments provides special benefits for each government with a decrease in its Revenue Sharing allocation resulting from a decline in its adjusted taxes data attributable to a specific "Economic Dislocation." A government may qualify for these benefits if the following conditions exist:

1. There is a decrease in the adjusted tax data that causes a reduction of the government's Revenue Sharing allocation amounting to 20 percent or more of its allocation for the preceding entitlement period, and

2. The decline in the adjusted taxes data was caused by a specific Economic Dislocation that resulted in:

—Closing(s) of place(s) of employment; and

—Declines in assessed value of, or receipt of taxes from, real property; or

—Decline in sales or income tax collections for the government.

If a government qualifies for Economic Dislocation benefits based on the adjusted taxes data of record in the Period 17 estimated allocation provided in the Data Improvement Program and the Period 16 interim allocation, the adjusted taxes data for the preceding entitlement period will be used in place of the current adjusted taxes data to determine the government's allocation of Revenue Sharing funds.

IV. Intergovernmental Transfers of Revenue

Intergovernmental transfers for Entitlement Period 17 are amounts received by a government from other

governments in fiscal year 1984 (the government's 12-month accounting period that ended between July 1, 1983 and June 30, 1984) for use either for specific functions or for general financial support. This amount is derived from the General Revenue Sharing Survey and Survey of Local Government Finances conducted by the Bureau of the Census for fiscal year 1984. The figure includes grants, shared taxes, contingent loans and reimbursements for tuition costs, hospital care, construction costs, etc. Intergovernmental revenue does not include amounts received from the sales of property, commodities, or utility services to other governments, or Federal Revenue Sharing entitlement funds.

A limited number of the data definitions are available upon request from the Office of Revenue Sharing.

Authority: This notice is issued under the authority of the Revenue Sharing Act (31 U.S.C. 6701—6724) and Treasury Department Order No. 224 dated January 26, 1973 (38 FR 3342) as amended by TD Order No. 103-1 dated March 18, 1982.

Dated: August 6, 1985.

Michael F. Hill,

Director, Office of Revenue Sharing.

[FR Doc. 85-18997 Filed 8-8-85; 8:45 am]

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Friday
August 9, 1985

Part V

Environmental Protection Agency

40 CFR Part 2

Public Information; Testimony by Employees and Production of Documents in Civil Legal Proceedings; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[FRL-2860-3]

Public Information; Testimony by Employees and Production of Documents in Civil Legal Proceedings

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule revises 40 CFR Part 2, Public Information, to add a new Subpart C, Testimony by Employees and Production of Documents in Civil Legal Proceedings Where the United States is not a Party. It generally provides that EPA employees may not officially appear as witnesses or produce documents in Federal, State or local proceedings, either voluntarily or in response to subpoenas, without the consent of the General Counsel or his designee. The intended effect of this regulation is to ensure that EPA employees' time is spent on EPA business and to avoid the appearance that EPA is taking sides in private litigation. Accordingly, employees may not appear as witnesses in their official capacities unless the appearance is approved as being clearly in the interests of EPA. This regulation does not apply to Congressional testimony.

EFFECTIVE DATE: This regulation is effective August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Donnell L. Nantkes, (202) 382-4550.

ADDRESS: Office of General Counsel (LE-132G), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION: EPA employees are frequently requested or subpoenaed to provide testimony or produce documents in litigation to which the United States is not a party. EPA employees are presently required to respond to valid subpoenas, thereby preventing them from performing their duties and creating the appearance that the Agency is taking sides in private litigation. This regulation is intended to address this problem by prohibiting both voluntary appearances and compliance with subpoenas except where clearly in the interests of the Agency.

Subpoenas to testify concerning information which employees have acquired in the course of performing official duties, or to produce documents, are essentially legal actions against the United States as to which there has been no Congressional waiver of sovereign immunity. The courts have recognized the authority of Federal agencies to limit compliance with such subpoenas. *See United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951). Moreover, subpoenas by State courts or legislative committees which attempt to assert jurisdiction over Federal agencies are inconsistent with the supremacy clause of the U.S. Constitution, and a Federal regulation prohibiting compliance with such subpoenas reinforces this principle. *See McCulloch* v. *Maryland*, 17 U.S. (4 Wheat.) 316 (1819); *U.S.* v. *McLeod*, 385 F.2d 734 (5th Cir. 1967); *Giza* v. *Secretary of HEW*, 628 F. 2d 748 (1st Cir., 1980); *Municipal Court* v. *Civiletti*, 172 Cal. Rptr. 83 at 86, 116 Cal. App., 3d 105 (1981).

Accordingly, this regulation prohibits EPA employees from complying with requests for production of documents or subpoenas from Federal and State courts and State or local legislative committees or administrative agencies without the approval of the General Counsel or his designee. (The Inspector General makes the necessary determinations regarding requests and subpoenas involving employees in the Office of Inspector General.)

We recognize that there are situations where EPA should cooperate with Federal, State or local authorities as part of the Agency's joint responsibility for developing and enforcing environmental standards and other policies. This regulation does not preclude such activities, and numerous EPA officials are empowered to authorize such testimony. The regulation also does not apply to Congressional proceedings.

While the regulation applies to information which employees acquire in the course of performing official duties, to production of documents in Agency files and to testimony concerning such document, it is recognized that there are situations where EPA employees may properly serve as expert witnesses on behalf of private parties in matters in which they have general expertise. Such situations are treated as outside employment under 40 CFR Part 3, Subpart E, and employees are required to obtain the written approval of their Deputy Ethics Officials and to perform such activities while in an annual leave status. In such cases, employees are required to state for the record that they are appearing as private individuals and that their testimony does not necessarily represent the official views of EPA.

We also recognize that employees may, consistent with EPA regulations, appear as private citizens in proceedings in which EPA policies and programs are at issue. This regulation does not restrict such activities. The regulation applies only where EPA is requested or subpoenaed to provide testimony or produce documents or where employees are requested or subpoenaed to provide testimony or produce documents as an official action or because of their EPA affiliation. Such requests and subpoenas are essentially directed at the Agency.

The Freedom of Information Act requires agencies to provide nonexempt documents on written request, and a subpoena *duces tecum* amounts to a written request for documents. Accordingly, documents will be provided in response to a subpoena *duces tecum* as authorized or required by this Part, unless the General Counsel or his designee (or, where appropriate, the Inspector General) has granted approval to respond in accordance with the terms of the subpoena.

Finally, EPA is sometimes asked to authenticate copies of official documents for purposes of admissibility under 28 U.S.C. 1733 and Rule 44 of the Federal Rules of Civil Procedure. Since official actions and policies can best be proved by EPA records, and since this regulation provides that it is generally inappropriate for employees to appear as witnesses to discuss the background of EPA policies and actions in private litigation, this regulation provides that copies of documents will be authenticated on request.

Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and therefore subject to the regulatory impact analysis requirements of the Order. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. We have determined that this regulation is not "major." Consequently, the regulation is not subject to Executive Order 12291.

Environmental Impact Statement

This regulation does not affect the environment. An Environmental Impact Statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This regulation is not subject to the Paperwork Reduction Act because it deals solely with internal rules governing Agency personnel.

Final Rule

Since this regulation establishes internal policy for EPA employees, the Administrative Procedure Act does not

require that this regulation be published as a proposed rule for notice and comment. However, we welcome and encourage public comment. Comments should be directed to Donnell L. Nantkes, Office of General Counsel (LE-132G), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Confidential business information, Freedom of information.

Dated: August 5, 1985.

Lee M. Thomas,

Administrator.

PART 2—[AMENDED]

For the reasons set out in the preamble, Part 2, Chapter 1 of Title 40, Code of Federal Regulations, is amended as set forth below.

40 CFR Part 2 is amended by adding Subpart C to read as follows:

* * * * *

Subpart C—Testimony by Employees and Production of Documents in Civil Legal Proceedings Where the United States Is Not a Party

Sec.

Authority: 5 U.S.C. 301; Reorganization Plan No. 3 of 1970, 5 U.S.C. App.; 33 U.S.C. 361(a); 42 U.S.C. 300j-9; 42 U.S.C. 6911a, 42 U.S.C. 7601(a).

Subpart C—Testimony by Employees and Production of Documents in Civil Legal Proceedings Where the United States Is Not a Party

§ 2.401 Scope and purpose.

This subpart sets forth procedures to be followed when an EPA employee is requested or subpoenaed to provide testimony concerning information acquired in the course of performing official duties or because of the employee's official status. (In such cases, employees must state for the record that their testimony does not necessarily represent the official position of EPA. If they are called to state the official position of EPA, they should ascertain that position before appearing.) These procedures also apply to subpoenas *duces tecum* for any document in the possession of EPA and to requests for certification of copies of documents.

(a) These procedures apply to:

(1) State court proceedings (including grand jury proceedings);

(2) Federal civil proceedings, except where the United States, EPA or another Federal agency is a party; and

(3) State and local legislative and administrative proceedings.

(b) These procedures do not apply:

(1) To matters which are not related to EPA;

(2) To Congressional requests or subpoenas for testimony or documents;

(3) Where employees provide expert witness services as approved outside activities in accordance with 40 CFR Part 3, Subpart E (in such cases, employees must state for the record that the testimony represents their own views and does not necessarily represent the official position of EPA);

(4) Where employees voluntarily testify as private citizens with respect to environmental matters (in such cases, employees must state for the record that the testimony represents their own views and does not necessarily represent the official position of EPA).

(c) The purpose of this Subpart is to ensure that employees' official time is used only for official purposes, to maintain the impartiality of EPA among private litigants, to ensure that public funds are not used for private purposes and to establish procedures for approving testimony or production of documents when clearly in the interests of EPA.

§ 2.402 Policy of presentation of testimony and production of documents.

(a) With the approval of the cognizant Assistant Administrator, Office Director, Staff Office Director or Regional Administrator or his designee, EPA employees (as defined in 40 CFR 3.102 (a) and (b)) may testify at the request of another Federal agency, or, where it is in the interests of EPA, at the request of a State or local government or State legislative committee.

(b) Except as permitted by paragraph (a) of this section, no EPA employee may provide testimony or produce documents in any proceeding to which this Subpart applies concerning information acquired in the course of performing official duties or because of the employee's official relationship with EPA, unless authorized by the General Counsel or his designee under §§ 2.403 through 2.406.

§ 2.403 Procedures when voluntary testimony is requested.

A request for testimony by an EPA employee under § 2.402(b) must be in writing and must state the nature of the requested testimony and the reasons why the testimony would be in the interests of EPA. Such requests are immediately sent to the General Counsel or his designee (or, in the case of employees in the Office of Inspector General, the Inspector General or his designee) with the recommendations of the employee's supervisors. The General Counsel or his designee, in consultation with the appropriate Assistant Administrator, Regional Administrator, or Staff Office Director (or, in the case of employees in the Office of Inspector General, the Inspector General or his designee), determines whether compliance with the request would clearly be in the interests of EPA and responds as soon as practicable.

§ 2.404 Procedures when an employee is subpoenaed.

(a) Copies of subpoenas must immediately be sent to the General Counsel or his designee with the recommendations of the employee's supervisors. The General Counsel or his designee, in consultation with the appropriate Assistant Administrator, Regional Administrator or Staff Office Director, determines whether compliance with the subpoena would clearly be in the interests of EPA and responds as soon as practicable.

(b) If the General Counsel or his designee denies approval to comply with the subpoena, or if he has not acted by the return date, the employee must appear at the stated time and place (unless advised by the General Counsel or his designee that the subpoena was not validly issued or served or that the subpoena has been withdrawn), produce a copy of these regulations and respectfully refuse to provide any testimony or produce any documents. *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

(c) Where employees in the Office of Inspector General are subpoenaed, the Inspector General or his designee makes the determination under paragraphs (a) and (b) of this section in consultation with the General Counsel.

(d) The General Counsel will request the assistance of the Department of Justice or a U.S. Attorney where necessary to represent the interests of the Agency and the employee.

§ 2.405 Subpoenas duces tecum.

Subpoenas *duces tecum* for documents or other materials are treated the same as subpoenas for testimony. Unless the General Counsel or his designee, in consultation with the appropriate Assistant Administrator,

Regional Administrator or Staff Office Director (or, as to employees in the Office of Inspector General, the Inspector General) determines that compliance with the subpoena is clearly in the interests of EPA, the employee must appear at the stated time and place (unless advised by the General Counsel or his designee that the subpoena was not validly issued or served or that the subpoena has been withdrawn) and respectfully refuse to produce the subpoenaed materials. However, where a subpoena *duces tecum* is essentially a written request for documents, the requested documents will be provided or denied in accordance with Subparts A and B of this Part where approval to respond to the subpoena has not been granted.

§ 2.406 Requests for authenticated copies of EPA documents.

Requests for authenticated copies of EPA documents for purposes of admissibility under 28 U.S.C. 1733 and Rule 44 of the Federal Rules of Civil Procedure will be granted for documents which would otherwise be released pursuant to Subpart A. For purposes of Rule 44 the "person having legal custody of the record" is the cognizant Assistant Administrator, Regional Administrator, Staff Office Director or Office Director or his designee. The advice of the Office of General Counsel should be obtained concerning the proper form of authentication.

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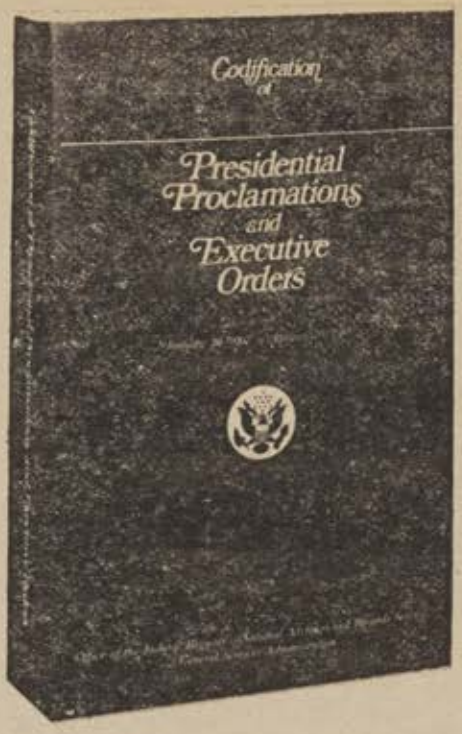

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