AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

11-8-85
Vol. 50 No. 217
Pages 46415-46626

Federal Register

Friday
November 8, 1985

Briefings on How To Use the Federal Register
For information on briefings in Atlanta, GA, and Philadelphia, PA, see announcement on the inside cover of this issue.

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Aliens
Immigration and Naturalization Service

Animal Diseases
Animal and Plant Health Inspection Service

Aviation Safety
Federal Aviation Administration

Banks, Banking
Farm Credit Administration

Government Procurement
Housing And Urban Development Department

Hazardous Waste
Environmental Protection Agency

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Federal Highway Administration

Indians—Enrollment
Indian Affairs Bureau

Labeling
Animal and Plant Health Inspection Service

Loan Programs—Business
Farmers Home Administration

Milk Marketing Orders
Agricultural Marketing Service

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Selected Subjects

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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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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

Navigation (Water)
Navy Department

Over-the-Counter Drugs
Food and Drug Administration

Postal Service
Postal Service

Small Businesses
Small Business Administration

South Africa
State Department

Trade Practices
Federal Trade Commission

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.

ATLANTA, GA

WHEN: Nov. 21; at 1 pm.
Nov. 22; at 9 am. (identical session)

WHERE: Room LP-7,
Richard B. Russell Federal Building,
75 Spring Street, SW., Atlanta, GA.

RESERVATIONS: Deborah Hogan,
Atlanta Federal Information Center,
Before Nov. 12: 404-221-2170
On or after Nov. 12: 404-331-2170

PHILADELPHIA, PA

WHEN: Dec. 17; at 1 pm.
Dec. 18; at 9 am. (identical session)

WHERE: Room 3306/10
William J. Green, Jr., Federal Building,
600 Arch Street, Philadelphia, PA.

RESERVATIONS:
Laura Lewis,
Philadelphia Federal Information Center,
215-597-1709

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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects a final rule published December 21, 1984 [49 FR 49587]. In the revision to FmHA's regulation regarding Security Servicing for Multiple Family Housing Loans, the date "December 21, 1979" was incorrectly typed as "December 31, 1979," the roman numeral "XIV" was incorrectly typed as "XIII," and "estimated" was incorrectly typed as "estimate." The intent of this action is to correct these errors.

FOR FURTHER INFORMATION CONTACT: John Meyers, Loan Officer, Multiple Family Housing Servicing and Property Management (MHSPM) Division, Room 5321–S, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, DC 20250, Telephone: (202) 382–1060.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR 84–33205 appearing on pages 49587 to 49610 in the issue of December 21, 1984.

PART 1965—REAL PROPERTY

1. The authority citation for Part 1965 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Security Servicing for Multiple Housing Loans

§ 1965.90 [Corrected]

2. The title of paragraph (b) of § 1965.90, appearing on page 49608, is corrected by changing the date "December 31, 1979" to read "December 21, 1979."

3. Paragraph (b)(2) of § 1965.90, appearing on page 49608, is corrected by changing the roman numeral "XIII" in the second sentence to read "XIV."

4. Paragraph (d)(7) of § 1965.90, appearing on page 49609, is corrected by changing the word "estimate" to read "estimated."

Dated: September 20, 1985.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 85–26764 Filed 11–7–85; 8:45 am]

BILLING CODE 3410–07–M

7 CFR Part 1980

Business and Industrial Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Business and Industrial (B&I) Loan Program regulations to provide for a change in administrative instructions to this subpart. This action is necessary because of the addition of an Appendix to Subpart E of Part 1980 of this chapter. The intended effect is to reference a liquidation and property guide that will help FmHA B&I loan officers better understand the requirements of Subpart E of Part 1980 of this chapter when they encounter the liquidation of B&I guaranteed loans.

EFFECTIVE DATE: November 8, 1985.

FOR FURTHER INFORMATION CONTACT: Dwight A. Carmon, Loan Specialist, Business and Industry Division, FmHA, USDA, 14th and Independence Avenue, SW., Washington, D.C. 20250—Telephone: (202) 475–3811.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal Agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking, since it involves only internal Agency management and publication for comment is unnecessary.

Appendix G is intended for the sole use of FmHA B&I loan officers. The Appendix contains general information and suggestions regarding common occurrences a B&I loan officer might encounter while monitoring the liquidation or phase down of a borrower's business and associated collateral. The use of the information in the appendix is not mandatory, but is only intended to assist the B&I loan officer in understanding the existing requirements of Subpart E of Part 1980 of this chapter.

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.422 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (Cite 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985, as appropriate and any subsequent notices that may apply).

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

List of Subjects in 7 CFR Part 1980

Loan programs—Business and industry, Rural development assistance, Rural areas.

Accordingly, Subpart E of Part 1980 of Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1980—[AMENDED]

1. The Authority citation for Part 1980 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1940; U.S.C. 301; Sec. 10 Pub. L. 93–356, 88 Stat. 392; 7 CFR 2.23.

2. Add the following introductory paragraph following the heading *"Administrative:"* in §§ 1980.469, 1980.470, 1980.471, 1980.472, 1980.475, and 1980.476.

Refer to Appendix G of FmHA Instruction 1980–E (available in any FmHA Office) for

advice on how to interact with the lender on liquidations and property management.

3. The **General Administrative** heading following reserved §§ 1980.496—1980.499 is amended by adding an introductory paragraph to read as follows:

General Administrative

Refer to Appendix G of FmHA Instruction 1980-E (available in any FmHA Office) for advice on how to interact with the OGC on liquidations and property management.

* * * * *

Dated: October 17, 1985.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 85-26749 Filed 11-7-85; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 112

[Docket No. 85-094]

Viruses, Serums, Toxins, and Analogous Products; Packaging and Labeling

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment will update and clarify the regulations governing labeling of products involving subsidiaries, distributors, and permittees by removing certain restrictions and revising current language regarding the label requirements. This revision also amends the label requirements for products imported for research and evaluation. The purpose of the amendments is to remove undue restrictions and to simplify the labeling procedures for products to be evaluated in small scale laboratory studies.

EFFECTIVE DATE: November 8, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. David F. Long, Chief Staff Veterinarian, Veterinary Biologics Staff, VS, APHIS, USDA, Room 834, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8674.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting or application requirements or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This action has been reviewed under USDA procedures established in Departmental Regulation No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The final rule would not have a significant effect on the economy and would not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985).

Certification Under the Regulatory Flexibility Act

The Administrator of the Animal and Plant Health Inspection Service has determined that this action will not result in an adverse economic impact on a substantial number of small entities. Small entities are defined as independently owned firms not dominant in the field of veterinary biologics manufacturing.

Background

The regulations in 9 CFR 112.4(a) governing labeling of products prepared by subsidiaries operating in licensed establishments contain language which limits such subsidiaries to "domestic subsidiaries." Such limits are unduly restrictive. Therefore, the word "domestic" is deleted.

Sometimes licensees establish marketing units which are known as divisions. The only reference to label provisions for divisions is contained in the definition in 9 CFR 101.2(z). No reference is made to divisions in 9 CFR 112.4 which deals with requirements for labels. A new § 112.4(b) is published to provide for labeling requirements which prescribe the placement of the division name in relationship to the name, address, and license number of the licensee. Accordingly, to maintain continuity current § 112.4 (b) and (c) are redesignated as (c) and (d).

The regulations in 9 CFR 102.4(b)(3) and 112.1(a) specify that labeling must not be false or misleading in any particular. The Department reviews and approves each label used on licensed biological products to ensure that it complies with the Act and the regulations. When the regulations in 9 CFR 112.4 (b) and (c) were adopted, restrictions on the method of placement of permittee and distributor names and addresses were intended to avoid false and misleading information regarding the identity of the manufacturer. Section 112.4(b) of the regulations restricts label reference to the distributor to name and address only. Also, permittees are allowed to be referred to by name, address, and permit number only (9 CFR 112.4(c)). Administration and enforcement of these provisions has become increasingly difficult because of the desire of some producers and distributors to use trade names, special package designs, and logos on their product packaging. While some of these label designs and logos could create a false and misleading impression as to the actual producer, others may not do so. Therefore, this revision of 9 CFR 112.4 accommodates acceptable producer-distributor/permittee arrangements and prohibits only those labels containing information, trade names, designs, or logos which are determined by the Department's reviewers to be false and misleading or which otherwise do not comply with the Act and the regulations. In order to ensure that manufacturers are clearly identified, this revision codifies the practice of including the words "manufactured by," "produced by," or an equivalent term placed in connection with the name, address, and license number on distributor labels. The same words will be used in connection with the name and address of the manufacturers of products imported for sale and distribution by the permittee under the provisions of 9 CFR 104.5.

Title 9, CFR 112.9(a) requires that the statement "Notice! For Experimental Use Only—Not For Sale!" appear on labels for all products imported for research and evaluation under the provisions of 9 CFR 104.4. This requirement is considered to be unnecessary in the case of products imported in small quantities for evaluation by the permittee and for samples of previously exported products returned to licensed establishments for testing under the provisions of 9 CFR 104.4(d). However, the warning is very

important on labels of products to be shipped for evaluation in laboratory or field trials as provided in 9 CFR 103.3. Therefore, this amendment only retains the present 9 CFR 112.9(a) labeling statement, "Notice! For Experimental Use Only—Not For Sale!" in the case of imported products which would be distributed for evaluation under the provisions of 9 CFR 103.3.

Title 9 CFR 112.9(a) also requires a dosage table for each product imported for research and evaluation. This requirement is considered to be unnecessary because numerous products, such as diagnostics, are not administered to animals and, therefore, have no recommended dose. The requirement that full instructions be provided with all products ensures proper dosage information, where appropriate. Therefore, reference to the dosage table is deleted.

Comments Received

On February 21, 1985, a notice of proposed rulemaking was published in the **Federal Register** at 49 FR 39854 discussing this revision and soliciting comments.

Comments were received from two licensed manufacturers. One firm felt that the proposal was unclear as to intent and need, and expressed concern that the proposed revision would increase regulatory control over labels and result in more label revisions. The proposal does not impose any new requirements. It merely reduces a current restriction with respect to labeling. The other firm supports the change without exception or reservation.

List of Subjects in 9 CFR Part 112

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Transportation.

PART 112—PACKAGING AND LABELING

Accordingly, 9 CFR Part 112 is amended as follows:

1. The authority citation for Part 112 continues to read as follows:

Authority: 21 U.S.C. 151–158; 7 CFR 2.17, 2.51, and 371.2(d).

2. Section 112.4 is revised to read:

§ 112.4 Subsidiaries, divisions, distributors, and permittees.

Labels used by subsidiaries, divisions, distributors, and permittees shall comply with requirements for review, approval, and filing of labels used for licensed biological products distributed and sold by licensees and as provided in this section.

(a) *Subsidiaries.* Labels to be used on a licensed biological product prepared by a subsidiary operating in a licensed establishment shall be submitted in accordance with § 112.5. Only labels approved for use on such product shall be used by the subsidiary.

(b) *Divisions.* Labels to be used on a licensed biological product prepared in a licensed establishment for distribution by a division or marketing unit of the licensee shall be submitted in accordance with § 112.5.
The licensee shall be submitted in accordance with § 112.5. The name, address, and license number of the licensee shall be prominently placed on such labels. The relationship of the division or marketing unit to the licensee shall appear prominently on the label by use of the term "division of" or equivalent.

(c) *Distributors.* The name and address of the distributor or any statement, design, or device shall not be placed on the labels or containers of a licensed biological product in a manner which could be false or misleading or which could indicate that the distributor is the manufacturer of such product or operating under the license number shown on the label. The manufacturer shall be identified by name, address, and license number with the term "manufactured by," "produced by," or an equivalent term prominently placed in connection therewith. The name and address of the distributor may be placed on labels or containers if the term "distributor," or "distributed by," or an equivalent term is prominently placed in connection therewith.

(d) *Permittees.* The name and address of the permittee and any statement, design, or device shall not be placed on the labels or containers of a biological product imported for sale and distribution in accordance with § 104.5 in a manner which could be false or misleading or which could falsely indicate that the permittee is the manufacturer of such product. The manufacturer shall be identified by name and address with the term "manufactured by," "produced by," or an equivalent term prominently placed in connection therewith. Reference to the permittee shall be made by name, address, and permit number with the term "imported by," "produced for," or an equivalent term prominently placed in connection therewith.

3. Section 112.9 is revised to read as follows:

§ 112.9 Biological products imported for research and evaluation.

A biological product imported for research and evaluation under a permit issued in accordance with § 104.4, with the exception of products imported under § 104.4(d), shall be labeled as provided in this section.

(a) The labels shall identify the product and the name and address of the manufacturer and shall provide instructions for proper use of the product, including all warnings and cautions needed by the permittee to safely use the product.

(b) Labels on each product to be further distributed in accordance with § 103.3 shall bear the statement "Notice! For Experimental Use Only—Not for Sale!"

(c) The labeling shall contain any other information deemed necessary by the Deputy Administrator and specified on the permit.

Done at Washington, DC, this 5th day of November 1985.

J. K. Atwell,

Deputy Administrator Veterinary Services.

[FR Doc. 85–26765 Filed 11–7–85; 8:45 am]

BILLING CODE 3410-34-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Service Organization Incorporation

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by its Federal Farm Credit Board (Federal Board), amends its regulation dealing with the incorporation of service organizations by Farm Credit System (System) banks. The amendment will allow System banks to incorporate service organizations with limited stockholder liability. The amendment permits full liability service organizations to choose to amend their charters to remove the full liability provision on their debt, with FCA approval.

EFFECTIVE DATE: Thirty days from this publication date, provided either or both Houses of Congress are in session. Notice of the Effective date will be published.

FOR FURTHER INFORMATION CONTACT:
Kenneth L. Peoples, Office of General Counsel, (703) 883–4024

or

Thomas J. Holland, Office of Examination and Supervision, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Va 22102–5090, (703) 883–4452

SUPPLEMENTARY INFORMATION: In the August 21, 1985 **Federal Register** [50 FR

337865), FCA published the proposed amendment to its regulation which removes a requirement in the Articles of Incorporation of any System service organization that stockholders pay all valid claims of creditors in the event of a service organization's insolvency. Such a change will enable System banks, as stockholders of a service organization, to limit their liability to the extent of their investment consistent with general corporate law. The 30-day comment period ended September 19, 1985. The Farm Credit Banks of Balitimore responded in support of the proposed amendment; no other comments were received. The Federal Board believes it is necessary to relieve the regulatory restriction that imposes full liability on a service organization's stockholders in the event of insolvency and thereby permit System banks to make full use of their statutory authority to incorporate such subsidiaries. FCA may continue to restrict the ability of service organizations to incur indebtedness to nonrecourse obligations and obligations guaranteed by the banks who are their stockholders. The Federal Board believes this approach accomplishes the initial purpose of the regulatory restriction.

List of Subjects in 12 CFR Part 611

Agriculture, Banks, Banking, Organization and functions (Government agencies), Rural areas.

PART 611—ORGANIZATION

As stated in the preamble, Part 611 of Chapter VI, Title 12, of the Code of Federal Regulations, is amended as shown:

Supart I—Service Organizations

1. The authority citation for Part 611 continues to read as follows:

Authority: Secs. 1.13, 2.10, 4.12, 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621 (12 U.S.C. 2031, 2091, 2183, 2243, 2246, and 2252).

§ 611.1150 [Amended]

2. Section 611.1150 is amended by removing paragraph (b)(3)(xii).

Donald E. Wilkinson,

Governor.

[FR Doc. 85–26725 Filed 11–7–85; 8:45 am]

BILLING CODE 6705-01-M

12 CFR Part 615

Funding and Fiscal Affairs; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of Effective Date.

SUMMARY: The Farm Credit Administration (FCA) published an amended regulation concerning the method by which banks for cooperatives' (BC) earnings are to be distributed. The former regulation restricted the amount of net savings that BCs could use to create or maintain reasonable contingency reserves to 10 percent. The amended regulation increases the amount to 50 percent.

The final rule was published in the September 10, 1985 **Federal Register**, and provided that notice of the actual effective date would be subsequently published (50 FR 36868). In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of this rule was October 11, 1985.

EFFECTIVE DATE: October 11, 1985.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Holland, Assistant Director, Office of Examination and Supervision, (703) 883–4452

or

Kenneth L. Peoples, Office of the General Counsel, (703) 833–4024, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090

(Secs. 5.9, 5.12, 5.18, Pub. L. 92–181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246, 2252))

Donald E. Wilkinson,

Governor.

[FR Doc. 85–26726 Filed 11–7–85; 8:45 am]

BILLING CODE 6705-01-M

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 121]

Small Business Size Standards; Definition of Small Business for Dredging Activities

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA is amending its size standard for the dredging industry from the present $9.5 million in annual gross receipts to $13.5 million. This decision reflects the finding of a special study (available by request) by the SBA into the industrial structure of the dredging industry as well as many public comments to the proposed rule of December 4, 1984. This action is intended to update the dredging size standard to a level more in line with other similarly structured industries. It also reflects an awareness by SBA that an inflationary adjustment is needed in a size standard which has remained at $9.5 million since 1975.

EFFECTIVE DATE: December 9, 1985.

FOR FURTHER INFORMATION CONTACT:

Robert N. Ray, Economist, Size Standards Staff, (202) 653–6373.

SUPPLEMENTARY INFORMATION: On December 4, 1984, SBA published in the **Federal Register** a proposed revision in the dredging size standards to $13.5M from the present $9.5M. SBA based its recommendation on a special study of the industrial composition of the dredging industry. It structured this study on information received from a questionnaire mailed to virtually every member of the dredging industry. SBA supplemented this information with comprehensive data provided by the U.S. Army Corps of Engineers. As a result, SBA was able to construct a profile of the dredging industry which clearly suggested that a higher size standard was needed.

SBA based its recommendation on six factors. These include: concentration ratio, average firm size, cost increases over time, the proportion of firms defined as small, the size of contract, and the proportion of contract dollars received by small firms. Of the six variables in question, four suggested that a higher size standard than the present $9.5 million was warranted. This led SBA to propose a higher size standard of $13.5 million.

In response to its proposed rule, SBA received comments from 36 parties. Of these 36 comments, 12 were noncommittal. Eight of these noncommittal comments were referral letters from Members of Congress. The remaining four noncommittal letters addressed questions not directly at issue. All Congressional referral letters included duplicates of letters from constituents already received and tabulated by the Size Standards Staff. The balance of comments (a total of 24) directly addressed the issue of whether or not the dredging size standard should be raised.

Of the 24 commentors, an equal number (12) both supported and opposed a higher size standard. As traditionally has occurred in this industry, many of the comments were strongly partisan on one side or the other of the issue. These comments will be discussed below, with most of the emphasis placed on those opposing a higher size standard.

The commentors supporting a higher size standard generally felt that a raise was needed because costs in the industry over a 10-year period had doubled while the size standard had

remained stationary. A number felt that a $17 million size standard would put dredging in line with the general construction size standards, and would thus be preferable to a $13.5 million size standard. Nevertheless, all commentors desiring a $17 million size standard still supported the decision to raise the size standard to $13.5 million.

Among commentors opposing a higher standard, four claimed that SBA had not provided adequate information to justify its decision. Each of these firms was subsequently mailed a copy of the dredging study upon which SBA based its decision. This dredging study is more comprehensive than the proposed rule revision that was published on December 4, 1984, in the Federal Register. SBA maintains, however, that all necessary facts on which to draw a conclusion were presented in the proposed rule. None of the four firms which received the study subsequently protested that SBA had based its decision on inadequate information.

Six firms protested that SBA, by raising the size standard, was helping medium-size firms at the expense of small firms who cannot adequately compete. SBA disagrees with this analysis. It believes that numerous factors affect a firm's ability to compete. Clearly, a firm averaging $1 million or less in gross receipts with one or two small dredges of limited capacity will be unable to compete with firms at the $13.5 million level for most intermediate-sized contracts. The smaller firm simply could not perform the contract in a reasonable period of time. Conversely, however, the larger small firms are structured to be most efficient for jobs requiring greater volume and/or sophistication. Very small contracts simply do not generate sufficient revenue to attract their interest. In a number of cases, jobs require equipment such as shallow draft vessels which are presently owned by small firms. SBA calculates that almost a third of all contracts are priced less than $500,000, and the vast majority of these contracts are won by smaller firms in the distribution. The fact that 163 firms or two-thirds of the industry have won contracts over the past 4 years indicates that numerous firms of all sizes in the industry are capable of competing and winning dredging contracts and, thus, small firms can usually compete in the market for smaller, generally less sophisticated, dredging work.

Three firms claimed that SBA had changed its current regulations so that it no longer explicitly states its desire to focus assistance on firms that are "struggling to become or remain competitive," and its desire to keep size standards "as low as reasonably possible." Because of these omissions, it is implied that the SBA's outlook to the setting of the dredging size standard is biased in favor of a high size standard.

SBA agrees that the new guidelines are somewhat broader than the old guidelines and stress the needs of the various SBA programs, rather than the setting of standards as low as reasonably possible. This stems from SBA's experience during the 1980-1984 period when it attempted to lower the size standards in many industries, and was severely criticized for the effort. Many commentors claimed at the time that SBA would cripple its own procurement program by proposing unreasonably low size standards. It was also argued that SBA was ignoring substantial transition costs to the private sector stemming from firms basing their economic decision in part on the SBA size standard. As a result, SBA reviewed its guidelines and in the final effort proposed size standards more in line with the needs of its own programs.

Dredging is an unusual industry in that about 75 percent of total demand is generated by the Federal Government. Thus, it is clearly a procurement-sensitive industry and the SBA would be justified if it based the size standard solely on the procurement needs of the industry. This can result in a relatively high size standard, since agencies involved in procurement have more freedom to set aside contracts with a high size standard. In the case of dredging, however, the industrial structure suggested a higher size standard than $9.5 million and this matched the procurement needs of an industry in which the size standard has not been revised since 1975. Thus, the SBA believes that it *has* set the size standard in this industry as low as is reasonably possible under present conditions.

SBA also received on extensive comment from a legal firm representing a number of firms active in the industry. This firm strongly opposed a higher size standard. SBA will address some of that firm's more important concerns below:

Criticism

The lack of consistency in the manner in which comparisons are made throughout the report indicates an effort to "juggle the numbers" in support of a predetermined conclusion.

Response

There was no predetermined conclusion. For every factor analyzed (concentration ratio, average firm size, cost increases, proportion of firms defined as small, size of contract, and proportion of contract dollars awarded small firms) the situation in the dredging industry was consistently compared and contrasted with the situation in other general construction industries (Major Groups 15 and 16).

Criticism

Efforts to respond to the study have been frustrated by an inability to determine which portions of the study are relied upon or given specific weight in the SBA proposal.

Response

Each of the six factors affecting the decision was explicitly identified in the report. These included concentration ratio, average firm size, cost increases for dredging work, the proportion of firms defined as "small," the size of Government contracts, and the proportion of Government contract dollars received by small firms. No specific weights were required because the evidence conclusively supported a higher size standard regardless of weighting scheme.

Criticism

Figures covering small business participation in dredging were completely distorted by the inclusion of hopper and dustpan dredge contracts, because no small firm owns an operable hopper or dustpan dredge.

Response

SBA believes that there is no logical basis to exclude data relating to certain firms based on their capital equipment. Such a policy would require an additional standard for separating out acceptable data from unacceptable. Distortion would occur if receipts from hopper or dustpan dredging activities were separated from other dredging receipts simply because different equipment was involved.

Criticism

The SBA first raised all other construction size standards to account for inflation, then compared dredging to those industries. As was logically inevitable, the SBA then found that, compared to the other newly inflated size standards, the dredging standard was low.

Response

Six factors were analyzed by the SBA in evaluating the dredging size standard. Four of these factors—concentration ratio, average firm size in receipts, cost increases, and the average size of

Government contracts are unaffected in any way by the size standard and, thus, there is no distortion for these factors.

The fifth factor—the proportion of contract dollars received by small firms in dredging as contrasted with general contractors and all firms—was calculated for fiscal year 1983, prior to the revision, and thus, there was no distortion for this factor as well. The sixth and last factor—the percent of firms defined as "small" for dredging, as compared with other general construction industries, was only minimally affected by the decision to raise the general construction size standard to $17.0 million. Thus, there was no distortion because none of the six analyzed factors was affected by a higher size standard in the general construction industries to any measurable degree.

Criticism

Recently, the SBA admitted that the dredging standard of $9.5 million which was set in 1975 was too high. Later, however, the SBA decided to apply a 40 percent inflationary adjustment to "put the dredging increase in line with the increase for the general construction industries." The Agency, at this time, applied the adjustment to the admittedly erroneous 1975 standard of $9.5 million.

Response

SBA has only stated in one congressional correspondence that the study "suggests" that the 1975 standard was too high. This would certainly be true if the industry structure of the dredging industry during 1975 was identical to the structure during 1983. In the case of dredging, however, SBA has no way of determining whether the industry structure has changed since 1975 and, thus, any estimate of the appropriateness of the 1975 standard is clearly speculative without 1975 data similar to those analyzed in the study.

The 40 percent increase was never identified in the study as an inflationary increase. It is simply the percentage difference between the old size standard of $9.5M and the proposed size standard of $13.5M which reflects the SBA's persent view of the industrial structure of the dredging industry. While this increase did compute to be the same percentage increase as was applied to the construction industries, it primarily reflected the structure of the dredging industry during 1983 rather than a mechanistic increase of 40 percent simply to duplicate the general construction percentage increase.

Other criticisms were also offered by the legal firm. In the interest of brevity, however, SBA is limiting its discussion to five of the more primary issues raised by this firm.

Although virtually all of the above analysis has focused on negative correspondence, it should be reiterated that 12 out of 24 commentors expressing an opinion supported the proposed higher size standard. SBA, in short, believes that the industrial structure of the industry, the procurement needs of the Government, and simple equity considerations all argue persuasively for a size standard of $13.5M. Moreover, much of the controversy surrounding the dredging size standard stems from the fact that Federal outlays for dredging activities have not been increasing in recent years. Given a constant or shrinking Federal revenue allocation, the size of the size standard often can assume critical importance to an impacted industry. The Small Business Administration anticipates that this situation could ease in upcoming years if the need to deepen ports assumes greater importance. Greater total outlays for dredging activities could, in turn, mute the controversy in future years over a higher size standard since dredgers of all sizes could be helped by the increased demand for their services.

SBA also is reviewing two compromise approaches which would supplement this final rule. These approaches were proposed in an advance notice of proposed rulemaking in the **Federal Register** of December 4, 1984 (49 FR 47414). However, at this time, SBA believes this final rule adequately addresses the dredging industry.

Compliance with Executive Order 12291 Regulatory Flexibility Act, and Paper Work Reduction Act

SBA certifies that this regulation is a major rule as defined by Executive Order 12291. Over the 1980–84 period annual Federal outlays for dredging activities averaged $330 million, thus, clearly exceeding the annual economic effect criteria of $100 million used to measure a major rule change. Potentially any firm in the industry could be impacted in the future by a higher size standard, since the eligibility of firms could impact on competitions for any set-aside contract and on the decision whether or not to set-aside a contract. This regulation, however, is not likely to result in a major increase in cost, or prices, or in significant adverse effects on the United States Economy.

This regulation is likely, however, to have a significant economic impact on a substantial number of small entities. Therefore, in compliance with the Regulatory Flexibility Act, and Executive Order 12291, SBA offers this final regulatory flexibility and economic impact analysis.

SBA has considered regulatory action in this instance in response to intense public comment on the size standard in this particular industry. The purpose of this final rule in to update the size standard for the dredging industry, which has not been revised recently to reflect inflation or changes in industry structure. This final rule change is authorized by section 3(a) of the Small Business Act (15 U.S.C. 632(a)) which mandates that SBA define small business concerns on an industry-by-industry basis.

The dredging industry is comprised of approximately 250 companies of which 194 participated in the Federal procurement process in fiscal year 1983. Of these firms, however, only 5 firms would be directly impacted by a higher size standard. These are firms whose annual receipts usually fall in the 6–9 million range. Clearly, a higher size standard would remove a major constraining factor on expansion for these five firms.

Assuming these five firms are capable of and choose to expand into the $9.5–$13.5 million range, other firms could be indirectly affected by the new higher size standard. There could be some additional competition for set-aside contracts, since these five firms could bid for more contracts without exceeding the new size standard limitation of $13.5 million. Similarly, the competition for unrestricted contracts could be expected to be enhanced, since small firms would be less concerned that winning a contract would push them over the size standard. Federal contracting officials would feel somewhat freer to set-aside contracts, and thus, a slightly higher proportion of contract dollars would probably be set aside.

Overall, any of the 194 firms active in the dredging industry might be impacted by this proposed increased size standard if they were to bid on a dredging procurement that was set aside for small business, or if the higher size standard freed small firms to bid on unrestricted contracts.

The net benefits of this rule change, therefore, are a closer relationship between the size standard and the industry structure and an easing of constraints on expansion for firms within the industry.

In deciding that a size standard of $13.5 million more accurately reflects the current dredging industry, SBA also considered raising the size standard above $13.5 million, lowering it below $9.5 million, or maintaining it at $9.5

million. Raising the standard above the $13.5 million level was rejected because of concern about regional concentration patterns, which are prevalent within the industry and because the industry currently has a relatively high incidence of small business set-asides.

The following factors, taken together, are the basis of SBA's rejection of the alternatives which would maintain the $9.5 million size standard or would advocate lowering it: relatively high average firm size, high contract value, inflationary trends in the industry, and the generally concentrated nature of the industry (i.e., four firms are responsible for one-third or more of the sales of the industry), as well as the desire to maintain comparable size standards in similarly structured industries. In light of these factors, SBA has decided to raise the dredging size standard from $9.5 million to $13.5 million.

SBA also certifies that this regulation contains no reporting or recordkeeping requirements which are subject to the Paperwork Reduction Act.

List of Subjects in 13 CFR Part 121

Administrative practice and procedure, Government procurement, Government property, Grant programs—business, Loan programs—business, Reporting and recordkeeping requirements, Small business.

According, SBA proposes to amend Part 121 of 13 CFR as follows:

PART 121—[AMENDED]

1. The authority citation for Part 121 of 13 CFR continues to read as follows:

Authority: 15 U.S.C. 634(b)

§ 121.2 [Amended]

2. In the table in § 121.2(c)(2), for Major Group 16.—Construction Other Than Building Construction—General Contractors, the last item in the table, Item 1629—Dredging and Surface Cleanup Activities is revised to read as follows: [Item 1629 Heavy Construction, Except Dredging, N.E.C. is set forth for the convenience of the reader and is not changed].

1629—Heavy Construction, Except Dredging, N.E.C.	$17.0
1629—Dredging and Surface Cleanup Activities[16]	$13.5

* * * * *

[16] To be considered small, a firm must perform the dredging of at least 40 percent of the yardage with its own dredging equipment or equipment owned by another small dredging concern.

Dated: June 23, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-26728 Filed 11-7-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 24835; Amdt. No. 1307]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for

Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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. For the same reason, the FAA certifies that this amendment will not have a signficant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Aviation safety.

Issued in Washington, DC on November 1, 1985.

John S. Kern,

Acting Director of Flight Standards.

Adoption of the Amendment

PART 97—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, and 97.35 [Amended]

2. By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective January 16, 1986

Warren, AR—Warren Municipal, NDB RWY 3, Amdt. Orig
Ukiah, CA—Ukiah Muni, LOC/DME RWY 15, Amdt. 2
Greenville, TX—Majors, VOR/DME-A, Orig
Greenville, TX—Majors, NDB RWY 17, Amdt. 2
Greenville, TX—Majors, ILS RWY 17, Amdt. 2
Greenville, TX—Majors, RNAV RWY 35, Amdt. 1

. . . Effective December 19, 1985

Andalusia & Opp, AL—Andalusia-Opp, NDB-A, Amdt. 1
Bessemer, AL—Bessemer, NDB RWY 5, Orig.
Enterprise, AL—Enterprise Muni, VOR RWY 5, Amdt. 1
Hartford, CT—Hartford-Brainard, VOR-A, Amdt. 8
Washington, DC—Washington National, VOR RWY 36, Amdt. 19
Washington, DC—Washington National, ILS RWY 36, Amdt. 35
Deland, FL—Deland Muni-Sidney H. Taylor Fld, NDB RWY 30, Amdt. 2
Fort Myers, FL—Page Field, VOR RWY 13, Amdt. 6
Fort Myers, FL—Page Field, VOR RWY 23, Amdt. 6
Sylvania, GA—Plantation Airpark, NDB RWY 23, Orig.
Madisonville, KY—Madisonville Muni, VOR RWY 23, Amdt. 9
Madisonville, KY—Madisonville Muni, RNAV RWY 23, Orig.
Bedford, MA—Laurence G. Hanscom Fld, ILS RWY 29, Orig.
Fitchburg, MA—Fitchburg Muni, NDB RWY 20, Orig. CANCELLED
Fitchburg, MA—Fitchburg Muni, NDB RWY 20, Orig.
Fitchburg, MA—Fitchburg Muni, NDB RWY 32, Orig.
Fitchburg, MA—Fitchburg Muni, NDB-A Amdt. 7, CANCELLED
Marthas Vineyard, MA—Marthas Vineyard, VOR RWY 6, Amdt. 4
Marthas Vineyard, MA—Marthas Vineyard, VOR RWY 24, Amdt. 11
Marthas Vineyard, MA—Marthas Vineyard, ILS RWY 24 Amdt. 7
New Bedford, MA—New Bedford Muni, LOC (BC) RWY 23, Amdt. 5
Alpena, MI—Phelps Collins, VOR RWY 13 (TAC), Amdt. 10, CANCELLED
Monticello, NY—Sullivan County Intl, ILS, RWY 15, Amdt. 3
New York, NY—John F. Kennedy Intl, VOR RWY 13L/13R, Amdt. 16
New York, NY—John F. Kennedy Intl, ILS RWY 13 L, Amdt. 12
New York, NY—John F. Kennedy Intl, ILS RWY 31 R, Amdt. 11
Schenectady, NY—Schenectady County, NDB RWY 22, Amdt. 12
Schenectady, NY—Schenectady County, NDB RWY 28, Amdt. 9
Schenectady, NY—Schenectady County, ILS RWY 4, Amdt. 1
Sanford, NC—Sanford-Lee County Brick Field, VOR/DME-A, Orig.
Southern Pines, NC—Moore County, LOC RWY 5, Amdt. 4
Southern Pines, NC—Moore County, RNAV RWY 23, Orig.
Willard, OH—Willard, VOR-A, Amdt. 4
Allentown, PA—Allentown-Bethlehem-Easton, LOC BC RWY 24, Amdt. 18
Bulter, PA—Bulter County, NDB-B, Amdt. 3, CANCELLED
Meadville, PA—Port Meadville, LOC RWY 25, Amdt. 2
Leesburg, VA—Leesburg Muni/Godfrey Field, RNAV RWY 17, Amdt. 8
Williamsburg, VA—Williamsburg-Jamestown, VOR-B, Amdt. 1
Elkins, WV—Elkins-Randolph Coty-Jennings Randolph Fld., VOR/DME-B Amdt. 3
Rock Springs, WY—Rock Springs-Sweetwater County, ILS/DME RWY 27, Amdt. 3

. . . Effective November 21, 1985

New York, NY—LaGuardia, LOC RWY 31, Amdt. 1
New York, NY—LaGuardia, ILS RWY 13, Amdt. 1, CANCELLED
New York, NY—LaGuardia, ILS/DME RWY 13, Orig.
Greensboro, NC—Greensboro-High Point-Winston Salem Regnl, ILS RWY 23, Amdt. 5

. . . Effective October 30, 1985

Rockwall, TX—Rockwall Muni, VOR/DME RWY 16, Amdt. 3

. . . Effective October 28, 1985

Cincinnati, OH—Cincinnati Muni Airport Lunken Field, ILS RWY 20L, Amdt. 12

. . . Effective October 25, 1985

Patterson, LA—Harry P. Williams Memorial, NDB RWY 5, Amdt. 6

. . . Effective October 24, 1985

Barnesville, OH—Barnesville-Bradfield, VOR RWY 27, Amdt. 9

[FR Doc. 85-26724 Filed 11-7-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Parts 923 and 930

Coastal Zone Management; Federal Consistency Regulations; Change of Effective Date

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Notice of change of effective date of final rule.

SUMMARY: On August 30, 1985, the National Oceanic and Atmospheric Administration (NOAA) published final regulations (50 FR 35210) to exclude Outer Continental Shelf (OCS) oil and gas lease sales from the Federal

consistency requirements of section 307 (c)(1) of the Coastal Zone Management Act of 1972, as amended (CZMA). The final rule was scheduled to become effective on November 9, 1985. This notice changes the effective date from November 9 to November 11, 1985.

EFFECTIVE DATE: November 8, 1985.

FOR FURTHER INFORMATION CONTACT: Nan Evans, Senior Policy Analyst, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street, NW., Washington, DC 20235, (202) 634–4249.

SUPPLEMENTARY INFORMATION:

A. Authority

The notice of rulemaking is issued under the authority of section 317 of the CZMA (Pub. L. 92–583, as amended).

B. General Background

The Coastal Zone Management Act of 1972 (CZMA, Pub. L. 92–583, as amended) requires each Federal agency conducting or supporting activities directly affecting the coastal zone to conduct or support those activities in a manner which is, to the maximum extent practicable, consistent with approved state coastal zone management programs (section 307(c)(1)). National Oceanic and Atmospheric Administration (NOAA) regulations implementing this section are found at 15 CFR Part 930 Subpart C.

On January 11, 1984, the United States Supreme Court issued its decision in *Secretary of the Interior et al.* v. *California et al.* (464 U.S. 312, 104 S. Ct 656, 52 U.S.L.W. 4063). The Court held that the sale of Outer Continental Shelf (OCS) oil and gas leases is not an activity "directly affecting" the coastal zone within the meaning of section 307(c)(1) of the CZMA and, therefore, a determination of consistency with approved state coastal management programs is not required before such sale is held.

On August 30, 1985, NOAA issued a final rule (50 FR 35210–35213) to conform its consistency regulations to the Supreme Court's decision. The final rule excludes OCS oil and gas lease sales from the uses subject to management by state coastal zone management programs and from the Federal consistency provisions of section 307(c)(1) of the CZMA.

C. Change of Effective Date

Although a 1980 amendment to the CZMA provided a procedure for Congressional disapproval of rules proposed under CZMA authorities, the Supreme Court has since held that such disapproval procedures are unconstitutional (*INS* v. *Chadha*, 462 U.S. 919, 103 S. Ct. 2784 (1983)). NOAA has followed the ruling in *INS* v. *Chadha* by treating the Congressional disapproval procedure as a "report and wait" provision. When NOAA published the final rule on August 30, 1985, the agency stated that the final rule would be effective 60 calendar days from September 9, 1985, the date when both Houses of Congress resumed the first session of the 99th Congress following the scheduled August 1985 recess. However, both Houses of Congress did not receive the final rule until September 11, 1985. Therefore, the effective date of the final rule is now November 11, 1985.

D. Other Actions Associated With the Rulemaking

This change in the effective date is a technical amendment only. Therefore, there are no changes in NOAA's conclusions that the final rule is not a major rulemaking under Executive Order 12291; that a Regulatory Flexibility Analysis is not required because the final rule has no effect on small businesses and only a negligible effect on local units of government; that the final rules do not contain an information collection requirement subject to the Paper Work Reduction Act of 1980; and, that the final rule does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement under the National Environmental Policy Act is not required.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: October 31, 1985.

Peter L. Tweedt,

Director, Ocean and Coastal Resource Management.

[FR Doc. 85–26564 Filed 11–7–85; 8:45 am]

BILLING CODE 3510–08–M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C–3166]

Medical Staff of John C. Lincoln Hospital & Health Center; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires an unincorporated association of physicians and other practitioners who have been granted privileges by John C. Lincoln Hospital & Health Center in Phoenix, Ariz. to admit and attend patients, among other things, to cease threatening or participating in any: (1) Boycott or concerted refusal to deal, including a refusal to refer, admit or treat patients; (2) unreasonably discriminatory action against a health care facility or professional; or (3) coercive action to influence any reimbursement or insurance determination, if the purpose or effect of such conduct would be impede the development or operation of an urgent care center or other health care facility or institution in the Arizona counties of Maricopa, Pinal, Yavapai or Gila. Respondent is not prohibited from participating in any policy-making or medical review activities at the hospital, when such conduct does not constitute, and is not part of, a boycott or refusal to deal. Additionally, respondent is required to file compliance reports with the Commission at specified times and provide copies of the Complaint and Order to all present and future members of the Medical Staff.

DATE: Complaint and Order issued Sept. 26, 1985.*

FOR FURTHER INFORMATION CONTACT: Arthur N. Lerner, FTC/P–1038, Washington, D.C. 20580. (202) 724–1341.

SUPPLEMENTARY INFORMATION: On Monday, July 22, 1985, there was published in the **Federal Register**, 50 FR 29699, a proposed consent agreement with analysis In the Matter of Medical Staff of John C. Lincoln Hospital & Health Center, an unincorporated association, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Aiding, Assisting and Abetting Unfair or Unlawful Act or Practice: § 13.290 Aiding, assisting and abetting unfair or unlawful act or practice. Subpart—Coercing and Intimidating: § 13.367

*Copies of the Complaint and the Decision and Order are filed with the original document.

Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.405 To discriminate unfairly or restrictively, in general; § 13.450 To limit distribution or dealing to regular, established or acceptable channels or classes; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533–45 Maintain records.

List of Subjects in 16 CFR Part 13

Hospitals, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 85–26739 Filed 11–7–85; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Denial of Clarification and Waiver Request

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying Emergency Request for Clarification and Waiver of Regulations.

SUMMARY: The Federal Energy Regulatory Commission is denying a petition for waiver of its regulations in § 284.105, § 284.125 and § 284.223(g) that transportation under section 311 of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.* or § 157.209(a)(1) may continue beyond November 1, 1985 only if the arrangement was commenced on or before October 9, 1985.

DATE: This order was issued October 31, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas P. Gross, Certificate Division, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8569.

SUPPLEMENTARY INFORMATION:

Order Denying Emergency Request for Clarification and Waiver of Regulations

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

In the matter of regulations of natural gas pipelines after partial wellhead decontrol (Amstar Corp.); Docket No. RM85–1–000 (Parts A–D).

Issued October 31, 1985.

On October 24, 1985 the Commission issued technical corrections to its final rule issued in Docket No. RM85–1.[1] Sections 284.105 and 284.125 provide that transportation service authorized under section 311 of the Natural Gas Policy Act (NGPA), 15 U.S.C. 3301, *et seq.* may be continued without additional filings beyond November 1, 1985 provided certain conditions are satisfied. The technical corrections clarified, among other things, the Commission's intent that an NGPA section 311 transportation arrangement authorized and for which service had commenced on or prior to October 9, 1985, under Subpart B or C or under §§ 284.221 or 284.222 of Subpart G as such subparts were effective before November 1, 1985, could continue. These arrangements were subject to the provisions cited in new §§ 284.105 and 284.125. Similarly, transportation authorized under § 157.209(a)(1) which commenced on or before October 9, 1985 is authorized for the full term originally certificated subject to the provisions in § 284.7. See § 284.223(g)(1).

On October 30, 1985, Amstar Corporation filed an Emergency Request for Clarification of the Commission's Regulations. Specifically, Amstar alleges that Texas Eastern Transmission Corporation informed Amstar that it will terminate transportation to Amstar on October 31, 1985 because of the uncertainty surrounding Order No. 436, as well as the October 9, 1985 cut-off date established by the Technical Corrections.[2] Amstar alleges this will result in a direct and substantially adverse effect on its operations. Amstar requests the Commission to clarify its regulations that the transaction as described is permitted beyond October 31, 1985, or alternatively, to waive the October 9, 1985 restriction in § 284.223(g)(1) so as to allow Amstar to recommence its transportation under § 157.209(a)(1), as in effect prior to October 31, 1985.

We are denying Amstar's petition. The facts and circumstances cited by Amstar in its petition do not justify granting a waiver of the regulations. The technical corrections clarify the Commission's intent when it issued Order No. 436. Accordingly, Amstar's petition for clarification and waiver of the October 9, 1985 deadline is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–26679 Filed 11–7–85; 8:45 am]

BILLING CODE 6717–01–M

[1] Final Rule and Notice Requesting Supplemental Comments, 50 FR 42408 (October 18, 1985) (Order No. 436). Technical Corrections, Docket No. RM85–1–000, issued October 24, 1985.

[2] Amstar states that, effective September 1, 1985, it has contracted with Texas Eastern Transmission Corporation to transport gas supplies it has purchased from a producer. Since the quality of gas was unacceptable to Texas Eastern, it would not transport the gas. Amstar located another supplier, and executed a contract for those supplies on October 7, 1985. That gas was actually delivered to Amstar on October 18, 1985.

18 CFR Part 284

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol; Denial of Waiver Petition

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying Petition for Waiver.

SUMMARY: The Federal Energy Regulatory Commission is denying a petition for waiver of its regulations in §§ 284.105 and 284.125 that transportation under section 311 of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301, *et seq.* may continue beyond November 1, 1985 only if the arrangement was commenced on or before October 9, 1985.

DATE: This order was issued October 30, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas P. Gross, Certificate Division, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357–8569.

SUPPLEMENTARY INFORMATION:

Order Denying Request for Waiver

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

In the matter of regulation of natural gas pipelines after partial wellhead decontrol (Intercon Gas, Inc.); Docket No. RM85–1–000 (Parts A–D).

Issued October 30, 1985.

On October 24, 1985 the Commission issued technical corrections to its final rule issued in Docket No. RM85–1.[1]

[1] Final Rule and Notice Requesting Supplemental Comments, 50 FR 42372 (October 18, 1985) (Order No. 436). Technical Corrections, Docket No. RM85–1–000, issued October 24, 1985.

Sections 284.105 and 284.125 provide that self-implementing transportation service authorized under section 311 of the Natural Gas Policy Act (NGPA), 15 U.S.C. 3301, *et seq.* may be continued without additional filings beyond November 1, 1985 provided certain conditions are satisfied. The technical corrections clarified, among other things, the Commission's intent that an NGPA section 311 transportation arrangement authorized and for which service had commenced on or prior to October 9, 1985, under Subpart B or C or under §§ 284.221 or 284.222 of Subpart G as such subparts were effective before November 1, 1985, could continue. These arrangements were subject to the provisions cited in new §§ 284.105 and 284.125.

On October 29, 1985, Intercon Gas, Inc., filed an Emergency Petition for Limited Rehearing or, in the Alternative, for a Waiver of the Commission's Regulations. Specifically, Intercon alleges it will suffer substantial harm and injury as a result of the technical corrections to these sections, *i.e.*, that a section 311 transportation arrangement may continue only if such service had commenced on or before *October 9, 1985.* They request that section 311 transactions authorized by *November 1, 1985* be "grandfathered." They state they do not oppose the addition of the words "and commenced" to §§ 284.105(a) and 284.125(a) after the word "authorized" so long as the November 1, 1985 date is reinstated.[2]

We are denying Intercon's petition for a waiver of the regulations in §§ 284.105 and 284.125, as corrected. The facts and circumstances cited by Intercon in its petition do not justify granting a waiver. The technical corrections clarify the Commission's intent when it issued Order No. 436.

While denying Intercon's petition for a waiver, we are not disposing of their petition for rehearing. We will defer consideration of the substantive issue raised by Intercon to a later date when we address their rehearing petition.

[2] Intercon specifically alleges that it has signed a gas purchase contract with four producers on August 28, 1985 and a gas sales contract with Faustina Pipeline Company on August 30, 1985. Transportation agreements were executed with Natural Gas Pipeline Company of America on August 13, 1985; Faustina on August 30, 1985; and Natural on September 6, 1985. Based on the agreements, Intercon has caused to be constructed certain gathering, dehydration, measuring and tap facilities costing approximately $215,000. Based on the technical corrections, Intercon states that the arrangements will be terminated.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26678 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

Deletion of Non-Federal-Aid Primary Routes From the National Network for Commercial Motor Vehicles

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is deleting non-Federal-aid primary routes from the National Network that were inadvertently placed on the network in some States on June 5, 1984. The States discussed in this rulemaking are: Alabama, Georgia, Kentucky, North Carolina, Pennsylvania, and South Carolina. In addition, FHWA is deleting a portion of the non-Federal-aid primary route in New Hampshire that served as the Interstate travelled way while the section of the Interstate System was under construction.

EFFECTIVE DATE: November 8, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Richard A. Torbik, Office of Highway Planning, (202) 426-0233, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA has reviewed the National Network for Commercial Motor Vehicles to delete non-Federal-aid primary routes which might have been inadvertently placed on the Network. This review was limited to those States where the authority of the U.S. Secretary of Transportation was the basis for the route designation published on June 5, 1984 (49 FR 23303). (It does not include those States that had made available non-Federal-aid primary routes under State statute. In States where authority exists under State law for the designation of non-primary routes, no actions are necessary nor will be taken.)

In those States in which the basis for allowing the STAA vehicles to operate was solely the STAA, an additional evaluation was undertaken to identify any non-primary routes which might have been inadvertently placed on the Network.

These situations arise when existing segments of the primary system are technically removed from the primary system and an alternate "paper" routing is established to permit construction of a new facility on a new alignment, which when opened to traffic will become an operating part of the primary system. These non-primary segments were temporarily included as part of the National Network to eliminate any critical gaps and will be deleted once the new primary segment is opened to traffic. Since FHWA's functional highway classification procedures do not permit the classification of parallel primary routes, these facilities had to be technically designated non-primary even though they currently function as rural arterials. It should be noted that almost all of these facilities were on the primary system prior to its current system designation, and that these facilities continue to meet the criteria cited in Title 23, U.S.C., 103(b)(2) for designation as part of the Federal-aid primary system; i.e., "important to interstate, statewide, and regional travel, consisting of rural arterial routes and their extensions into or through urban areas." Placement of the existing facility on the primary system would have resulted in the withdrawal of the primary funding for the new construction.

Our review indicated that non-primary routes in this category were designated in the States of Alabama, Georgia, Kentucky, North Carolina, Pennsylvania, and South Corolina. In some of these States, the need for Federal action has been eliminated by independent State action.

In the State of Kentucky, 33 sections of non-primary routes were included as part of the National Network. On April 17, 1985, the Secretary of the Kentucky Transportation Cabinet designated, by Official Order No. 89008, a State truck network which included all the roads listed in the June 5, 1984, **Federal Register** with the exception of US 127 from US 460 in Frankfort to I-71. The State of Kentucky has modified this route by deleting the sections between US 460 in Frankfort to KY 22 in Owenton and KY 35 at Bromley to I-71. Accordingly, these sections are being removed from the listing in the Appendix. As a result of State action, the remaining Kentucky non-primary routes are designated for use by commercial vehicles with dimensions authorized by the STAA of 1982 and are no longer a part of the federally-

designated system. An appropriate note to that effect is included in the rule below. For specific information about Kentucky routes, contact Mr. A.R. Romine, Assistant State Highway Engineer for Operations, Kentucky Transportation Cabinet, State Office Building, High Street, Frankfort, Kentucky 40622, telephone (502) 564–3730.

In the State of Georgia, three sections of the secondary system were included as part of the National Network. The State of Georgia, with the concurrence of FHWA, changed the system designation of those routes from secondary to primary placing them in compliance with the Surface Transportation Assistance Act of 1982 (STAA) provisions and, therefore, no action is proposed in this rulemaking. Likewise, in the State of South Carolina, the State has, with FHWA approval, administratively reclassified two routes from secondary to primary.

In the State of North Carolina, five sections of the non-primary system were included as part of the National Network. These sections will be removed from the North Carolina Appendix 90 days from the date of this rulemaking unless the State of North Carolina notifies FHWA within 60 days that it will take action to allow the STAA vehicles to operate on these routes. These non-primary routes are:

Route	From	To
SR 1409	US 76	US 17.
US 76	Intersection with US 17 and Oleander Drive.	SR 1409.
SR 2028	Durham EW Freeway in Research Triangle Park.	US 70 at Bethesda.
SR 1007	I-85 in Salisbury	US 601.
US 158	SR 2666	US 29.
NC 18	US 64 in Morganton	I-40.

In addition, the States of Alabama and Pennsylvania each contained two sections on the designated Network which were not on the primary system; these sections are being removed from the designated Network. Specifically, in Alabama, Posted Route No. US 31 from AL 152 Montgomery to AL 14 North of Prattville is being modified by deleting the section between US 82 and AL 14 North of Prattville; Posted Route No. US 29 from Fairfax to the Georgia State Line is being deleted in its entirety. In Pennsylvania, Posted Route No. US 13 from US 1 to PA 410 is being modified by deleting the section between Pennsylvania Turnpike Interchange 29 and PA 410; Posted Route No. US 222/422 from the end of limited access in Wyomissing to Pricetown Road North of Reading is being modified by deleting the section between PA 61 and Pricetown Road North of Reading. (It is the understanding of FHWA that in North Carolina and Pennsylvania authority does exist under State law to permit the operation of STAA vehicles on the routes and that such administrative actions are under consideration.)

In New Hampshire, Posted Route No. 18 from I-93 Littleton to the Vermont State Line is being modified by deleting the section between the Vermont State Line and the new temporary connection with I-93 west of Littleton.

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or significant regulation under regulatory policies and procedures of the Department of Transportation. Since the amendments in this document merely bring the Appendix into full compliance with the statutory language mandated by the STAA of 1982, public comment is unnecessary. Therefore, the FHWA finds good cause to make the corrections final without prior notice and opportunity for comment and without a 30-day delay in effective date under the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action could result in the receipt of useful information. It is anticipated that the economic impact of this rulemaking action will be minimal, since such economic impact that occurs is mandated by the cited statutory provisions themselves, and not by the rulemaking action. Accordingly, a full regulatory evaluation is not required. For the foregoing reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 658

Grants programs—transportation, Highways and Roads, Motor Carrier—size and weight.

Issued on: November 1, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA hereby amends Chapter I of Title 23, Code of Federal Regulations, by correcting Appendix A to Part 658 for the States of Alabama, Kentucky, New Hampshire, North Carolina, and Pennsylvania to read as set forth below.

PART 658—[AMENDED]

1. The authority citation for 23 CFR Part 658 is revised to read as follows:

Authority: Section 133, 411, 412, 413, and 416 of Pub. L. 97–424, 96 Stat. 2097 (23 U.S.C. 127; 49 U.S.C. 2311, 2313, and app. 2316), as amended by Pub. L. 98–17, 97 Stat. 59, and Pub. L. 98–554, 98 Stat. 2829; 23 U.S.C. 315; and 49 CFR 1.48.

Appendix—[Amended]

2. The Appendix to Part 658 is corrected for the State of Alabama by removing posted route number entries:

Route	From	To
US 31	AL 152 Montgomery	AL 14 North of Prattville.
*	*	*
US 29	Fairfax	Georgia State Line.

and inserting the following:

US 31	AL 152 Montgomery	US 82.

3. The Appendix to Part 658 is corrected for the State of New Hampshire by removing posted route number entry:

Route	From	To
NH 18	I-93 Littleton	Vermont State Line.

and inserting in its respective place, the following:

NH 18	I-93 West of Littleton	Temporary Connection with I-93 East of Littleton.

4. The Appendix to Part 658 is corrected for the State of North Carolina by removing posted route number entry:

Route	From	To
NC 18	I-40 near Morganton	US 321 near Lenoir.

and inserting in its respective place, the following:

NC 18	US 64	US 321 near Lenoir.

5. The Appendix to Part 658 is corrected for the State of Kentucky (a) by removing posted route number entry:

Route	From	To
US 127	US 460 in Frankfort	I-71.

And inserting in its respective place, the following:

US 127	KY 22 in Owenton	KY 35 at Bromley.

(b) By adding a note at the end of the route listing to read as follows:

Note.—In addition to qualifying primary routes, the State of Kentucky allows those commercial vehicles with the dimensions authorized by the STAA of 1982 to travel on other US and State numbered routes. Such

non-primary routes are not part of the federally-designated system.

6. The Appendix to Part 658 is corrected for the State of Pennsylvania by removing posted route number entries:

Route	From	To
US 13	US 1	PA 410
*	*	*
US 222/422	End of Limited Access in Wyomissing	Pricetown Road North of Reading

and inserting in their respective places, the following:

US 13	US 1	Turnpike Interchange 29.
*	*	*
US 222/422	End of Limited Access in Wyomissing	PA 61.

[FR Doc. 85-26654 Filed 11-7-85; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 61

Preparation of Rolls of Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (BIA) is revising the regulations contained in Part 61 governing the compilation of rolls of Indians by the Secretary of the Interior when required to do so by statutory authority. The regulations have been made specifically applicable for the preparation of particular rolls of Indians by amendments to the section dealing with qualifications for enrollment and the deadline for filing applications. As a result of court decisions, organizational changes, policy changes, and new statutes and directives, there is need to make general administrative changes to the regulations. In addition, certain rolls which were to be prepared under the existing regulations have been completed eliminating the need for the amendments governing those particular rolls. The revision, thus, is intended to generally update the regulations. Also, the qualifications for enrollment and the deadline for filing applications for three additional rolls of Indians which the Secretary has been required by statute to prepare need to be added in the appropriate section. The three additional rolls to be prepared are of the Pembina Band of Chippewa Indians, the Cherokee Band of Shawnee Indians, and the Miami Indians of Indiana. This Part has been previously redesignated from 25 CFR Part 41 at 47 FR 13327, March 30, 1982.

EFFECTIVE DATE: December 9, 1985.

FOR FURTHER INFORMATION CONTACT: For information concerning the preparation of the roll of the *Pembina Band of Chippewa Indians*—

Ruth A. Brunelle, Tribal Operations Officer, Turtle Mountain Agency, Bureau of Indian Affairs, Belcourt, North Dakota 58316, telephone number (701) 477-6141.

For information concerning the preparation of the rolls of the *Cherokee Band of Shawnee Indians* and the *Miami Indians of Indiana*—

Dennis C. Springwater, Area Tribal Operations Officer, Muskogee Area Office, Bureau of Indian Affairs, Federal Building, Muskogee, Oklahoma 74401, telephone number (918) 687-2314 (FTS 736-2314).

SUPPLEMENTARY INFORMATION: The authority to issue these rules and regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 9; and 25 U.S.C. 1401 et seq. This final rule is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs in the Departmental Manual at 209 DM 8.

A proposed revision to the regulations contained in Part 61 governing the compilation of rolls of Indians by the Secretary was published for public comment in the **Federal Register** on Monday, June 17, 1985 (50 FR 25082). A correction was published in the **Federal Register** on Wednesday, July 3, 1985 (50 FR 27456).

The Secretary is authorized and directed on a continuous basis to prepare specific rolls of Indians which are used as the basis for the distribution of judgment funds. By adopting a set of general regulations which can be made specifically applicable, the need to promulgate separate repetitious rules for each roll prepared is eliminated. The regulations contained in Part 61 serve the purpose of general regulations. However, as a result of court decisions, organizational changes, policy changes, and new statutes and directives, the regulations did need to be generally revised. A section-by-section analysis of the changes was published in the **Federal Register** with the proposed revised rule on Monday, June 17, 1985 (50 FR 25083).

It should be emphasized that the regulations contained in Part 61 are not automatically applicable to every roll of Indians prepared nor are the regulations automatically applicable to every roll of Indians the Secretary is directed to prepare. The regulations are not intended in any way to limit or infringe on tribal authority and control with regard to membership.

The primary author of this revision of Part 61 is Kathleen L. Slover, Branch of Tribal Enrollment Services, Division of Tribal Government Services, Bureau of Indian Affairs.

Comments and Changes Generally

The period for commenting on the proposed revision to the regulations contained in Part 61 governing the compilation of rolls of Indians by the Secretary closed on July 17, 1985. Only one letter suggesting changes to the regulations was received from the public within the comment period. As the proposed revision was published in the **Federal Register**, the date of October 15, 1985, was inserted in paragraph (b)(2) of § 61.4, as the deadline for filing applications to establish eligibility for inclusion on the roll of the Pembina Band of Chippewa Indians being prepared under the regulations. The commenter believed that the deadline of October 15, 1985, was not a reasonable or adequate length of time. The insertion of October 15, 1985, in the proposed rule when it was published was, however, an error. The deadline in the proposed revision should have been published as 120 days after date of publication, meaning 120 days after the publication of the final rule in the **Federal Register**. A document was published in the **Federal Register** on Wednesday, July 3, 1985 (50 FR 27456), to make that correction. The commenter did not suggest an alternate deadline or specify a particular length of time for the filing of applications. Consequently, we are making no change. A deadline date is being inserted in the final rule that is 120 days from the date of publication of the document in the **Federal Register**.

Although no comments were received from the public, the BIA field staff did express objection to the requirement in paragraph (b)(2) of § 61.4 that applications had to be "received" by the Superintendent, Turtle Mountain Agency, BIA, by close of buisiness on the date specified. It was suggested that the requirement be changed to "postmarked or received" on the date specified because the postal service was inconsistent and very limited not only into Belcourt, North Dakota, but also some of the other remote communities where individuals lived who would be affected by the requirement.

The BIA has for some time been using "receipt date" as the deadline in the preparation of rolls of Indians by the

Secretary. Comments have been received from the public during the development and promulgation of other rules governing the preparation of rolls of Indians objecting to the use of receipt by the deadline specified as opposed to postmarked by the deadline. One previous commenter stated that using the receipt date removed a certain amount of control by individuals over the filing of their applications. Individuals cound not know for certain at the time they mailed their applications whether the applications would be received by the deadline or not. Unless individuals sent their applications return receipt requested, which can actually delay receipt at the destination, individuals had no record as to when their applications were actually received. The use of receipt date in the preparation of rolls of Indians by the Secretary had been prompted by the fact that incoming applications often had no postmark or the postmark date was illegible. Thus, the BIA was in the position of having no documentary proof or record as to when the application had actually been mailed.

It is often claimed by applicants who miss the deadline, that the applications were mailed in "plenty of time" and they should not be penalized because of poor postal service. Our belief is that in most instances individuals have simply not allowed an adequate amount of time. We believe that there will always be applicants who miss the deadline be it postmark date or receipt date and the percentage of applicants who are rejected because they failed to meet the deadline will not significantly change. However, in an effort to eliminate any lack of control or uncertainty as to the amount of time which applicants must allow to ensure that their applications are received by the deadline, changes have been made to the revision in § 61.7 to provide for the use of postmarked dates to determine whether applicants have filed their applications by the deadline. The use of postmark date will apply not only in the preparation of the roll of the Pembina Band of Chippewa Indians under paragraph (b) of § 61.4, but also the preparation of the rolls of the Cherokee Band of Shawnee Indians and the Miami Indians of Indiana under paragraphs (c) and (d) of §61.4.

To eliminate the problem the BIA has had where there has been no postmark date or the postmark date is illegible, a presumption has been included in the final rule. Application forms mailed from within the United States, including Alaska and Hawaii, received more than 15 days and application forms mailed from outside the United States received more than 30 days after the deadline specified in the office of the designated Director or Superintendent will be denied for failure to file on time. The presumption applies only to application forms which have been filed by mail and only where there is no postmark date or the postmark date is illegible. Application forms which are filed by personal delivery must be received in the office of the designated Director or Superintendent by close of business on the deadline specified.

The change in the filing requirements have been accomplished by the addition of a section entitled "Filing of application forms." This section has been designated § 61.7. Accordingly, § 61.7 as the revision was proposed has been redesignated as § 61.8, § 61.8 has been redesignated as § 61.9, etc. Appropriate changes have also been made to the wording in paragraphs (b), (c), and (d) of § 61.4. It must be emphasized, however, that the use of postmark date will apply only to the preparation of the rolls of the Pembina Band of Chippewa Indians, the Cherokee Band of Shawnee Indians and the Miami Indians of Indiana under paragraphs (b), (c), and (d) of § 61.4, respectively, and the preparation of any rolls authorized in the future under the regulations contained in this Part 61. For emphasis a paragraph (d) has been added to § 61.7 stating that the provisions of § 61.7 do not apply in the preparation of the rolls under paragraphs (r), (s), (w), (x), (y) and (z) of § 61.4.

Additional Rolls To Be Prepared

As a part of the general revision being made, the regulations contained in this Part 61 have, in essence, been amended to make the rules specifically applicable to the preparation of the following three rolls of Indians:

1. Pembina Band of Chippewa Indians

The Pembina Band of Chippewa Indians were awarded judgment funds in dockets numbered 113, 191, 221, and 246 by the U.S. Court of Claims. Funds to satisfy the awards were appropriated by Congress. The Act of December 31, 1982, Pub. L. 97–403, 96 Stat. 2022, authorized the use and distribution of the judgment funds.

The Act of December 31, 1982, directs that the judgment funds be apportioned among the following groups: The Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of the Rocky Boy's Reservation, the Minnesota Chippewa Tribe, the Little Shell Band of Chippewa Indians of Montana, and the nonmember Pembina descendants (as a group), that is, individuals of Pembina Chippewa descent who are not enrolled members of the other named groups.

For the purposes of apportioning and making the per capita distribution to the nonmember Pembina Chippewa descendants, the Secretary has been directed to prepare a roll. To establish eligibility for inclusion on the roll, persons must, among other requirements, be born on or before and living on the date of the Act, be citizens of the United States, and be able to establish that they possess at least one quarter degree Pembina Chippewa blood.

There has been some confusion expressed as to the applicability of the qualifications contained in paragraph (b) of § 61.4. The qualifications are to govern the one-time preparation of a list of persons who meet the requirements specified in the Act of December 31, 1982, as nonmember Pembina descendants eligible to share in the judgment funds. Individuals who establish eligibility will share in the per capita distribution of a portion of the judgment funds awarded the Pembina Band of Chippewa Indians. Inclusion on the one-time list or roll of persons of Pembina descent is separate and distinct from enrollment as a member of the Turtle Mountain Band of Chippewa Indians even though the Superintendent of the Turtle Mountain Agency, BIA, will be responsible for preparing the roll of nonmember Pembina descendants. In an effort to avoid confusion as a result of word choice, the phrase "for enrollment" has been replaced with "for eligibility" in paragraphs (b)(2) and (b)(3) of § 61.4 when it refers to establishing eligibility for inclusion on the roll being prepared under the regulations. At the beginning of paragraph (b)(3), the phrase "for enrollment", however, refers to enrollment as a member of one of the tribes specified in paragraph (b)(1)(iv) of § 61.4. The beginning of paragraph (b)(3) has, therefore, been changed to read "Each application for enrollment as a member of any of the tribes, etc." The substitutions are intended as a matter of clarification and do not represent any substantive changes to the regulations.

In paragraph (b)(3) of § 61.4 of the proposed revision there were references to paragraph (a)(1)(iv) and paragraph (a)(1) of § 61.4. The references were incorrect and have been changed in the final rule to read as paragraph (b)(1)(iv) and paragraph (b)(1).

The revised regulations require in § 61.4(b) that application forms must be filed with the Superintendent of the Turtle Mountain Agency, BIA, by the

date specified. Application forms filed after that date will be rejected for failure to file on time regardless of whether the applicants otherwise meet the requirements for eligibility. As was discussed above, under COMMENTS AND CHANGES GENERALLY, the regulations as they were proposed required that application forms be received by the Superintendent by close of business on the date specified. Appropriate changes have been made to the regulations to require that application forms filed by personal delivery be received by close of business on the date specified and that application forms filed by mail be postmarked no later than midnight on the date specified.

In addition to general public notice, to provide actual notice of the preparation of the roll to as many potentially eligible beneficiaries as possible, the Superintendent, Turtle Mountain Agency, BIA, shall send notices in accordance with revised § 61.5(c). When the regulations were proposed it was intended that all persons whose names appear on the roll of the Pembina Band of Chippewa Indians prepared pursuant to the Act of July 29, 1971 (85 Stat. 158), be sent a notice. The Act of July 29, 1971, provided for the distribution of previously awarded Pembina Chippewa judgment funds solely on the basis of descendancy. There was no apportioning of the funds among tribal beneficiaries and a group of nonmember Pembian Chippewa descendants as is provided for under the Act of December 31, 1982. Consequently, many of the individuals whose names appear on the 1971 roll are enrolled members of one of the tribal beneficiaries specified in the Act of December 31, 1982. As was stated above, there has been some confusion as to the applicability of the qualifications contained in paragraph (b) of § 61.4. To send notices advising of the preparation of the roll of nonmember Pembina Chippewas to individuals who are enrolled members of one of the designated beneficiary tribes could compound or create additional confusion. Consequently, the Superintendent, Turtle Mountain Agency, BIA, shall send notices to those persons whose names appear on the roll of the Pembina Band of Chippewa Indians prepared pursuant to the Act of July 29, 1971, at the last address of record, who are not enrolled members of the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of the Rocky Boy's Reservation, the Minnesota Chippewa Tribe, or the Little Shell Band of Chippewa Indians of Montana. Notices shall advise individuals of the preparation of the roll and the relevant procedures to be followed including the qualifications for eligibility and the deadline for filing applications to be eligible.

2. Cherokee Band of Shawnee Indians

The Shawnee Tribe of Indians was awarded judgment funds in dockets 64, 335, and 338 by the Indian Claims Commission and docket 64–A by the U.S. Court of Claims. Funds to satisfy the awards were appropriated by Congress. The Act of December 20, 1982, Pub. L. 97–372, 96 Stat. 1815, authorized the use and distribution of the judgment funds.

The Act of December 20, 1982, directed that the funds be divided on the basis of stated proportions among the Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe of Oklahoma, and the Cherokee Band of Shawnee descendants. For the purpose of making a per capita distribution of the Cherokee Band of Shawnee descendants' share of the funds, the Secretary has been directed to prepare a roll of all persons of Cherokee Shawnee ancestry who, among other requirements, were born on or before and living on the date of the Act and are lineal descendants of the Shawnee Nation as it existed in 1854, based on the roll of the Cherokee Shawnee compiled pursuant to the Act of March 2, 1889 (25 Stat. 994). Persons who are enrolled members of the Absentee Shawnee Tribe of Oklahoma or the Eastern Shawnee Tribe of Oklahoma are not eligible for enrollment.

To establish eligibility for inclusion on the roll of the Cherokee Band of Shawnee descendants, the revised regulations require in § 61.4(c) that application forms for enrollment must be filed with the Director, Muskogee Area Office, BIA, by the date specified. Application forms filed after that date will be rejected for failure to file on time regardless of whether the applicants otherwise meet the requirements for enrollment. As was discussed above, under COMMENTS AND CHANGES GENERALLY, the regulations as they were proposed required that application forms be received by the Director, by close of business on the date specified. Appropriate changes have been made to the regulations to require that application forms filed by personal delivery be received by close of business on the date specified and that application forms filed by mail be postmarked no later than midnight on the date specified.

In addition to general public notice, to provide actual notice of the preparation of the roll to as many potentially eligible beneficiaries as possible, the Director, Muskogee Area Office, BIA, shall send notices in accordance with revised § 61.5(c) to all persons whose names appear on the roll of the Cherokee Band of Shawnee Indians prepared in accordance with a Plan prepared pursuant to the Indian Judgment Funds Distribution Act, as amended, and effective March 5, 1976, at their last address of record. Notices shall advise individuals of the preparation of the roll and the relevant procedures to be followed including the qualifications for enrollment and the deadline for filing applications to be eligible for enrollment.

3. Miami Indians of Indiana

The Miami Tribe of Oklahoma and the Miami Indians of Indiana and other Miami descendants were awarded judgment funds in dockets 124–B and 254 by the U.S. Court of Claims. Funds to satisfy the awards were appropriated by Congress. The Act of December 21, 1982, Pub. L. 97–376, 96 Stat. 1828, authorized the use and distribution of the judgment funds.

The Act of December 21, 1982, directed that the funds be divided on the basis of stated proportions between the Miami Tribe of Oklahoma and the descendant group of Miami Indians of Indiana and other Miami Indian descendants. For the purpose of making a per capita distribution of the apportioned share to the descendant group of Miami Indians, the Secretary has been directed to prepare a roll of all persons of Miami Indian ancestry who, among other requirements, were born on or before and living on the date of the Act and whose names or the name of a lineal ancestor appears on one of the rolls specified in the Act. Persons who are members of the Miami Tribe of Oklahoma are not eligible for inclusion on the roll of Miami Indian descendants.

The Act of December 21, 1982, also provides that to establish eligibility for enrollment, individuals must file or have filed on their behalf applications with the Director, Muskogee Area Office, BIA. The revised regulations require in § 61.4(d) that application forms for enrollment must be filed with the Director by the date specified. Application forms filed after that date will be rejected for failure to file on time regardless of whether the applicants otherwise meet the requirements for enrollment. As was discussed above, under COMMENTS AND CHANGES GENERALLY, the regulations as they were proposed required that application forms be received by the Director by close of business on the date specified.

Appropriate changes have been made to the regulations to require that application forms filed by personal delivery be received by close of business on the date specified and that application forms filed by mail be postmarked no later than midnight on the date specified.

In addition to general public notice, to provide actual notice of the preparation of the roll to as many potentially eligible beneficiaries as possible, the Director, Muskogee Area Office, BIA, shall send notices in accordance with revised § 61.5(c) to all persons whose names appear on the roll of Miami Indians of Indiana and Oklahoma prepared pursuant to the Act of June 2, 1972, Pub. L. 92-309, 86 Stat. 199, except those who are enrolled members of the Miami Tribe of Oklahoma, at the last address of record. Notices shall advise individulas of the preparation of the roll and the relevant procedures to be followed including the qualifications for enrollment and the deadline for filing applications to be eligible for enrollment.

Miscellaneous Changes

In addition to the changes which have been discussed above under COMMENTS AND CHANGES GENERALLY and ADDITIONAL ROLLS TO BE PREPARED, certain other technical corrections have been made to the final rule. Because the corrections did not or were not intended to make a substantive change to the regulations, not all the changes are discussed herein. A few of the additional miscellaneous changes will, however, be discussed as a matter of clarification.

Paragraphs (r), (s), (w), (x), (y) and (z) of § 61.4 contain the qualifications for enrollment and the deadline for filing applications for rolls which are currently being prepared by the BIA. At the time Part 61 was amended to add paragraphs (w), (x), (y) and (z) under § 61.4, the Superintendent, Western Washington Agency, was assigned the responsibility of preparing the specified rolls. As a result of an organizational change, the Western Washington Agency office was subsequently renamed the Puget Sound Agency. Accordingly, the name "Puget Sound Agency," has been substituted for "Western Washington Agency" in paragraphs (w), (x), (y) and (z) of revised § 61.4. The substitution represents only a name change of the BIA field office, not a change in the actual BIA field office or the location of the field office where the rolls are being prepared.

In § 61.7 of the proposed revision, now § 61.8 in the final rule, at the end of the second sentence, the proposed rule as it was published read: "or if decreased, the enrollee's date of death." The final rule has been corrected to read: "or if deceased, the enrollee's date of death." In § 61.10 of the proposed revision, now § 61.11 in the final rule, under paragraph (c)(2) in the second to last sentence, "the appeal period shall being on" has been corrected to read "the appeal period shall begin on."

Paperwork Reduction Act

The Office of Management and Budget has informed the Department of the Interior that the information collection requirements contained in § 61.4 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

Executive Order 12291

The Department of the Interior has determined that this is not a major rule under E.O. 12291 because only a limited number of individuals will be affected and those individuals who are determined eligible will be participating in a per capita distribution made by the Secretary of the Interior of a relatively small amount of funds.

Compliance With Other Laws

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., because of the limited applicability as stated above.

The Department of the Interior has determined that this rule does not significantly affect the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement under Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C).

List of Subjects in 25 CFR Part 61

Indians—claims, and Indians—enrollment.

Accordingly, Part 61 of Subchapter F of Chapter I of Title 35 of the Code of Federal Regulations is revised to read as follows:

PART 61—PREPARATION OF ROLLS OF INDIANS

Sec.
- 61.1 Definitions.
- 61.2 Purpose.
- 61.3 Information collection.
- 61.4 Qualifications for enrollment and the deadline for filing application forms.
- 61.5 Notices.
- 61.6 Application forms.
- 61.7 Filing of application forms.
- 61.8 Verification forms.
- 61.9 Burden of proof.
- 61.10 Review of applications by tribal authorities.
- 61.11 Action by the Director or Superintendent.
- 61.12 Appeals.
- 61.13 Decision of the Assistant Secretary on appeals.
- 61.14 Preparation, certification and approval of the roll.
- 61.15 Special instructions.

Authority: 5 U.S.C. 301; 25 U.S.C. 2 and 9; and Pub. L. 93-134, 87 Stat. 466, as amended.

§ 61.1 Definitions.

As used in these regulations:

"Act" means any act of Congress authorizing or directing the Secretary to prepare a roll of a specific tribe, band, or group of Indians.

"Adopted person" means a person whose natural parents' parental rights have been given to others to exercise by court order.

"Approved roll" means a roll of Indians approved by the Secretary.

"Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs or an authorized representative acting under delegated authority.

"Basic roll" means the specified allotment, annuity, census or other roll designated in the Act or Plan as the basis upon which a new roll is to be compiled.

"Commissioner" means the Commissioner of Indian Affairs or an authorized representative acting under delegated authority.

"Descendant(s)" means those persons who are the issue of the ancestor through whom enrollment rights are claimed; namely, the children, grandchildren, etc. It does not include collateral relatives such as brothers, sisters, nieces, nephews, cousins, etc. or adopted children, grandchildren, etc.

"Director" means the Area Director of the Bureau of Indian Affairs area office which has administrative jurisdiction over the local field office responsible for administering the affairs of the tribe, band, or group for which a roll is being prepared or an authorized representative acting under delegated authority.

"Enrollee(s)" means persons who have met specific requirements for enrollment and whose names appear on a particular roll of Indians.

"Lineal ancestor" means an ancestor, living or deceased, who is related to a person by direct ascent; namely, the parent, grandparent, etc. It does not include collateral relatives such as

brothers, sisters, aunts, uncles, etc., or adopted parents, grandparents, etc.

"Living" means born on or before and alive on the date specified.

"Plan" means any effective plan prepared under the provisions of the Act of October 19, 1973, Pub. L. 93–134, 87 Stat. 466, as amended, which authorized and directs the Secretrary to prepare a roll of a specific tribe, band, or group of Indians.

"Secretary" means the Secretary of Interior or an authorized representative acting under delegated authority.

"Sponsor" means any person who files an application for enrollment or appeal on behalf of another person.

"Staff Officer" means the Enrollment Officer or other person authorized to prepare the roll.

"Superintendent" means the official or other designated representative of the Bureau of Indian Affairs in charge of the field office which has immediate administrative responsibility for the affairs of the tribe, band, or group for which a roll is being prepared.

"Tribal Committee" means the body of a federally recognized tribal entity vested with final authority to act on enrollment matters.

"Tribal Governing Document" means the written organizational statement governing the tribe, band, or group of Indians and/or any valid document, enrollment ordinance, or resolution enacted thereunder.

§ 61.2 Purpose.

The regulations in this Part 61 are to govern the compilation of rolls of Indians by the Secretary of the Interior pursuant to statutory authority. The regulations are not to apply in the compilation of tribal membership rolls where the responsibility for the preparation and maintenance of such rolls rests with the tribes.

§ 61.3 Information collection.

The Office of Management and Budget has informed the Department of the Interior that the information collection requirements contained in § 61.4 need not be reviewed by them under the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

§ 61.4 Qualifications for enrollment and the deadline for filing application forms.

(a) The qualifications which must be met to establish eligibility for enrollment and the deadline for filing application forms will be included in this Part 61 by appropriate amendments to this section; *except that*, when an Act or Plan states the qualifications for enrollment and the deadline for filing application forms and specifies that the regulations contained in this Part 61 will apply, amendment to this section will not be required for the procedures contained in this Part 61 to govern the preparation of the roll; *provided further*, the provisions contained in this Part 61 that were in effect when the regulations were amended to include paragraphs (r), (s), (w), (x), (y), and (z) shall control the preparation of the rolls under paragraphs (r), (s), (w), (x), (y), and (z) of this section.

(b) *Pembina Band of Chippewa Indians.* (1) Pursuant to Section 7(a) of the Act of December 31, 1982, Pub. L. 97–403, 96 Stat. 2022, a roll is to be prepared and used as the basis for the distribution of an apportioned share of judgment funds awarded the Pembina Chippewa Indians in dockets numbered 113, 191, 221 and 246 of the Court of Claims of all persons who:

(i) Are of at least ¼ degree Pembina Chippewa blood;

(ii) Are citizens of the United States;

(iii) Were living on December 31, 1982;

(iv) Are not members of the Red Lake Band of Chippewa Indians, the Turtle Mountain Band of Chippewa Indians, the Chippewa Cree Tribe of the Rocky Boy's Reservation, or Minnesota Chippewa Tribe, or the Little Shell Band of Chippewa Indians of Montana; *and*

(v) Are enrolled or are lineal descendants of persons enrolled:

(A) As Pembina descendants under the provisions of the Act of July 29, 1971 (85 Stat. 158), for the disposition of the 1863 Pembina Award, or

(B) On the McCumber roll of the Turtle Mountain Indians of 1892, or

(C) On the Davis roll of the Turtle Mountain Indians of 1904; or

(D) As Chippewa on the tentative roll of the Rocky Boy Indians of May 30, 1917, or the McLaughlin census report of the Rocky Boy Indians of July 7, 1917, or the Roe Cloud Roll of Landless Indians of Montana; *or*

(vi) Are able to establish Pembina ancestry on the basis of any other rolls or records acceptable to the Secretary.

(2) Application forms for eligibility must be filed with the Superintendent, Turtle Mountain Agency, Bureau of Indian Affairs, Belcourt, North Dakota 58316, by March 10, 1986. Application forms filed after that date will be rejected for failure to file on time regardless of whether the applicant otherwise meets the qualifications for eligibility.

(3) Each application for enrollment as a member of any of the tribes specified in paragraph (b)(1)(iv) of this section, except the Red Lake Band of Chippewa Indians, which may be rejected by the tribes shall be reviewed by the Superintendent to determine whether the applicant meets the qualifications for eligibility as a descendant of the Pembina Band of Chippewas under paragraph (b)(1) of this section. Each rejection notice shall contain a statement to the effect that the application is being given such review.

(c) *Cherokee Band of Shawnee Indians.* (1) Pursuant to section 5 of the Act of December 20, 1982, Pub. L. 97–372, 96 Stat. 1815, a roll is to be prepared and used as the basis for the distribution of an apportioned share of judgment funds awarded the Shawnee Tribe in dockets 64, 335, and 338 by the Indian Claims Commission and in docket 64–A by the U.S. Court of Claims of all persons of Cherokee Shawnee ancestry:

(i) Who were living on December 20, 1982;

(ii) Who are lineal descendants of the Shawnee Nation as it existed in 1854, based on the roll of the Cherokee Shawnee compiled pursuant to the Act of March 2, 1889 (25 Stat. 994), or any other records acceptable to the Secretary including eligibility to share in the distribution of judgment funds awarded the Absentee Shawnee Tribe of Oklahoma on behalf of the Shawnee Nation in Indian Claims Commission docket 334–B as a Cherokee Shawnee descendant; *and*

(iii) Who are not members of the Absentee Shawnee Tribe of Oklahoma or the Eastern Shawnee Tribe of Oklahoma.

(2) Application forms for enrollment must be filed with the Director, Muskogee Area Office, Bureau of Indian Affairs, Federal Building, Muskogee, Oklahoma 74401, by May 9, 1986. Application forms filed after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether the applicant otherwise meets the qualifications for enrollment.

(d) *Miami Indians of Indiana.* (1) Pursuant to section 3 of the Act of December 21, 1982, Pub. L. 97–376, 96 Stat. 1828, a roll is to be prepared and used as the basis for the distribution of an apportioned share of judgment funds awarded the Miami Tribe of Oklahoma and the Miami Indians of Indiana in dockets 124–B and 254 by the U.S. Court of Claims of all persons of Miami Indian ancestry:

(i) Who were living on December 21, 1982;

(ii) Whose name or the name of a lineal ancestor appears on:

(A) the roll of Miami Indians of Oklahoma and Indiana prepared pursuant to the Act of June 2, 1972 (86 Stat. 199), or

(B) the roll of Miami Indians of Indiana of June 12, 1895, or

(C) the roll of "Miami Indians of Indiana, now living in Kansas, Quapaw Agency, I.T., and Oklahoma Territory," prepared and completed pursuant to the Act of March 2, 1895 (28 Stat. 903), or

(D) the roll of the Eel River Miami Tribe of Indians of May 27, 1889, prepared and completed pursuant to the Act of June 29, 1888 (25 Stat. 223), or

(E) the roll of the Western Miami Tribe of Indians of June 12, 1891 (26 Stat. 1001); *and*

(iii) Who are not members of the Miami Tribe of Oklahoma.

(2) Application forms for enrollment must be filed with the Director, Muskogee Area Office, Bureau of Indian Affairs, Federal Building, Muskogee, Oklahoma 74401, by May 9, 1986. Application forms filed after that date will be rejected for inclusion on the roll being prepared for failure to file on time regardless of whether the applicant otherwise meets the qualifications for enrollment.

(e)–(q) [Reserved]

(r) *Mdewakanton and Wahpakoota Tribe of Sioux Indians.* (1) All lineal descendants of the Mdewakanton and Wahpakoota Tribe of Sioux Indians who were born on or prior to and were living on October 25, 1972, whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary of the Interior and who are not members of the Flandreau Santee Sioux Tribe of South Dakota, the Santee Sioux Tribe of Nebraska, the Lower Sioux Indian Community at Morton, Minn., the Prairie Island Indian Community at Welch, Minn., or the Shakopee Mdewakanton Sioux Community of Minnesota shall be entitled to be enrolled under title I, section 101(b) of the act of October 25, 1972 (86 Stat. 1168), to share in the distribution of funds derived from a judgment awarded the Mississippi Sioux Indians.

(2) Applications for enrollment must have been filed with the Director, Aberdeen Area Office, Bureau of Indian Affairs, 820 South Main Street, Aberdeen, S. Dak. 57401, and must have been received no later than November 1, 1973. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Each application for enrollment with any of the tribes named in paragraph (r)(1) of this section which may be rejected by the tribes shall be reviewed by the Director to determine whether the applicant meets the requirements for enrollment as a descendant of the Mdewakanton and Wahpakoota Tribe of Sioux Indians under paragraph (r)(1) of this section. Each rejection notice issued by the tribes shall contain a statement to the effect that the application is being given such review.

(s) *Sisseton and Wahpeton Mississippi Sioux Tribe.* (1) All lineal descendants of the Sisseton and Wahpeton Mississippi Sioux Tribe who were born on or prior to and were living on October 25, 1972, whose names or the name of a lineal ancestor appears on any available records and rolls acceptable to the Secretary of the Interior and who are not members of the Devils Lake Sioux Tribe of North Dakota, the Sisseton and the Wahpeton Sioux Tribe of South Dakota, or the Assiniboine and Sioux Tribes of the Fort Peck Reservation shall be entitled to be enrolled under title II, section 201(b) of the act of October 25, 1972 (86 Stat. 1168), to share in the distribution of certain funds derived from a judgment awarded the Mississippi Sioux Indians.

(2) Applications for enrollment must have been filed with the Director, Aberdeen Area Office, Bureau of Indian Affairs, 820 South Main Street, Aberdeen, S. Dak. 57401, and must have been received no later than November 1, 1973. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Each application for enrollment with any of the tribes named in paragraph (s)(1) of this section which may be rejected by the tribes shall be reviewed by the Director to determine whether the applicant meets the requirements for enrollment as a descendant of the Sisseton and Wahpeton Mississippi Sioux Tribe under paragraph (s)(1) of this section. Each rejection notice issued by the tribe shall contain a statement to the effect that the application is being given such review.

(t)–(v) [Reserved]

(w) *Lower Skagit Tribe of Indians.* (1) All persons of Lower Skagit ancestry born on or prior to and living on February 18, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Assistant Secretary, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Lower Skagit Tribe in Indian Claims Commission docket 294. Proof of Upper Skagit ancestry will not be acceptable as proof of Lower Skagit ancestry.

(2) Applications for enrollment must have been filed with the Superintendent, Puget Sound Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must have been received by close of business on May 31, 1977. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 87 and 115 of this chapter.

(x) *Kikiallus Tribe of Indians.* (1) All persons of Kikiallus ancestry born on or prior to and living on February 18, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Assistant Secretary, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Kikiallus Tribe in Indian Claims Commission docket 263.

(2) Applications for enrollment must have been filed with the Superintendent, Puget Sound Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98021, and must have been received by close of business on May 31, 1977. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 87 and 115 of this chapter.

(y) *Swinomish Tribe of Indians.* (1) All persons of Swinomish ancestry born on or prior to and living on December 10, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on the 1919 Roblin Roll and other records acceptable to the Assistant Secretary, shall be entitled to have their names placed on the roll, to be prepared and used as the basis to distribute the judgment funds awarded the Swinomish Tribe in Indian Claims Commission docket 233.

(2) Application for enrollment must have been filed with the Superintendent, Puget Sound Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must have been received by close of business on May 31, 1977. Applications received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 87 and 115 of this chapter.

(z) *Samish Tribe of Indians.* (1) All person of Samish ancestry born on or prior to and living on December 10, 1975, who are lineal descendants of a member of the tribe as it existed in 1859 based on any records acceptable to the Secretary, shall be entitled to have their names placed on the roll to be prepared and used as the basis to distribute the judgment funds awarded the Samish Tribe in Indian Claims Commission docket 261.

(2) Applications for enrollment must have been filed with the Superintendent, Puget Sound Agency, Bureau of Indian Affairs, 3006 Colby Avenue, Everett, Washington 98201, and must have been received by close of business on May 31, 1977. Applicants received after that date will be denied for failure to file in time regardless of whether the applicant otherwise meets the requirements for enrollment.

(3) Payment of shares will be made in accordance with Parts 87 and 115 of this chapter.

§ 61.5 Notices.

(a) The Director or Superintendent shall give notice to all Directors of the Bureau of Indian Affairs and all Superintendents within the jurisdiction of the Director, of the preparation of the roll for public display in Bureau field offices. Reasonable efforts shall be made to place notices for public display in community buildings, tribal buildings, and Indian centers.

(b) The Director or Superintendent shall, on the basis of available residence data, publish, and republish when advisable, notices of the preparation of the roll in appropriate locales utilizing media suitable to the circumstances.

(c) The Director or Superintendent shall, when applicable, mail notices of the preparation of the roll to previous enrollees or tribal members at the last address or record or in the case of tribal members, the last address available.

(d) Notices shall advise of the preparation of the roll and the relevant procedures to be followed including the qualifications for enrollment and the deadline for filing application forms to be eligible for enrollment. The notices shall also state how and where application forms may be obtained as well as the name, address, and telephone number of a person who may be contacted for further information.

§ 61.6 Application forms.

(a) Application forms to be filed by or for applicants for enrollment will be furnished by the Director, Superintendent, or other designated persons, upon written or oral request. Each person furnishing application forms shall keep a record of the names of individuals to whom forms are given, as well as the control numbers of the forms and the date furnished. Instructions for completing and filing applications shall be furnished with each form. The form shall indicate prominently the deadline for filing application forms.

(b) Among other information, each application form shall contain:

(1) Certification as to whether application form is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application form is filed by a sponsor, the name and address of sponsor and relationship to applicant.

(3) A control number for the purpose of keeping a record of forms furnished interested individuals.

(4) Certification that the information given on the application form is true to the best of the knowledge and belief of the person filing the application. Criminal penalties are provided by statute for knowingly filing false information in such applications (18 U.S.C. 1001).

(c) Application forms may be filed by sponsors on behalf of other persons.

(d) Every applicant or sponsor shall furnish the applicant's mailing address on the application form. Thereafter, the applicant or sponsor shall promptly notify the Director or Superintendent of any change in address, giving appropriate identification of the application, otherwise the mailing address as stated on the form shall be acceptable as the address of record for all purposes under the regulations in this Part 61.

§ 61.7 Filing of application forms.

(a) Application forms filed by mail must be postmarked no later than midnight on the deadline specified. Where there is no postmark date showing on the envelope or the postmark date is illegible, application forms mailed from within the United States, including Alaska and Hawaii, received more than 15 days and application forms mailed from outside of the United States received more than 30 days after the deadline specified in the office of the designated Director or Superintendent, will be denied for failure to file in time.

(b) Application forms filed by personal delivery must be received in the office of the designated Director or Superintendent no later than close of business on the deadline specified.

(c) If the deadline for filing application forms falls on a Saturday, Sunday, legal holiday, or other nonbusiness day, the deadline will be the next working day thereafter.

(d) The provisions of this section shall not apply in the preparation of the rolls under paragraphs (r), (s), (w), (x), (y) and (z) of § 61.4.

§ 61.8 Verification forms.

If the Director or Superintendent is preparing a roll of Indians by adding names of eligible persons to and deleting names of ineligible persons from a previously approved roll, *and* individuals whose names appear on the previously approved roll are not required to file applications for enrollment, a verification form, to be completed and returned, shall be mailed to each previous enrollee using the last address of record. The verification form will be used to ascertain the previous enrollee's current name and address and that the enrollee is living, or if deceased, the enrollee's date of death. Name and/or address changes will only be made if the verification form is signed by an adult enrollee, if living, or the parent or guardian having legal custody of a minor enrollee, or an authorized sponsor. The verification form may also be used by any sponsor to notify the Director or Superintendent of the date of death of a previous enrollee.

§ 61.9 Burden of proof.

The burden of proof rests upon the applicant or tribal member to establish eligibility for enrollment. Documentary evidence such as birth certificates, death certificates, baptismal records, copies of probate findings, or affidavits, may be used to support claim of eligibility for enrollment. Records of the Bureau of Indian Affairs may be used to establish eligibility.

§ 61.10 Review of applications by tribal authorities.

(a) If tribal review is applicable, the Director or Superintendent shall submit all applications to the Tribal Committee for review and recommendations or determinations; except that, in the cases of adopted persons where the Bureau of Indian Affairs has assured confidentiality to obtain the information necessary to determine the eligibility for enrollment of the individual or has the statutory obligation to maintain the confidentiality of the information, the confidential information may not be released to the Tribal Committee, but the Director or Superintendent shall certify as to the eligibility for enrollment of the individual to the Tribal Committee.

(b) The Tribal Committee shall review all applications and make its

recommendations or determinations in writing stating the reasons for acceptance or rejection for enrollment.

(c) The Tribal Committee shall return the applications to the Director or Superintendent with its recommendations or determinations and any additional evidence used in determining eligibility for enrollment within 30 days of receipt of the applications by the Tribal Committee. The Director or Superintendent may grant the Tribal Committee additional time, upon request, for its review.

(d) Acceptance of an individual for enrollment by the Tribal Committee does not insure the individual's eligibility to share in the distribution of the judgment funds.

§ 61.11 Action by the Director or Superintendent.

(a) The Director or Superintendent shall consider each application, all documentation, and when applicable, tribal recommendations or determinations.

(b) The Director or Superintendent, when tribal recommendations or determinations are applicable, shall accept the recommendations or determinations of the Tribal Committee unless clearly erroneous.

(1) If the Director or Superintendent does not accept the tribal recommendation or determination, the Tribal Committee shall be notified in writing, by certified mail, return receipt requested, or by personal delivery, of the action and the reasons therefor.

(2) The Tribal Committee may appeal the decision of the Director or Superintendent not to accept the tribal recommendation or determination. Such appeal must be in writing and must be filed pursuant to Part 62 of this chapter.

(3) Unless otherwise specified by law or in a tribal governing document, the determination of the Director or Superintendent shall only affect the individual's eligibility to share in the distribution of judgment funds.

(c) The Director or Superintendent, upon determining an individual's eligibility, shall notify the individual, parent or guardian having legal custody of a minor, or sponsor, as applicable, in writing of the decision. If an individual files applications on behalf of more than one person, one notice of eligibility or adverse action may be addressed to the person who filed the applications. However, the notice must list the name of each person involved. Where an individual is represented by a sponsor, notification of the sponsor of eligibility or adverse action shall be considered to be notification of the individual.

(1) If the Director or Superintendent determines that the individual is eligible, the name of the individual shall be placed on the roll.

(2) If the Director or Superintendent determines that the individual is not eligible, he/she shall notify the individual's parent or guardian having legal custody of a minor, or sponsor, as applicable, in writing by certified mail, to be received by the addressee only, return receipt requested, and shall explain fully the reasons for the adverse action and the right to appeal to the Secretary. If correspondence is sent out of the United States, registered mail will be used. If a certified or registered notice is returned as "Unclaimed" the Director or Superintendent shall remail the notice by regular mail together with an acknowledgment of receipt form to be completed by the addressee and returned to the Director or Superintendent. If the acknowledgment of receipt is not returned, computation of the appeal period shall begin on the date the notice was remailed. Certified or registered notices returned for any reason other than "Unclaimed" need not be remailed.

(d) Except as provided in paragraph (c)(2) of this section, a notice of adverse action is considered to have been made and computation of the appeal period shall begin on the earliest of the following dates:

(1) Of delivery indicated on the return receipt;

(2) Of acknowledgment of receipt;

(3) Of personal delivery; or

(4) Of the return by the post office of an undelivered certified or registered letter.

(e) In all cases where an applicant is represented by an attorney, the attorney shall be recognized as fully controlling the application on behalf of the applicant and service on the attorney of any document relating to the application shall be considered to be service on the applicant. Where an applicant is represented by more than one attorney, service upon one of the attorneys shall be sufficient.

(f) To avoid hardship or gross injustice, the Director or Superintendent may waive technical deficiencies in applications or other submissions. Failure to file by the deadline does not constitute a technical deficiency.

§ 61.12 Appeals.

Appeals from or on behalf of tribal members or applicants who have been denied enrollment must be in writing and must be filed pursuant to Part 62 of this chapter. When the appeal is on behalf of more than one person, the name of each person must be listed in the appeal. A copy of Part 62 of this chapter shall be furnished with each notice of adverse action.

§ 61.13 Decision of the Assistant Secretary on appeals.

The decision of the Assistant Secretary on an appeal shall be final and conclusive and written notice of the decision shall be given the individual, parent or guardian having legal custody of a minor, or sponsor, as applicable. The name of any person whose appeal has been sustained will be added to the roll. Unless otherwise specified by law or in a tribal governing document, the determination of the Assistant Secretary shall only affect the individual's eligibility to share in the distribution of the judgment funds.

§ 61.14 Preparation, certification and approval of the roll.

(a) The staff officer shall prepare a minimum of five copies of the roll of those persons determined to be eligible for enrollment. The roll shall contain for each person a roll number, name, address, sex, date of birth, date of death, when applicable, and when required by law, degree of Indian blood, and, in the remarks column, when applicable, the basic roll number, date of the basic roll, name and relationship of ancestor on the basic roll through whom eligibility was established.

(b) A certificate shall be attached to the roll by the staff officer or Superintendent certifying that to the best of his/her knowledge and belief the roll contains only the names of those persons who were determined to meet the qualifications for enrollment.

(c) The Director shall approve the roll.

§ 61.15 Special instructions.

To facilitate the work of the Director or Superintendent, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this Part 61.

Hazel E. Elbert,

Acting Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-26671 Filed 11-7-85; 8:45 am]

BILLING CODE 4310-02-M

DEPARTMENT OF DEFENSE
Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS PITTSBURGH (SSN 720) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 29, 1985.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS PITTSBURGH (SSN 720) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the locations of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS PITTSBURGH (SSN 720) is a member of the SSN 668 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS PITTSBURGH (SSN 720).

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table One of § 706.2 is amended by adding the following vessel:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. Section 2(a)(i), Annex I
USS PITTSBURGH	SSN 720	3.5

2. Table Three of § 706.2 is amended by adding the following vessel:

Vessel	Number	Masthead light, arc of visibility; Rule 21(a)	Side lights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light distance forward of stern in meters; Rule 21(c)	Forward anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights relationship of aft light to forward light in meters; § 2(k), Annex I
USS PTTSBURGH	SSN 720			209°	4.2	6.1	3.4	1.7 below.

Date: October 29, 1985.

John Lehman,
Secretary of the Navy.

[FR Doc. 85-26747 Filed 11-7-85; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.
ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS SAN DIEGO (AFS 6) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a combat stores vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: 31 October 1985.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS SAN DIEGO (AFS 6) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a combat stores vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and

701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

Section 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel to the list of vessels therein to indicate the certifications issued by the Secretary of the Navy.

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light not less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS SAN DIEGO	AFS 6							X	97.5

Dated: October 31, 1985.

John Lehman,

Secretary of the Navy.

[FR Doc. 85-26746 Filed 11-7-85; 8:45 am]

BILLING CODE 3810-AE-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-9-FRL-2920-3]

Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations in Hawaii

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice takes final action to redesignate the Kahe Point, Oahu area to attainment for sulfur dioxide (SO_2) and to redesignate the Kahului, Maui area to attainment for SO_2 and total suspended particulates (TSP). These actions are in response to requests for redesignation by the Hawaii Department of Health under paragraph 107(d)(5) of the Clean Air Act. When today's action takes effect, the current ban on the construction of major stationary sources in the Kahe and Kahului areas will be lifted.

DATE: This action is effective December 9, 1985.

ADDRESS: Copies of the public comments received on EPA's January 22, 1985 notice of proposed rulemaking are available for public inspection during normal business hours at the EPA Region 9 office in San Francisco.

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 September 12, 1979 [44 FR 53081] EPA designated the area within a two kilometer radius of the Hawaiian Electric Company, Incorporated (HECO) power plant at Kahe Point, Oahu as nonattainment for sulfur dioxide. In the same notice, EPA designated the area within a two kilometer radius of the Maui Electric Company, Limited (MECO) power plant, a subsidiary of HECO, at Kahului, Maui as nonattainment for both SO_2 and TSP.

Under paragraph 107(d)(5) of the Clean Air Act a state may revise its attainment status designations and submit them to EPA for consideration and promulgation. On April 12, 1983 the Hawaii Department of Health requested that the Kahe Point nonattainment area be redesignated to attainment for SO_2. On May 16, 1983 the Hawaii Department of Health requested that the Kahului nonattainment area be redesignated to attainment for both SO_2 and TSP.

In general, eight consecutive quarters of violation-free air quality data plus evidence of an EPA approved control strategy are necessary in order for an area to be redesignated from nonattainment to attainment. However, an attainment designation can be made using only the most recent four quarters of ambient data if modeling is available showing enforceable emission reductions are responsible for the recent air quality improvement.

On January 22, 1985 [50 FR 2833], EPA proposed to approve Hawaii State's April 12, 1983 and May 16, 1983 redesignation requests after evaluating the requests for conformance with EPA redesignation policy. Please refer to the January 22 proposal notice, the Technical Support Documents (TSD) associated with the January 22 proposal notice, and the TSD addenda associated with today's notice for a more detailed description of the redesignation requests and EPA's evaluation of them.

Public Comments

Two comments were received in response to the January 22, 1985 proposal notice. Hawaiian Electric Company "strongly supports" the redesignations while the American Lung Association of Hawaii and the Sierra Club "do not oppose" the redesignations. The two commentors disagreed, however, on the need for EPA to review the redesignations for consistency with EPA's final stack height regulations which were published on July 8, 1985 [50 FR 27892]. This second concern is no longer an issue since EPA has reviewed the redesignations and has determined that they are consistent with the final stack height regulations. In addition, EPA has reviewed the available ambient air data for running average violations and has determined that violations have not occurred. EPA's analysis also indicates no violations of TSP or SO_2 would occur even under maximum operating and worst-case meteorological conditions with allowable stack height credit.

EPA Action

EPA has reviewed the redesignations requested by the Hawaii Department of Health and has determined that they should be approved. As indicated in the January 22, 1985 proposal notice, the redesignation of the Kahe Point nonattainment area to attainment for SO_2 is based on (a) more than one year

of violation-free, monitored ambient air data, (b) federally enforceable permit conditions requiring the use of 0.5 percent low sulfur fuel and taller stacks and (c) dispersion modeling at good engineering practice (GEP) adjusted stack height which demonstrates that local air quality improvement was obtained because of the federally enforceable permit conditions.

Also as indicated in the January 22, 1985 proposal notice, the redesignation of the Kahului nonattainment area to attainment for SO_2 and TSP is based on (a) more than two years of violation-free, monitored ambient air data and (b) construction of a new formula GEP stack in June 1982 which meets the requirements of the July 8, 1985 EPA stack height regulations. The construction of a new stack is a physical change which has the same impact as a federally enforceable state regulation. In addition, (c) dispersion modeling at GEP and full load shows no violations.

When today's redesignations take effect, the current ban on the construction of major stationary sources in the Kahe and Kahului areas will be lifted. In addition, today's action means the Part D Nonattainment Area requirements of the Clean Air Act will no longer apply to any area in the State of Hawaii. Instead, Part C, Prevention of Significant Deterioration requirements will apply in all areas of the State.

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 January 7, 1986. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

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

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: October 30, 1985.

Lee M. Thomas,
Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40 (40 CFR Part 81) is amended as follows:

Subpart C—Hawaii

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

Authority: 42 U.S.C. 7401–7642.

2. In § 81.312 the attainment status designation tables for TSP and SO_2 are revised to read as follows:

§ 81.312 Hawaii.

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
		Hawaii—TSP		
Hawaii Island			X [1]	
Rest of the State				X
		Hawaii—SO_2		
Whole State				X

[1] EPA designation replaces State designation.

* * * * *

[FR Doc. 85-26713 Filed 11-7-85; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 271

[OSW-FRL-2921-6]

South Carolina; Decision on Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Final Determination on South Carolina's Application for Final Authorization.

SUMMARY: South Carolina has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). EPA has reviewed South Carolina's application and has reached a final determination that South Carolina's Hazardous Waste Program satisfies all of the requirements necessary for Final Authorization. Thus, EPA is granting Final Authorization to the State to operate its program in lieu of the Federal program.

EFFECTIVE DATE: Final Authorization for South Carolina, for purposes of judicial review, shall be effective at 1:00 p.m. Eastern time on November 22, 1985. However, in accordance with § 271.20(e), this Notice constitutes the Agency's official decision to approve South Carolina for Final Authorization.

FOR FURTHER INFORMATION CONTACT: Otis Johnson Jr., Chief, Waste Planning Section, Residuals Management Branch, Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street N.E., Atlanta, Georgia 30365, (404) 257–3016.

SUPPLEMENTARY INFORMATION:

I. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs to operate in the State in lieu of the Federal program. To qualify for Final Authorization, a State's program must: (1) Be "equivalent" to the Federal program, (2) be consistent with the Federal program and other State programs, and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6226(b)). On July 23, 1984, South Carolina submitted a complete application to obtain Final Authorization to administer a RCRA program. On October 25, 1984, EPA published a tentative decision announcing its intent to grant South Carolina Final Authorization. Further background on the tentative decision appears at 49 FR 42959, October 25, 1984.

In the October 25 notice announcing the Agency's tentative determination, EPA announced the availability of the State's application for public review and comment and the date of a public hearing on the application. The public hearing was not held, since neither EPA nor the South Carolina Department of Health and Environmental Control received a significant show of interest in holding the hearing.

On March 5, 1985, the decision to grant final authorization to South Carolina was temporarily postponed. At that time, EPA decided to defer a final decision until July 1985 to allow the State a reasonable period of time to resolve identified issues.

Prior to EPA's review of the State's performance in July 1985, the South Carolina Hazardous Waste Management Act (1935 Act. No. 436) was amended to establish increased fees for disposal of hazardous waste. The amendments passed in June 1985 changed section 44–56–170 to raise the fee for land disposal of wastes generated within the State from $5.00 to $13.00 per ton. For land disposal of wastes generated outside the State, the fee was raised from $7.50 per ton to either $18.00 per ton or to the amount that would be charged for land disposal by the State in which the wastes were generated, whichever is higher.

EPA determined that this statutory change constituted a substantial program revision, and in accordance with 40 CFR 271.20(b), the Agency decided to solicit public comment. On September 13, 1985 (50 FR 37385), EPA published a second notice of tentative determination to approve the State. In that notice, EPA highlighted the question of whether the South Carolina Hazardous Waste Management Act Amendments rendered the State program inconsistent with the Federal program or approved State programs under RCRA.

The question to be settled before EPA granted final authorization was whether the South Carolina fee schedule rendered the State program inconsistent with the Federal program and other State programs. Under § 271.4(a) a State treatment, storage or disposal at facilities authorized to operate under the Federal or an approved State program . . . ".

In the notice of tentative determination, EPA stated that while higher fees for out-of-State wastes should not be encouraged, the Agency did not have any evidence to indicate that the new fees would unreasonably restrict, impede, or operate as a ban on the transportation of hazardous waste into the State. The only evidence before the Agency at that time were South Carolina's statements that the fee imposed constitutes a "relatively small percentage" of the actual cost of disposal and that, in the State's view, it would not unreasonably restrict or impede the movement of hazardous waste (50 FR 37386, September 13, 1985). The Agency solicited comment on whether the State law unreasonably restricts, impedes or operates as a ban on the importation of hazardous waste, under the consistency requirements of 40 CFR 271.4(a). EPA received written comments and also held a public hearing in Columbia, South Carolina.

II. Basis for EPA's Decision to Grant Final Authorization

The Agency today is making a final determination that the South Carolina fee schedule does not impose an unreasonable impediment or restriction or operate as a ban on the free movement of hazardous waste under 40 CFR 271.4. The fee schedule is not inconsistent with the Federal program or approved State programs under this regulation or under RCRA. This section explains the reasons for the Agency's decision on this matter. Because this was the only outstanding issue, the Agency is now able to grant final authorization to the State.

A. EPA's regulation

EPA adopted the present regulation at 40 CFR 271.4(a) on May 19, 1980 (see 45 FR 33395, 33465–66, May 19, 1980). The regulation states that any aspect which "unreasonably restricts, impedes or operates as a ban" is deemed inconsistent.

In the preamble discussing § 271.4(a), EPA explained the regulation as follows. The Agency stated that any aspect of the program which operates as a ban on the interstate movement of hazardous waste is automatically inconsistent. The Agency noted that this position was supported by a court decision, *City of Philadelphia v. New Jersey*, 437 U.S. 617 (1978), which held unconstitutional a statute banning transportation of certain wastes into the State for disposal because it violated the commerce clause of the Constitution. (This discussion is consistent with that in the preamble to the proposed regulation (44 FR 34259, June 14, 1979).)

EPA did not discuss what criteria it would apply in determining whether State programs unreasonably restrict or impede the free movement of hazardous waste. However, it is clear from the regulation that EPA intended "unreasonable restrictions or impediments" to render State programs inconsistent. The question of whether a State provision unreasonably restricts or impedes the free movement of hazardous waste did not arise in any final decision to grant RCRA final authorization until South Carolina's amended statute raised this issue.

B. The Agency's Tentative Decision on South Carolina Authorization

As noted above, EPA tentatively concluded that the South Carolina statute did not render the State program inconsistent under 40 CFR 271.4(a). In reaching this conclusion, the Agency considered all available facts. It appeared reasonably clear from the face of the statute that the fee schedule was not a ban and that it did not operate as a ban. The evidence before the Agency did not indicate that the fee schedule had significantly affected the flow of hazardous waste into the State. However, because the amended statute was a potentially significant change to the State program which might affect authorization under 40 CFR 271.4, the Agency solicited comment on whether the fee schedule unreasonably restricts or impedes the flow of hazardous waste into South Carolina.

C. Public Comment

Public comment, with one exception, supported EPA authorization of the State program. Several commenters did not address the question of the fee schedules but generally stated that South Carolina's RCRA program was supported by adequate legal authority and staffing and therefore deserved authorization. The only land disposal facility in South Carolina known to the Agency to accept out-of-State hazardous waste and to pay the fees at issue also generally supported authorization, but did not address the question rasied by the fee schedule.

Several other commenters who favored authorization argued that the fee schedule was reasonable and justified. They provided a variety of rationales including that the higher fees were appropriate: (1) To discourage land disposal as it is enviornmentally the least desireable form of disposal, (2) to raise money that might be expended to address released from land disposal units, (3) to discourage land disposal and thereby conserve the State's limited land disposal resources, and (4) to supplement State funds for monitoring compliance at land disposal facilities accepting out-of-State wastes.

The State of South Carolina commented that the one land disposal facility in South Carolina which accepts out-of-State wastes charges $90.00 per ton for disposal. First, the State noted that the new fee differential of $5.00 per ton for out-of-State wastes represents but a small percentage of this charge. The State believed that this small amount would not discourage out-of-State generators from using the facility. Second, the State noted that during the period of July to September of 1984 there were 16,848 tons of out-of-State waste disposed at the facility. During the same period in 1985, when the new fee schedule was in place, there were 26,352 tons of out-of-State waste disposed. The State cited this increase as factual proof that the fee schedule has not had any adverse impact on the amount of waste imported into the State. The State reported that fees had been collected at both the $18.00 rate and at higher rates corresponding to the fees of the States from which the wastes were shipped. Third, the State noted that a fee differential, including rates equivalent to those charged in the shipping State, had existed for several years and that there has been a continuing increase in the volume of wastes imported into the State.

The Hazardous Waste Treatment Council was alone in opposing authorization for South Carolina. The Council did not dispute that the volume of imported waste had increased despite the higher fees. Rather, they believed

that the fee schedule discriminates on its face against interstate commerce and therefore was an unconstitutional and unreasonable restriction on the free flow of waste. The Council argued that: (1) The disparity in fees rendered the program "inconsistent" under RCRA 3006(b) as it did not promote the essential uniformity among hazardous waste programs intended by Congress, (2) the disparity in favor of in-State wastes was unconstitutional and therefore was inconsistent under RCRA 3006(b) and an unreasonable restriction or impediment under § 271.4(a), and (3) discriminatory statutes will frustrate RCRA objectives for a national market for development of proper treatment and dispsoal practices.

The Council stated that in promulgating 40 CFR 271.4, EPA had adopted a constitutional test to determine what is an unreasonable restriction and impediment. Therefore, they argued that the unconstitutional statute violated § 271.4(a). They also argued that it would be too difficult to assess whether there is in fact a significant discrimination on a case-by-case basis.

EPA believes that these are the substantive comments relating to the fee schedule and the Agency's decision. These and other comments are addressed in this notice and in a separate comment and response document that is available from EPA Region IV (address listed at the front of this notice).

D. Application of § 271.4(a) to South Carolina's Fee Schedule

EPA carefully evaluated the above comments in determining whether the South Carolina fee schedule was an unreasonable restriction or impediment to the free movement of hazardous waste.

The Agency has determined that in applying § 271.4(a) to State laws and regualtions, EPA should look to whether the State provision in fact has or is likely to have a significant adverse effect on the follow of hazardous waste into or out of the State. Thus, the unreasonableness of the restriction or impediment under § 271.4(a) should be measured by the impact of likely impact on the actual flow of waste. In applying this test, EPA will look to all relevant factors. The Agency will primarily focus on any available evidence on the quantities of wastes that are imported and exported.

The Agency believes that this test is a reasonable interpretation of its regulation and does not conflict with section 3006 of RCRA. Section 271.4(a) does not by its terms prohibit any restrictions or impediments, only those that are unreasonable. Reasonable restrictions or impediments can logically include those that do not significantly decrease the flow of hazardous waste. Therefore, EPA does not agree that *any* disparity in treatment between in-State and out-of-State wastes is *per se* unreasonable. Contrary to the statement by the Hazardous Waste Treatment Council, the preamble adopting this regulation did not state that EPA was relying on the Constitutional test for impremissible restraints on interstate commerce as the basis for finding restrictions or impediments unreasonable. The Agency is not required to adopt the Constitutional test for impediments or restrictions in interpreting its own regulations, and declines to do so here.

EPA also believes that its interpretation of the regulation accords with RCRA. RCRA section 2006 requires EPA to approve State programs unless it finds they are: (1) Not equivalent, (2) not consistent, or (3) lacking adequate enforcement authority. To be equivalent, States must adopt a set of basic statutes and regulations that are equivalent to EPA's. In addition, States may adopt requirements which are more stringent or different than EPA's authority. More stringent requirements are expressly permitted by RCRA section 3009. These requirements may have some adverse effect on interstate commerce. Different requirements are permissible if they are not inconsistent with the Federal program and approved State programs. Authorized States have adopted many State requirements that are unlike the requirements of other States and which, in some cases, have an effect on the flow of wastes. The Agency does not believe that the mere existence of differences or disparities in treatment makes State programs inconsistent *per se*. Congress expected that States would not have identical programs and recognized the importance of allowing States to experiment with different requirements. Congress gave EPA the authority to interpret the term "consistent"; the Agency has interpreted the term in § 271.4 to prevent unreasonable restrictions or impediments in authorized programs. Nothing in RCRA section 3006(b) or any other section of RCRA requires the Agency to adopt the Constitutional test as the test for consistency or unreasonable restrictions or impediments.

The Agency does not believe that higher fees for out-of-State wastes or other discriminatory practices should be encouraged. EPA is concerned that such fees may discourage wastes from going to the most appropriate facility for treatment or disposal.

However, it appears that South Carolina's fee schedule does not have a significant adverse effect on the flow of hazardous waste into or out of the State. All available evidence supports this conclusion. The fact that the fee differential is small in most cases indicates that the out-of-State fee probably will not restrict a significant volume of waste. Moreover, the fact that the volume of out-of-State wastes increased significantly after the higher fees were imposed suggests that there is not a significant adverse impact on the flow of wastes. The fees clearly do not operate as a ban in this case. In addition, some fees were collected at the higher rate based on the fees of other States. Finally, the volume of wastes imported into the State has increased over the years despite a fee differential which included fees based on those in the State of origin. Although it is unknown how much more waste might have entered South Carolina if there were no fee differential, there is no information to suggest that a significant volume might be affected. The Agency disagrees that this test (which looks to the facts of each case) is too difficult to apply.

Several comments related to the reasons for the State's adoption of the fee schedule and one addressed the concern that discriminatory practices would frustrate RCRA objectives for a national market for proper treatment and disposal practices. EPA acknowledges that the State offered several reasons for the fee differential. However, the Agency believes that the reasons for the adoption of the fee or any purported benefits are not generally relevant to the question of reasonableness of the impediment or restriction. If a provision has little or no impact on the flow of wastes, EPA does not believe that the actual motives or benefits resulting from the provision should preclude authorization. EPA is also concerned that different provisions for in-State and out-of-State wastes may frustrate the best possible treatment and disposal of wastes. As noted above, RCRA intended that State programs be generally uniform for purposes of encouraging proper treatment and disposal and EPA has interpreted this consistency requirement to deny authorization where restrictions or impediments are unreasonable. It does not require EPA to deny authorization merely because in-State and out-of-State wastes are regulated somewhat differently by the State. In any event, there is no evidence that proper

treatment or disposal is adversely affected by this statute; the volume of wastes into South Carolina has increased.

In applying this facts and circumstances test, EPA is aware that circumstances may change over time. The Agency will therefore periodically reassess provisions which may unreasonably impede the flow of wastes, including this fee schedule of South Carolina. In addition, any provisions adopted by States seeking authorization and which impose or result in restrictions or impediments on the flow of wastes will be subjected to careful scrutiny. If an authorized State adopts restrictions or impediments that may affect the flow of hazardous wastes, EPA may find that such changes are significant revisions to the State's program and provide public notice and comment under § 271.21 on their potential impacts on interstate transportation of wastes. If the restrictions or impediments are found to be unreasonable, they would be grounds for withdrawal of the authorized program under § 271.22.

For the reasons discussed above, EPA has concluded that South Carolina's fee schedule is not an unreasonable impediment or restriction on the flow of waste into the State and that authorization is not precluded by § 271.4(a). Nevertheless, the Commissioner of the South Carolina Department of Health and Environmental Control has informed the Agency that he will recommend to the South Carolina Legislature that it repeal that aspect of the fee schedule which imposes higher fees based on rates charged by the State of origin. EPA supports this effort.

South Carolina is not authorized by the Federal government to operate the RCRA program on Indian lands and ths authority will remain with EPA.

Final authorization is hereby granted to South Carolina to operate its hazardous waste management program in lieu of the Federal program subject to the limitation on its authority by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984). South Carolina now has the responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the other aspects of the RCRA program. South Carolina also has primary enforcement authority, although EPA retains the right to conduct inspections and make information requests under section 3007 of RCRA and to take enforcement action under sections 3008, 3013, and 7003 of RCRA.

Prior to the Hazardous and Solid Waste Amendments (HSWA) amending RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of EPA. EPA's regulations no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit.

Now, however, under section 3006(g) of RCRA, 42 U.S.C. 6226(g), the new Federal requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions, including the issuance of full or partial permits, in authorized States until the State is granted authorization to do so.

As a result of HSWA, there will be a dual State-Federal regulatory program in South Carolina. To the extent the authorized State program is unaffected by the HSWA, the State program will operate in lieu of the Federal program. EPA will administer and enforce the portions of the HSWA in South Carolina until the State receives authorization to do so. Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the State is not yet authorized. Once the State is authorized to implement a HSWA requirement or prohibition, the State program in that area will operate in lieu of the Federal program. Until that time the State will assist EPA's implementation of the HSWA under a Cooperative Agreement.

Federal HSWA requirements that are more stringent than the State's program apply in South Carolina. Any State requirement that is more stringent than a Federal HSWA provision also remains in effect. (South Carolina is not being authorized now for any requirement implementing the HSWA.)

EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. Refer to 50 FR 2872-28755, July 15, 1985.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

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

List of Subjects in 40 CFR Part 271

Hazardous waste, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Soid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b), and EPA Delegation 8-7.

Dated: November 5, 1985.

Jack E. Ravan,

Regional Administrator.

[FR Doc. 85-26814 Filed 11-7-85; 8:45 am]

BILLING CODE 6560-50-M

Proposed Rules

Federal Register
Vol. 50, No. 217
Friday, November 8, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1007

Milk in the Georgia Marketing Area; Proposed Termination of Certain Provision of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Marketing Service, USDA.

SUMMARY: This notice invites written comments on a proposal to terminate (or suspend for 12 months) certain classification provisions of the Georgia milk order. The proposed action would remove the glass or all-metal container composition restriction in the Class II classification of formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers. Dairymen, Inc., the proponent of the proposed action, indicates that the termination order is needed for the cooperative to be competitive in marketing a new dietary product that is to be packaged in a hermetically sealed container other than glass or all-metal. The new product "Nutri-Treat" will compete with similar products that are packaged in hermetically sealed glass of all-metal containers. Such competing products are classified as Class II milk products under the current provisions of the order.

DATE: Comments are due on or before November 25, 1985.

ADDRESS: Comments (two copies) should be filed with the Dairy Division, Agricultural Marketing Service, Room 2968 South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: The Administrator of the 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.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the termination or, alternatively, a 12-month suspension of the following provision of the order regulating the handling of milk in the Georgia marketing area is being considered:

In § 1007.40(b)(4)(vi), the provision "glass or all-metal".

All persons who want to send written data, views, or arguments about the proposed termination (or suspension) should send two copies of them to the Dairy Division, Agricultural Marketing Service, Room 2968 South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 15 days after the publication of this notice in the **Federal Register.**

The comments that are reviewed will be made available for public inspection in the Dairy Division during normal business hours. (7 CFR 1.27(b)).

Statement of Consideration

The proposed termination (or suspension) would classify as Class II milk all skim milk and butterfat in formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed containers irrespective of the composition of the container. The order now limits the Class II classification of such products to those products that are packaged in hermetically sealed glass or all-metal containers.

The proposed termination (or a 12-month suspension) of this container composition limit in the Class II classification of dietary products was requested by Dairymen, Inc., (DI). The cooperative supplies a large portion of the market's fluid milk needs and operates an aseptically processed fluid milk products plant at which the cooperative intends to process a dietary product.

Dairymen, Inc., contends the termination of the provision "glass or all-metal" in the Class II milk classification of dietary products is needed in order for a dietary product that DI plans to package at its UHT plant at Savannah, Georgia, to compete for sales with similar products packaged in hermetically sealed glass or all-metal containers. The new dietary product is to be called "Nutri-Treat" and is intended for use by such outlets as nursing homes, hospitals and "Meals on Wheels." According to the cooperative, the primary competition will be with other dietary products that are packaged primarily in hermetically sealed all-metal containers. DI states that these dietary products are processed, packaged and distributed by such companies as Meade-Johnson, Ross Laboratories, Weyth Laboratories, Drackett Products Co., Gossner Foods and Doyle Pharmaceuticals. In most instances the competing products are not processed in fluid milk plants regulated under Federal milk orders. Therefore, comments are sought concerning whether the aforementioned provision should be terminated or suspended.

List of Subjects in 7 CFR Part 1007

Milk marketing orders, Milk, Dairy products.

The authority citation for Part 1007 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., November 5, 1985.

William T. Manley

Deputy Administrator, Marketing Program.

[FR Doc. 85-26751 Filed 11-7-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; the Filing of Occupational Preference Petitions

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: Currently, in the case of a third or sixth preference visa petition (except for an occupation listed in Schedule A), the filing date of the visa petition is construed to be the date the application for labor certification was accepted for processing by an office within the employment system of the Department of Labor (DOL). The filing date establishes the alien's priority date for visa issuance purposes. Under the proposed rule in the case of a third or sixth preference visa petition (except for an occuption listed on Schedule A), the filing date will be construed to be the date the request for a labor certification was accepted for processing within DOL's employment system, provided that the petition is filed with the Immigration and Naturalization Service (INS) within 30 days of the date the labor certification is approved. If the petition is not filed within 30 days of the date the labor certification is approved, the priority date will be the date the petition is properly filed with the appropriate office of the Immigration and Naturalization Service. If the petition is properly filed within the 30-day filing period, but must be returned for more information, the petitioner will be given an additional 30 days to supply the necessary data and refile the petition. If the petition is not refiled within 30 days, the subsequent filing date will become the new priority date.

DATE: Written comments will be considered if received on or before January 7, 1986.

ADDRESS: Please submit comments in duplicate to the Director, Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-3048

For Specific Information: Lloyd W. Sutherland, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3240

SUPPLEMENTARY INFORMATION: Under section 212(a)(14) of the Immigration and Nationality Act (the "Act"), 8 U.S.C. 1182(a)(14), certain aliens may not obtain an immigrant visa for entry into the United States to engage in permanent employment unless the Secretary of Labor has issued a labor certification stating that there are not sufficient workers who are able, willing, qualified, and available at the time of application for a visa and admission to the United States and at the place where the alien is to perform such skilled or unskilled labor, and that the employment of such aliens will not adversely affect the wages and working conditions of similarly employed workers in the United States.

There are three alien immigrant classifications which require a labor certification. These are the third and sixth preference and, under various circumstances, non-preference classification (203(a)(7) of the Act, 8 U.S.C. 1153). For third and sixth preference applicants, labor certification applications are filed by employers with a state employment service office unless the alien's occupation is a Schedule A occupation (precertified by the Secretary of Labor as in short supply in the United States). If a labor certification is issued or the beneficiary's occupation is precertified, the employer (prospective or current) submits an immigrant visa petition to a district office of the Immigration and Naturalization Service (INS). Section 203(c) of the Act (8 U.S.C. 1153(c)) provides that visas shall be issued under sections 203(a) (1) through (6) to eligible immigrants in the order in which a petition is filed on behalf of each such immigrant with the Attorney General as provided in section 204 of the Act. If a preference immigrant visa is immediately available when the petition is approved, the alien beneficiary is issued an immigrant visa with which to enter the United States for permanent residence or, under certain circumstances, is permitted to adjust status to that of a permanent resident while in the United States. If a preference immigrant visa number is not available at the time the petition is approved, the alien's name is instead placed on a waiting list. Petitions are then processed for permanent residence status by date filed. Thus the filing date has come to be known as the "priority date".

Originally the priority date was based strictly on the date the visa petition was filed with INS. This rule was changed, however, because for a number of years there were varying backlogs and processing times among the offices of DOL's employment service system. This meant that some alien beneficiaries received much later priority dates than other aliens even though their prospective or current employers had submitted fully documented requests for labor certifications on earlier dates. In order to make the method of assigning priority dates fairer, the Service established the rule that the filing date would be construed as the date a qualified employer with appropriate documentation first submitted an application or petition to an agency of government. In circumstances requiring an individual labor certification, this means the date the application for a labor certification is accepted into the DOL employment service system. When the alien beneficiary is entitled to a precertified or blanket labor certification, the priority date is the date the visa petition is filed with INS.

Congress has set a limitation on the number of immigrants who can enter the United States under the various preference categories. The current numerical limitation for third and sixth preference is 27,000 each, for a total of 54,000 per year. The non-preference category is allocated unused visa numbers from other preference categories. Because of heavy demand for visa numbers, visa numbers are unavailable for the non-preference classification. There is also high demand for visa numbers in the third and sixth preference categories. These numbers are issued in chronological order based upon priority date (the actual or constructed filing date of the visa petition as explained above). Currently, visas are being issued to third preference applicants with priority dates earlier than December 1, 1984 for most countries. For sixth preference applicants, the date is January 1, 1984.

Because of the unavailability of visa numbers, INS has noted that an increasing number of aliens work illegally in the United States while they wait for a visa number to become available. Under current rules in some cases, an employer who intends to petition for an alien holds the approved labor certification until the alien's priority date (that is, the constructive date based on filing with DOL) is reached. During this interim period, which could be as long as several years, the alien works without authority. When the alien's priority date is reached, the petitioner files the visa petition with the required labor certification attached. At that time, INS first learns that the alien beneficiary has been illegally employed in the United States for an extended period of time.

The proposed rule would eliminate this abuse by changing the method of establishing priority dates in the case of third and sixth preference petitions. The priority date would be the date the application for a labor certification was accepted by an office within the employment service system of the DOL provided a preference immigrant visa

petition was filed with INS within 30 days of "approval of the certification". If the visa petition is filed after the 30 days, the priority date would be the date the petition was actually filed with the appropriate INS office. If the petition must be returned to the petitioner for more information, an additional 30 days will be given to refile the petition. If the petition is not refiled within 30 days, the subsequent filing date will become the new priority date. This will also apply to blanket labor certificates which must be returned for additional information or documentation.

The effect would be that in order to obtain a priority date based on the date the application for a labor certification was accepted for processing by DOL, the alien beneficiary will have to be made known to INS. If the beneficiary was out of status or would go out of status before the priority date is reached, the Service would then have the option of taking appropriate enforcement action. The employer and alien employee who conceal unauthorized employment by delaying the filing of the visa petition would not thereby receive more favorable treatment than an alien who does not engage in unauthorized employment or one who in essence surrenders himself by having the employer file a petition with the Service at the time a certification is issued. The Service considered the alternative of returning to the original rule that the priority date be based in all cases on the date of filing with INS, but believes that since backlogs currently exist at some DOL offices the proposed rule is fairer.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule would not have a significant economic impact on a substantial number of small entities. This is not a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Alien, Petitions.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations to read as follows:

PART 204—PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT

1. The authority citation for Part 204 continues to read as follows:

Authority: (Secs. 103, 204 and 212 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1124 and 1182).

2. In § 204.1, paragraph (d)(2) would be revised to read as follows:

...

§ 204.1 Petition.

(d) * * *

(2) *Filing date.* In the case of a third or sixth preference petition (except for an occupation listed in Schedule A), the filing date of the petition within the meaning of section 203(c) of the Act shall be the date the application for labor certification was accepted for processing by an office within the employment service system of the Department of Labor, provided the petition is filed with a Service office within 30 days of the date of the approval of the labor certification. If the petition is filed after that time, the filing date shall be the date the petition is correctly filed with appropriate documentation at a Service office. In the case of a third or sixth preference petition for an occupation listed in Schedule A, the filing date of the petition shall be the date it was correctly filed with appropriate documentation at the Service office. If a petition must be returned to the petitioner for more information, an additional 30 calendar days will be allowed to refile the petition. If the petition is not refiled within 30 calendar days the subsequent filing date will become the new priority date. This policy applies to petitions supported by individual labor certifications and for occupations listed in Schedule A.

* * * * *

Dated: October 25, 1985.

Richard E. Norton,

Acting Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 85-26673 Filed 11-7-85; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 85-109]

Change in Disease Status of Chile Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations in 9 CFR Part 94 by adding Chile to the list of countries declared to be free of rinderpest and foot-and-mouth disease. Chile was not eligible to be on this list only because it was infected with foot-and-mouth disease. Data furnished to the Department establishes that foot-and-mouth disease has now been eradicated from Chile. This document also proposes to add Chile to the list of countries which are declared free of rinderpest and foot-and-mouth disease and from which the importation of meat and other animal products into the United States is subject to special restrictions. The effect of this action would be to allow the importation of cattle, sheep, other ruminants, or swine, or fresh, chilled, or frozen meats of such animals into the United States from Chile under certain restrictions.

DATE: Written comments must be received on or before December 9, 1985.

ADDRESSES: Written comments concerning this proposed rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85-109. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Allan A. Furr, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations), among other things, regulate the importation into the United States of specified animals and animal products in order to prevent the introduction of various diseases, including rinderpest and foot-and-mouth disease, into the United States.

Section 94.1(a)(1) of the regulations provides that rinderpest or foot-and-mouth disease exists in all countries of the world, except those countries listed in § 94.1(a)(2). This document proposes to add Chile to the list of countries in § 94.1(a)(2) declared to be free of rinderpest and foot-and-mouth disease.

Chile, which does not have rinderpest, has not had a case of foot-and-mouth disease for more than one year (since May 1984). It is the policy of Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture (VS, APHIS, USDA), to declare those countries free of foot-and-mouth disease where there has been no case of the disease reported for the previous one-year period. In accordance with this policy, and after

review of all pertinent information and documents submitted by the authorities of Chile, APHIS has concluded that Chile qualifies for listing in § 94.1(a)(2) of the regulations as a country declared to be free of rinderpest and foot-and-mouth disease.

This document also adds Chile to the list in § 94.11(a) of countries free of rinderpest and foot-and-mouth disease which are subject to special restrictions on the importation of their meat and other animal products into the United States. The regulations in § 94.11 provide that countries free of rinderpest and foot-and-mouth disease are subject to special restrictions on the importation of their meat and other animal products into the United States if they supplement their national meat supply by the importation of fresh, chilled, or frozen meat of ruminants or swine from countries that are designated in § 94.1(a) to be infected with rinderpest or foot-and-mouth disease; or have a common land border with countries designated as infected with rinderpest or foot-and-mouth disease; or import ruminants or swine from countries designated as infected with rinderpest or foot-and-mouth disease under conditions less restrictive than would be acceptable for importation into the United States. Chile has common land borders with Peru, Bolivia, and Argentina. These are all countries designated in § 94.1(a)(1) of the regulations as countries in which rinderpest or foot-and-mouth disease exists. In addition, Chile imports live animals from these countries under conditions less restrictive than would be acceptable for importations into the United States. Thus, even though this document proposes to designate Chile as free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in Chile may be commingled with the meat and other animal products produced from an infected country, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States. Therefore, it is proposed that meat of ruminants or swine and other animal products from Chile be imported into the United States only under the restrictions specified in § 94.11 of the regulations.

The effect of this proposed rule would be to allow cattle, sheep, and other ruminants, and swine from Chile, and the meat of such ruminants and swine to be imported into the United States under the applicable provisions of Part 94 of the regulations.

Executive Order and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this proposed rule, if adopted, would not have a significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal State, or local government agencies, or geographic regions; and would not have a significant effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

It is anticipated that, if this proposal is adopted, the cattle, sheep, other ruminants, swine, or fresh, chilled, or frozen meats of such animals offered for importation into the United States from Chile would be less than one percent of such animals and products imported into the United States.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock & livestock products, Meat & meat products, Milk, Poultry and poultry products, African Swine Fever, Exotic Newcastle Disease, Foot-and-Mouth Disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine vesicular disease.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, it is proposed to amend 9 CFR Part 94 as follows:

1. The authority citation for Part 94 would continue to read as set forth below:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306, 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 42 U.S.C. 4331, 4332, 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) would be amended by inserting "Chile," immediately after "Channel Islands,".

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) would be amended by inserting "Chile," immediately after "Channel Islands,".

Done at Washington, D.C., this 5th day of November 1985.

J.K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 85-26766 Filed 11-7-85; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-34,]

Airworthiness Directives: Pratt & Whitney (PW) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would supersede a telegraphic airworthiness directive (TAD) T85-17-51 and would require ongoing inspection of combustion chambers on certain PW JT8D engines. TAD T85-17-51 required inspection of certain part number (P/N) combustion chambers on JT8D-15 engines not being operated under an engine condition monitoring (ECM) program. After issuing TAD T85-17-51, the FAA determined that other engine models of the same type design could develop combustion chamber cracking and distress leading to a possible combustion case rupture which precipitated issuance of the TAD. Therefore, amended TAD T85-17-51 R1 was issued that applied to all JT8D-1 through -17AR model engines incorporating any P/N of combustion chamber except P/Ns 5001958-02 and 5001959-02. Further investigation has revealed that the compliance

requirements of TAD T85-17-51 R1 may not fully preclude combustion chamber failure.

The proposed AD would supersede the TAD and require initial and repetitive inspection of combustion chambers on engines operated with or without an ECM program. Unlike the TAD where inspection was not required when using ECM, this proposal would require inspection of all engines regardless of ECM; however, a higher threshold time before initial inspection would be applied to engines using ECM. Additionally, the proposed AD would limit future combustion chamber circumferential crack weld repair to a maximum single crack and a cumulative crack length.

DATES: Comments must be received on or before January 14, 1986.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 85-ANE-34, 12 New England Executive Park, Burlington, MA 01803; or delivered in duplicate to Room No. 311 at the above address.

Comments delivered must be marked: Docket No. 85-ANE-34.

Comments may be inspected at the New England Regional Office, Office of the Regional Counsel, Room No. 311, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

The applicable service bulletin (SB) may be obtained from Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457.

A copy of the SB is contained in Rules Docket No. 84-ANE-34, in the Office of the Regional Counsel, New England Region, and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jim Jones, Engine Certification Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7121.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and may be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposal rule. The proposed contained in this notice may be changed in the light of comments received.

Commenters are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, at the address given above, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 85-ANE-34". The postcard will be date/time stamped and returned to the commenter.

On August 28, 1985, TAD T85-17-51 was issued and made applicable to PW JT8D-15 turbofan engines incorporating P/N 778714 and 778715 combustion chambers, and which were not operated under the ECM program. The TAD required inspection of combustion chambers for cracking, deterioration and misalignment. The TAD was necessary to preclude uncontained combustion case rupture resulting from combustion chamber distress and subsequent impingement of hot combustion gases on the combustion case inner wall, which in one instance resulted in aircraft destruction.

Further investigation since the issuance of TAD T85-17-51 indicated that the condition was likely to exist or develop on other engines of the same type design incorporating certain additional P/N combustion chambers. There had been eight incidents of combustion chamber distress resulting in fracture of the outer combustion case, and in four cases liberation of combustion section hardware. Consequently, the TAD was amended on September 25, 1985, by TAD T85-17-51 R1 to include all JT8D-1 through-17AR models with any P/N combustion chambers except P/Ns 5001958-02 and 5001959-02. Limited service experience on the newer reduced emission combustion chambers, P/Ns 5001958-02 and 5001959-02, does not indicate a need to include those P/Ns in the AD at this time.

Additional data have been gathered and analyzed since issuance of the amended TAD. The FAA has concluded the following:

(a) ECM programs are not sufficient by themselves to preclude significant combustion chamber deterioration.

(b) The rate of deterioration of combustion chambers is dependent on a number of factors such as:

(1) The modification standard of the chamber.

(2) The age of the chamber.

(3) The type and extent of repairs on a chamber.

(4) The environment that the chamber is operated in which is a function of the engine model, aircraft type and flight profile.

(c) The radiographic inspection techniques referenced in the TAD as an approved alternate means of compliance have proven to be ineffective.

(d) Radiographic inspection methods in general for this application are highly sensitive to the operator's experience level and technique.

As a result of the addition data a compliance schedule was established to preclude combustion chambers cracking and distress leading to possible outer combustion case rupture. Since this condition is likely to exist or develop in engines of the same type design, the proposed AD would supersede TAD T85-17-51 R1 and be made applicable to all JT8D-1 through-17AR model engines incorporationg any P/N of combustion and chambers except P/Ns 5001958-02 and 5001959-02. The proposed AD would be applicable to engines being operated with or without an ECM program. Experience has shown that certain minimum criteria must be applied to ECM programs to ensure maximum effectiveness. These criteria are defined in the proposed AD.

This AD requires inspection of combustion chambers in accordance with PW SB 5639. The inspection may be conducted by either radioisotope, borescope, or removing the outer combustion case and visually inspectiong, as described in PW SB 5639. Procedures for other radioisotope inspection of combustion chambers in assembled engines which have been approved by the manager, Engine Certification Office, New England Region, will be considered equivalent means of radioisotope inspection. The radiographic procedures that were referenced in the TAD are not considered equivalent means for this AD. Due to the sensitivity of radioisotope inspection to the operators' procedure and experience level, extensions to the repetitive inspection intervals for radioisotope inspection will be granted by the Manager, Engine Certification Office, New England Region, through an FAA maintenance

inspector, to operators who can demonstrate inspection accuracy commensurate with the amount of extension requested.

The AD would not permit combustion chamber weld repair in any one liner of individual circumferential cracks greater than 3 inches, or cumulative circumferential cracking greater than 4 inches, or cumulative circumferential cracking between 3 and 4 inches with less than 3 inches separation between cracks.

Conclusion

The FAA has determined that this proposed regulation involves 5,750 PW JT8D domestic engines at an approximate first year cost of $56.7 million and an annual cost of $1.5 million thereafter. It is also determined that few, if any small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only operators using aircraft in which JT8D engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (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) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtaind by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 39 of the Federal Aviation Regulations (FAR) 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 11.85.

2. By adding the following new AD:

Pratt & Whitney:

Applies to Pratt & Whitney (PE) JT8D-1, -1A, -1B, -7, -7A, -7B, -9, -9A, -11, -15, -15A, -17, -17A, -17R, and -17AR turbofan engines.

Compliance is required as indicated unless already accomplished.

To prevent outer combustion case rupture due to cracking and distress of combustion chambers and subsequent impingement of combustion gases on the case inner wall, inspect, and remove and repair as necessary, any P/N combustion chambers, except P/Ns 5001958-02 and 5001959-02, in accordance with PWA SB 5639 or FAA approved equivalent means per the following schedule:

(a) All combustion chambers, regardless of their class, must be inspected initially within the next 1,000 hours or 1,000 cycles time in service (TIS), whichever occurs first; or in accordance with their respective threshold requirements of paragraph (b) or (c) below, whichever occurs later.

(b) On engines being operated under an ECM program, inspect the combustion chambers in accordance with the following intervals:

(1) Class IA chambers on or before 11,000 hours or 9,000 cycles time since new (TSN) or time since liner replacement (TSLR) whichever occurs first.

(2) Class IB chambers on or before 9,000 hours or 7,500 cycles TSN or TSLR, whichever occurs first.

(3) Class IIA chambers on or before 8,500 hours or 6,000 cycles time since repair (TSR), whichever occurs first.

(4) Class IIB chambers on or before 7,000 hours or 5,000 cycles TSR, whichever occurs first.

(5) Class III chambers on or before 4,500 hours or 3,000 cycles TSR, whichever occurs first.

(6) Thereafter, chambers must be reinspected at intervals as specified in the acceptance criteria paragraph (d) below.

(c) On engines not being operated under an ECM program, inspect the combustion chambers in accordance with the following intervals:

(1) Class IA chambers on or before 9,000 hours or 6,500 cycles TSN or TSLR, whichever occurs first.

(2) Class IB chambers on or before 7,000 hours or 5,000 cycles TSN or TSLR, whichever occurs first.

(3) Class IIA chambers on or before 6,500 hours or 5,000 cycles TSR, whichever occurs first.

(4) Class IIB chambers on or before 5,000 hours or 4,000 cycles TSR, whichever occurs first.

(5) Class III chambers on or before 3,500 hours or 2,000 cycles TSR, whichever occurs first.

(6) Thereafter, chambers must be reinspected at intervals as specified in the acceptance criteria paragraph (d) below.

(d) Reinspect combustion chambers previously inspected per paragraph (a), (b), or (c) above in accordance with the following intervals:

(1) If the combustion chamber was inspected by borescope or by removing the outer combustion case and visually inspecting, reinspect as follows:

(i) Any class chamber except Class III, with 3 inches or less cumulative circumferential cracking in any one liner, reinspect within the next 3,000 hours or 2,000 cycles TIS, whichever occurs first.

(ii) Class III chambers with 3 inches or less cumulative circumferential cracking in any one liner, reinspect within the next 2,000 hours or 1,500 cycles TIS, whichever occurs first.

(iii) Any class chamber with greater than 3 inches but less than or equal to 6 inches cumulative circumferential cracking in any one liner, reinspect within the next 1,500 hours or 1,000 cycles TIS, whichever occurs first.

(iv) Any class chamber with greater than 6 inches but less than or equal to 8 inches cumulative circumferential cracking in any one liner, reinspect within the next 250 hours or 200 cycles TIS, whichever occurs first.

(v) Any class chamber with greater than 8 inches cumulative circumferential cracking in any one liner, remove from service prior to further flight.

(vi) Any class chamber with axial misalignment of adjacent cross-over tubes from 0.150 inch to 0.250 inch, reinspect within the next 50 hours or 50 cycles TIS, whichever occurs first.

(vii) Any class chamber with axial misalignment of adjacent cross-over tubes greater than 0.250 inch, remove from service prior to further flight.

(2) If the combustion chamber was inspected using the radioisotope procedure, reinspect as follows:

(i) Any class chamber with indicated 2 inches or less cumulative circumferential cracking in any one liner, reinspect with the next 1,500 hours or 1,000 cycles TIS, whichever occurs first.

(ii) Any class chamber with indicated greater than 2 inches but less than or equal to 3 inches cumulative circumferential cracking in any one liner, reinspect with the next 250 hours or 200 cycles TIS, whichever occurs first.

(iii) Any class chamber with indicated greater than 3 inches cumulative circumferential cracking in any one liner, remove from service prior to further flight.

(iv) Any class chamber with axial misalignment of adjacent cross-over tubes from 0.150 inch to 0.250 inch, reinspect within the next 50 hours or 50 cycles TIS, whichever occurs first.

(v) Any class chamber with axial misalignment of adjacent cross-over tubes greater than 0.250 inch, remove from service prior to further flight.

(e) Combustion chambers removed from service may not be weld repaired if any of the following crack indications are present in any one liner:

(1) Individual circumferential cracks greater than 3 inches.

(2) Cumulative circumferential cracking greater than 4 inches.

(3) Cumulative circumferential cracking greater than 3 inches but less than or equal to 4 inches and with less than 3 inches circumferential separation between individual cracks.

Notes:

(1) Classification of combustion chambers must be supported by repair documentation. For the purposes of this AD the combustion chamber classifications are defined as follows:

Class IA—First run chambers or non first run chambers which have had at least the

numbers 2 through 6 liners replaced as described in PW SB 5639 with new materials and do not have any weld repairs on those liner segments. Class IA chambers have at least the numbers 2 through 5 liners coated internally with Magnesium Zirconate heat resistant coating.

Class IB—Same as Class IA except without the Magnsium Zirconate heat resistant coating.

Class IIA—Non first run chambers incorporating either SB 5292, or SB 5190, or an existing 2 to 3 liner seam with a fusion weld overlay, or a new 2 to 3 liner seam weld without a fusion weld overlay; and with either a patch repair, or repair by liner replacement less than that of Class IA, or circumferential weld repaired cracks of 3 inches or less. Class IIA chambers have at least the numbers 2 through 5 liners coated internally with Magnesium Zirconate heat resistant coating.

Class IIB—Same as Class IIA except without the Magnesium Zirconate heat resistant coating.

Classs III—All chambers with liner repairs that are not documented as Classes IA, IB, IIA, or IIB, and chambers specifically including individual circumferential weld repaired cracks greater than 3 inches.

(2) For the purpose of this AD an ECM program is defined as PW ECM–I or ECM–II or FAA approved equivalent and including the following criteria:

(a) At least one, but not to exceed three, stabilized data points obtained per engine per day with no lapse in data of more than two operating days.

(b) Trending data review conducted on a daily basis by a qualified analyst.

(c) Corrective action on ECM deviations taken within 72 hours.

(d) A minimum of 30 stabilized data points is needed to establish an adequate trend base.

(3) The radiographic inspection technique referenced in TAD T85–17–51 R1 as an approved alternate means of compliance, is not considered an equivalent means of compliance with this AD.

(4) Combustion chambers which are removed from service prematurely, inspected in accordance with this AD, and that do not require repair, may be returned to service to continue their run to the appropriate initial inspection threshold or the applicable repetitive inspection interval whichever is greater.

(5) Magnesium Zirconate heat resistant coating is applied in accordance with the JT8D Restructured Engine Manual P/N 481762, Chapter 72–41–14, Repair Number 28. To meet the requirement for Magnesium Zirconate in a given combustion chamber classification the coating must have been completely renewed at that repair rather than locally patched.

(6) PWA All Operators Wire Number JT8D/72–41/PSE: JKS: 5–8–23–1, dated August 23, 1985, and Flight Operations Engineering Report Number RFT5–8–30–1, dated August 30, 1985, contains further information relevant to combustion chamber distress and the symptoms which manifest themselves as a result of excessive combustion chamber cracking and misalignment.

Aircraft may be ferried in accordance with the provisions of FARs 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request of an owner or operator, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

The FAA will request the permission of the Federal Register to incorporate by reference the manufacturer's SB identified and described in this document.

This AD supersedes TAD T85–17–51 R1.

Issued in Burlington, Massachusetts, on October 31, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85–26721 Filed 11–7–85; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 85–AEA–2]

Proposed Alteration of Control Zone; Fort Eustis, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to alter the published description at Fort Eustis, VA, to reflect minor adjustments to the parameters of the control zone. The intended effect of this action is to ensure segregation of aircraft using a new NDB Runway 14 instrument approach procedures (NDB RWY 14 and Copter NDB 136°) in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before December 9, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Joseph Kelley, Acting Manager, Airspace and Procedures Branch, AEA–530, Federal Aviation Administration, Docket 85–AEA–2, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace and Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917–1228.

FOR FURTHER INFORMATION CONTACT: Joseph Kelley, Airspace and Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917–1228.

SUPPLEMENTARY INFORMATION: The development of these procedures requires that the FAA alter the control zone to insure that the plrocedure will be contained within controlled airspace. The minimum descent altitudes for these procedures have been established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in ordr to comply with applicable visual flight rules.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AEA–2." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contract with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the control zone at Fort Eustis, VA, to ensure segregation of aircraft using a new NDB Runway 14 instrument approach procedures (NDB RWY 14 and Copter NDB 136°) in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 3, 1984.

The FAA has determined that this amendment 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

Control zones, Aviation safety.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Fort Eustis, VA [REVISED]

That airspace within a 5-mile radius of Felker AAF, Fort Eustis, VA (lat. 37°07'45"N., long. 76°36'45"W.), and within 3 miles each side of the 316° bearing from the Felker NDB, extending from the 5-mile radius zone to 8.5 miles northwest of the NDB, excluding the portion that coincides with the Newport News, VA control zone. This control zone is effective during specific times established in advance by Notice to Airmen. The effective dates and times will thereafter be published continuously in the Airport/Facility Directory.

Issued in Jamaica, New York, on October 2, 1985.

James E. Haight,

Acting Director, Eastern Region.

[FR Doc. 85-26719 Filed 11-7-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AEA-4]

Proposed Alteration of Transition Area; Ocean City, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to alter the transition area at Ocean City, MD. A new LDA Runway 14 instrument approach procedure has been developed to the Ocean City, MD, Airport. The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

DATES: Comments must be received on or before December 9, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Joseph Kelley, Acting Manger, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Docket 85-AEA-4, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

FOR FURTHER INFORMATION CONTACT: Joseph Kelley, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION: The development of a new LDA Runway 14 instrument approach procedure requires that the FAA alter the designated airspace to ensure that the procedure will be contained within controlled airspace. The additional airspace designated will be approximately a 6 mile expansion to the northwest of the existing transition area. The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace. Aeronautical maps and charts will reflect the defined areas which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AEA-4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing

each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Ocean City, MD, to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at Ocean City, MD, Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 3, 1984.

The FAA has determined that this amendment 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.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Ocean City, MD [Revised]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the Ocean City, MD, Airport (lat. 38°18'35" N., long. 75°07'09" W.) excluding that portion outside the continental United States; within 2 miles each side of the Salisbury, MD VORTAC 096° radial, extending from the five mile radius area to 14 miles east of the VORTAC and within 4 miles each side of the Ocean City localizer north course extending from the five mile radius area to 11.5 miles northwest of the localizer.

Issued in Jamaica, New York, on October 16, 1985.

Timothy L. Hartnett,

Acting Director, Eastern Region.

[FR Doc. 85-26716 Filed 11-7-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AEA-9]

Proposed Designation of Transition Area; Brookneal, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to designate a transition area at Brookneal, VA. A new VOR/DME-A instrument approach procedure has been developed to the Brookneal/Campbell Co., VA, Airport. The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

DATE: Comments must be received on or before December 9, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Joseph Kelley, Acting Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Docket 85-AEA-9, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

FOR FURTHER INFORMATION CONTACT: Joseph Kelley, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228..

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AEA-9." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11340. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No.

11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Brookneal, VA, to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at Brookneal/Campbell Co., VA, Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 3, 1984.

The FAA has determined that this amendment 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.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Brookneal, VA [NEW]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the Brookneal/Campbell Co., VA, Airport (lat. 37°08'30"N., long. 79°00'59"W.); and within two miles each side of the Lynchburg VORTAC 122° radial, extending from the five mile radius area to six miles northwest of the airport.

Issued in Jamaica, New York, on October 2, 1985.

James E. Haight,

Acting Director, Eastern Region.

[FR Doc. 85–26717 Filed 11–7–85; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 85–AEA–8]

Proposed Designation of Transition Area, Moneta, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposed to designate a transition area at Moneta, VA. A new VOR/DME Runway 23 instrument approach procedure has been developed to the Smith Mountain Lake Airport. The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

DATE: Comments must be received on or before December 9, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Joseph Kelley, Acting Manager, Airspace and Procedures Branch, AEA–530, Federal Aviation Administration, Docket 85–AEA–8, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace and Procedures Branch, AEA–530, Air Traffic Divisions, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917–1228.

FOR FURTHER INFORMATION CONTACT: Joseph Kelley, Airspace and Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917–1228.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AEA–8." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA–7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Moneta, VA, to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at Smith Mountain Lake Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 3, 1984.

The FAA has determined that this amendment 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.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Moneta, VA [NEW]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the Smith Mountain Lake Airport (lat. 37°06'28"N., long. 79°35'34"W.); and within 1.5 miles each side of the Lynchburg VORTAC 242° radial, extending from the five mile radius area to seven miles northeast of the airport.

Issued in Jamaica, New York, on October 2, 1985.

James E. Haight,

Acting Director, Eastern Region.

[FR Doc. 85-26718 Filed 11-7-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AEA-10]

Proposed Designation of Transition Area; Quinton, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to designate a transition area at Quinton, VA. A new VOR-A instrument approach procedure has been developed to the New Kent, Quinton, VA, Airport. The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

DATE: Comments must be received on or before December 9, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Joseph Kelley, Acting Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Docket 84-AEA-10, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

FOR FURTHER INFORMATION CONTACT: Joseph Kelley, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-AEA-10." The postcard will be data/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules and Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed ona mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Quinton, VA, to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at New Kent, Quinton, VA, Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 3, 1984.

The FAA has determined that this amendment 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.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Quinton, VA [NEW]

That airspace extending upward from 700 feet above the surface within a five statute mile radius of the New Kent, Quinton, VA Airport (lat. 37°33'00"N., long. 77°08'00"W.), excluding that portion which overlaps the Richmond, VA, transition area.

Issued in Jamaica, New York, on October 2, 1985.

James E. Haight,

Acting Director, Eastern Region.

[FR Doc. 85-26720 Filed 11-7-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AEA-5]

Proposed Designation of Transition Area; Sutton, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a transition area at Sutton, WV. A new NDB Runway 20 instrument approach procedure has been developed to the Braxton Co. WV., Airport. The transition area is to provide protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

DATE: Comments must be received on or before December 9, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Joseph Kelley, Acting Manager, Airspace and Procedures Branch, AEA-530, Federal Aviation Administration, Docket 85-AEA-5, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

The official dockets may be examined in the Office of Regional Counsel, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

FOR FURTHER INFORMATION CONTACT: Joseph Kelley, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Telephone: (718) 917-1228.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should indentify 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-AEA-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in the notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of Regional Counsel, AEA-7, Federal Aviation Administration, Fitzgerald Federal Building (formerly Federal Building), John F. Kennedy International Airport, Jamaica, New York 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Sutton, WV to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at Braxton Co. WV, Airport. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7460.6 dated January 3, 1984.

The FAA has determined that this amendment 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.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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; 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:

Sutton, WV [NEW]

That airspace extending upward from 700 feet above the surface within an eight statute mile radius of the Braxton Co. WV, Airport (lat. 38°41'00" N., long. 80°39'02" W.).

Issued in Jamaica, New York, on October 2, 1985.

James E. Haight,

Acting Director, Eastern Region.

[FR Doc. 85-26722 Filed 11-7-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 842 3248]

Wyoming State Board of Registration in Podiatry; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require the Wyoming State Board of Registration in Podiatry ("Board"), among other things, to cease restricting or discouraging podiatrists from truthfully advertising their goods and services by: (1) Adopting rules or policies prohibiting such advertising; (2) Suspending or revoking podiatrists' licenses as a result of such advertising; or (3) Declaring such advertising illegal or unethical. Under the terms of the proposed order, the Board would be allowed to prohibit and enforce restrictions that ban false or misleading ads or to seek legislation related to the practiced of podiatry.

DATE: Comments must be received on or before January 7, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Dean Graybill, FTC/H-272, Washington, DC 20580, (202) 523-3914.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Podiatrists, Trade practices.

Agreement Containing Consent Order to Cease and Desist

In the Matter of Wyoming State Board of Registration in Podiatry; File No. 842 3248.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the Wyoming State Board of Registration in Podiatry and it now appearing that the Wyoming State Board of Registration in Podiatry, hereinafter sometimes referred to as Proposed Respondent, is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between the Wyoming State Board of Registration in Podiatry by its duly authorized officer, and its attorney, and counsel for the Federal Trade Commission as follows:

1. Proposed Respondent is organized, exists and transacts business under the laws of the State of Wyoming. The Board's principal office and place of business is located at the office of Curtis Deming, D.P.M., its Secretary-Treasurer, at 50 East Loucks, Suite 202, Sheridan, Wyoming 82801.

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

3. Proposed Respondent waives:

(a) Any further procedural steps;

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

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

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

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

5. This agreement is for settlement purposes only and does not constitute an admission by Proposed Respondent that the law has been violated as alleged in the draft of the attached complaint.

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

7. Proposed Respondent has read the proposed complaint and order. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed Respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purposes of this Order, the following definitions shall apply:

A. "Board" shall mean the Wyoming State Board of Registration in Podiatry, its members, officers, agents, employees, successors and assigns.

B. "Disciplinary action" shall mean:

1. The refusal to grant, or the restriction, revocation or suspension of, a license to practice podiatry in Wyoming; the refusal to admit a person to examination for a license to practice podiatry; the issuance of a formal or

informal warning, reprimand, censure, or cease and desist order against any person or organization; or the imposition of a fine, probation, or other penalty or condition; or

2. The initiation of an administrative, criminal, or civil court proceeding against any person or organization.

I.

It is ordered that the Board, directly or indirectly, or through any device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Prohibiting, restricting, impeding, or discouraging any person from advertising or publishing the prices, terms, conditions of sale, or other information concerning any podiatric service or product offered for sale or made available by any person or organization that may lawfully offer the service or product. Such actions include, but are not limited to:

1. Adopting or maintaining any rule, regulation, policy, or course of conduct that has the purpose or effect of prohibiting, restricting, or discouraging any person from advertising information about podiatric goods and services;

2. Taking or threatening to take any disciplinary action against any person or organization for advertising information about podiatric goods and services;

3. Declaring it to be an illegal, unethical, unprofessional, or otherwise improper practice for any person or organization to advertise information about podiatric goods and services; and

B. Inducing, urging, encouraging or assisting any podiatrist or any podiatric association, group of podiatrists, hospital, insurance carrier or any other non-governmental organization to take any of the actions prohibited by this part.

Provided that, nothing contained in this part shall prohibit the Board from formulating, adopting, disseminating and enforcing reasonable rules or taking disciplinary or other action to prohibit the use in advertising of statements that the Board reasonably believes are "untruthful or improbable" within the meaning of Wyo. Stat. Section 33-9-110(a)(iii);

Provided further that, this Order shall not be construed to prevent the Board from petitioning for or seeking legislation concerning the practice of podiatry.

II.

It is further ordered that the Board shall:

A. Distribute by first-class mail a copy of the announcement attached hereto as Appendix A and a copy of this Order:

1. Within thirty (30) days after the date this Order becomes final, to each person licensed to practice podiatry in Wyoming on the date this Order becomes final and to each person who has on such date a pending application for a license; and

2. Within thirty (30) days after a person applies for a license to practice podiatry in Wyoming, for a period of five (5) years after the date this Order becomes final, to each such person;

B. For a period of five (5) years after this Order becomes final, maintain and upon request make available to the Federal Trade Commission for inspection and copying, copies of all records relating to advertising, including but not limited to, written communications and any summaries of oral communications to or from the Board regarding the offering, publishing or advertising of information about podiatric services;

C. Notify the Federal Trade Commission at least thirty (30) days in advance if possible, or otherwise as soon as possible, of any change in the Board's authority to regulate the practice of podiatry in Wyoming that may affect compliance obligations arising out of this Order, such as the complete or partial elimination of that authority, the complete or partial assumption of that authority by another governmental entity, or the dissolution of the Board;

D. Within ninety (90) days after this Order becomes final, remove from its Principles of Professional Conduct, Code of Ethics and any other policy statement or guideline, any provision, interpretation or statement that is inconsistent with Part I of this Order;

E. Within one hundred twenty (120) days after this Order becomes final, submit to the Federal Trade Commission a report, in writing, setting forth in detail the manner and form in which the Board has complied with this Order.

Appendix A

[Date]

Announcement

As you may be aware, the Wyoming State Board of Registration in Podiatry has entered into a consent agreement with the Federal Trade Commission that became final on [date]. The order issued pursuant to the consent agreement provides that the Board may not prohibit podiatrists from advertising their services in a truthful or probable manner. The Board may not (1) adopt or maintain rules, regulations, or policies that prohibit truthful, probable advertising with respect to the sale of podiatric goods, or services, (2) take disciplinary action (such as the suspension or revocation of a certificate of license) or threaten disciplinary action against any person or organization so advertising or (3) declare it to be illegal or unethical for persons to so advertise. The Board is also prohibited from encouraging any podiatrist or any professional group or association to take actions that the order prohibits the Board from taking. The order does not affect the Board's authority to prohibit and discipline licensees for advertising that is untruthful or impossible.

For more specific information, you should refer to the FTC order itself. A copy of the order is enclosed. Further information may be obtained from the FTC by calling Jack L. Young at (202) 523-3596.

[Title]
Wyoming State Board of Registration in Podiatry.

Wyoming State Board of Registration in Podiatry

[File No. 842-3248]

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the Wyoming State Board of Registration in Podiatry (the "Board").

The proposed consent order has been placed on the public record for sixty (60) days to allow interested persons to comment. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Description of the Complaint

A complaint prepared for issuance by the Commission along with the proposed order alleges that:

The Board is subject to the Commission's jurisdiction pursuant to section 5 of the Federal Trade Commission Act.

The Board has acted as a combination or conspiracy of its members or combined or conspired with others to restrain unreasonably competition among podiatrists in Wyoming by adopting and enforcing Principles of Professional Conduct and a Code of Ethics prohibiting the dissemination of

truthful, nondeceptive information about podiatric goods and services. These activities constitute unfair methods of competition and unfair acts or practices in violation of section 5 of the Federal Trade Commission Act.

The Board is organized and exists under the laws of the State of Wyoming. Membership on the Board is limited to podiatrists who by law must have practiced podiatry before becoming a Board member and must continue to be engaged in the practice of podiatry while serving their membership terms. Except to the extent that competition is restrained as alleged in the complaint, podiatrists compete with one another and the Board's members compete with the podiatrists they regulate.

The Board is the sole licensing authority for podiatrists in Wyoming. Under state law the Board is responsible for establishing standards governing the examination and licensing of podiatrists in Wyoming. It may adopt rules and regulations necessary to govern the administration of licensure examinations. The Board may also revoke or refuse to renew the license of any podiatrist who commits certain enumerated offenses, which include use of "untruthful or improbable statements" in advertisements. State law does not authorize the Board to adopt rules other than those necessary for licensure, nor does it authorize the Board to restrain competition through restrictions on truthful, nondeceptive advertising. Consequently, the Board's anticompetitive policies exceed its statutory authority to license and discipline podiatrists.

In furtherance of the combination or conspiracy, and in direct violation of state policy, the Board has adopted a policy prohibiting the dissemination of all information beyond such information as normally appears in telephone and professional directories and banning the use of most media.

The Board has intimidated and coerced or attempted to intimidate and coerce individual podiatrists to abandon their efforts to advertise the availability of podiatric services and coupons for free services. The Board has also directed competing podiatrists to conspire for the purpose of establishing an agreement on the extent of advertising the competitors would permit in their market. The Board has continued its course of conduct although it has known since at least 1982 that the restrictions contained in its Principles of Professional Conduct and Code of Ethics violated the law.

As a result of the Board's restraints on advertising, consumers have been deprived of the benefits of vigorous competition and of truthful information about podiatric services. Podiatrists have been prevented from competing on the basis of making this information available to consumers through advertising.

Description of the Proposed Consent Order

The proposed order would require the Board to cease and desist from prohibiting, restricting, impeding or discouraging any person from advertising the prices, terms, conditions of sale, or other information concerning any podiatric service or product offered for sale or made available by any person or organization lawfully offering the service or product. Thus, the Board would have to repeal its prohibitions on advertising truthful, nondeceptive products and services, and would have to refrain from adopting any other rule or policy that would prohibit or discourage such advertising. The order would further prohibit the Board from inducing, urging, encouraging or assisting others to take any of the actions prohibited by the order.

The order provides, however, that the Board may adopt and enforce reasonable rules and take disciplinary action to prohibit advertising that the Board reasonably believes is "untruthful or improbable" within the meaning of Wyoming State Law. The order also provides that the Board is entitled to petition for legislation concerning the practice of podiatry.

The proposed order would require that the Board distribute a copy of the order and an announcement notifying all licensees, as well as all persons with applications pending, of the existence and terms of the consent agreement within thirty (30) days after the order becomes final. The Board would be required to send the same notice to each person who applied for a license for a period of five (5) years thereafter. To ensure that the proposed order is obeyed, the Board would be required within one hundred and twenty (120) days after the order becomes final to file a written report with the Commission setting forth the manner and form of its compliance. The Board would also be required, for a period of five (5) years, to make its records available to the Commission, and to notify the Commission within thirty (30) days of any change in the Board's authority to regulate the practice of podiatry that might affect its ability to comply with the order.

The purpose of this analysis is to facilitate public comment on the proposed order or to modify their terms in any way.

Emily H. Rock,

Secretary.

[FR Doc. 85-26737 Filed 11-7-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF STATE

22 CFR Parts 60, 61, 62, 63, 64 and 65

[SD-193]

South Africa and Fair Labor Standards

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: Executive Order 12532 of September 9, 1985 (50 FR 36861) provides that no department or agency of the United States may intercede after December 31, 1985 with any foreign government regarding the export marketing activities of certain U.S. firms operating in South Africa unless they adhere to the fair labor principles stated in the Executive Order. It is the purpose of this proposed rule to implement the fair labor provisions of executive Order 12532.

DATE: Comments should be received no later than December 9, 1985.

ADDRESS: Comments should be sent to Mr. Edward Cummings, Office of the Legal Adviser, Room 6420, Department of State, 2201 C St., N.W., Washington, D.C. 20520. All comments received will be available for public inspection in the Reading Room of the Department of State.

FOR FURTHER INFORMATION CONTACT: Ms. Sue Keogh, Country Officer for South Africa, (202) 632-8433; or Ms. Lynda Clarizio, (202) 632-3736, Office of the Legal Adviser, Department of State.

SUPPLEMENTARY INFORMATION: E.O. 12532 of September 9, 1985 (50 FR 36861) and E.O 12535 of October 1, 1985 (50 FR 40325) prohibit certain transactions involving South Africa. These prohibitions and the other measures directed by the President are designed to encourage peaceful change in South Africa and to express the unequivocal opposition of the United States to the policy and practice of apartheid. They are not designed to harm the nationals or economy of South Africa. Rather, it is the policy of the United States to use its influence in a positive and visible manner in South Afirca. One of the means of doing so involves encouraging U.S. firms and institutions in South Africa to take measures to influence change in that country.

Sections 2 and 3 of E.O. 12532 deal with the labor practices of U.S. nationals and their firms in South Africa, as well as the practices of the U.S. diplomatic and consular missions in South Africa. Section 2 praises the efforts of U.S. firms which have voluntarily applied fair labor practices in that country. It states that it is the national policy of the United States to encourage strongly all U.S. firms in South Africa to follow this commendable example. It is the policy of the U.S. to encourage firms to remain in South Africa and to work for change.

The example referred to in the Executive Order has been set primarily by the U.S. firms which have voluntarily subscribed to the Sullivan Code, a set of principles originally proposed in 1977 by the Reverend Leon Sullivan. The majority of U.S. firms in South Africa apply these principles voluntarily. Their labor practices are monitored by a private organization in the U.S.

These firms have set an important example of how to treat workers with dignity despite a system of government that requires severe distinctions based exclusively on race. In light of the unique situation in South Africa, E.O. 12532 provides that the U.S. Government will henceforth not provide certain kinds of assistance to U.S. firms (described in § 60.2) which do not adhere to fair labor standards in that country.

E.O. 12532 contains a list of fair labor principles to which U.S. firms are expected to adhere. E.O. 12532 reflects a policy of encouraging change in South Africa through the labor practices of U.S. firms, and in particular by the application of the principles stated in section 2 of the Executive Order.

The proposed rule defines adherence (§ 61.1) and establishes a reporting system to verify adherence (Part 63). The reporting system contemplates that firms will complete a detailed questionnaire regarding their labor practices on an annual basis, one comparable to that required under the voluntary Sullivan system.

The E.O. requirements apply to U.S. nationals who employ at least 25 persons in South Africa. The proposed rule defines the U.S. nationals who are subject to the reporting requirements of the E.O. (e.g., § 61.5 and § 60.2).

It has been the consistent policy of the U.S. Government to encourage voluntary adherence to the Sullivan Code and this remains the policy of the U.S. The proposed rule is not intended to undercut or affect the highly efficient Sullivan system. The E.O. takes into account the effectiveness and integrity of the Sullivan Code monitoring system. Accordingly, U.S. firms that are *bona fide* participants in the system are exempted from certain reporting requirements established by the proposed rule.

The proposed regulations also take into account the past experience of the United States with respect to the position of the South African Government regarding business and financial reporting requirements of foreign governments, the experience of the Sullivan signatories, and the experience of European Community countries with their codes of conduct.

In particular, section 2(b)(9) of the Export-Import Bank Act of 1945 contains a number of restrictions on Export-Import Bank support for exports to South Africa. For example, no financing may be provided in support of exports to private purchasers in South Africa unless the purchaser has endorsed certain fair labor provisions and has proceeded toward their implementation. These principles are comparable to those specified in E.O. 12532. The Government of South Africa objected to some of the initial U.S. Government reporting requirements established under this provision. This had the effect of preventing the implementation of the reporting requirements. These differences were ultimately resolved. The proposed rule takes into account the objections made in the past by the South African Government regarding the application of the reporting requirements established under the Export-Import Bank Act as well as the fact that the new reporting requirements relate to activities in a foreign country.

Finally, it should be noted that this proposed rule establishes a new and unusual regulatory scheme. The experience of the Department of State in enforcing the final rule could lead to proposals for significant changes in the regulations, and members of the public and the firms regulated are welcomed to provide comments at any time to the Department of State.

These regulations deal with a foreign affairs function of the United States and are thus excluded from the major rule procedures of Executive Order 12291 (46 FR 13193) and the procedures of 5 U.S.C. 553 and 554. The Department of State nonetheless believes that the public should have an opportunity to comment on the proposed regulations before they are promulgated as a final rule. Accordingly, the public is invited to comment on the regulations during the next thirty days.

The collection of information requirements of this rule have been submitted to OMB for review pursuant to § 3504(h) of the Paperwork Reduction Act of 1980. Comments on this matter should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Ms. Francine Picoult (202) 395-7231.

List of Subjects

22 CFR Part 60

United States investments abroad, Fair labor standards, South Africa.

22 CFR Part 61

United States investments abroad, Fair labor standards, South Africa.

22 CFR Part 62

United States investments abroad, Fair labor standards, South Africa, Reporting and recordkeeping requirements.

22 CFR Part 63

United States investments abroad, Fair labor standards, South Africa.

22 CFR Part 64

United States investments abroad, Fair labor standards, South Africa, Reporting and recordkeeping requirements.

22 CFR Part 65

United States investments abroad, Fair labor standards, South Africa, Exports, Penalties.

Subchapter G (heading) of Chapter I of Title 22, Code of Federal Regulations, is removed and a new Subchapter G is proposed to be added to read as follows:

SUBCHAPTER G—SOUTH AFRICA AND FAIR LABOR STANDARDS

PART 60—PURPOSE OF SCOPE OF APPLICATION

PART 61—DEFINITIONS

PART 62—REGISTRATION

PART 63—GENERAL POLICIES AND REPORTING REQUIREMENTS

PART 64—ADMINISTRATIVE PROVISIONS

PART 65—NON-ADHERENCE AND PENALTIES

Appendix to Subchapter G—Examples of Fair Labor Practices

PART 60—PURPOSE AND SCOPE OF APPLICATION

Sec.
60.1 General.
60.2 Scope of application.

Authority: Sec. 203, International Emergency Economic Powers Act (50 U.S.C. 1701); E.O. 12532, Sep. 9, 1985 (50 FR 36861).

§ 60.1 General.

(a) *General.* Section 2 of Executive Order 12532 of September 9, 1985 (50 FR 36861) provides that it is the policy of the United States to encourage all United States firms in South Africa to adhere to certain fair labor standards. It provides furthermore that no department or agency of the U.S. may intercede with any foreign government regarding the export marketing activities in any country of any national of the U.S. employing more than 25 individuals in South Africa who does not adhere to the principles stated in the Order. It is the purpose of this subchapter to implement these requirements of E.O. 12532.

(b) *Relation to the Voluntary Sullivan System.* It has been the policy of the United States since 1977 to encourage voluntary adherence to the Sullivan Code agreed to by a majority of U.S. business firms that operate in South Africa. The requirements of the voluntary Code exceed those of the E.O. 12532 in certain respects, and the voluntary nature of the code has set an example for all firms in South Africa. The regulations set forth in this subchapter recognize that some U.S. nationals are not willing to subscribe to the Sullivan Code, and these regulations do not require firms to subscribe to the voluntary system. All U.S. nationals described in § 62.2 and § 63.1 are subject to the requirements of this subchapter. Such nationals who are *bona fide* participants in the Sullivan system are exempt from certain reporting requirements in accordance with § 63.1(d).

§ 60.2 Scope of application.

The requirements of this subchapter are applicable to U.S. nationals (defined in Section 61.5) who:

(a) Employ at least 25 individuals in South Africa;

(b) Own or control more than 50 percent of the outstanding voting securities of a foreign subsidiary or other entity that employs at least 25 individuals in South Africa; or

(c) Control in fact any other foreign entity that employs at least 25 individuals in South Africa. Such control consists of the authority or ability of the domestic concern to establish or direct the general policies or day-to-day operations of a foreign subsidiary or entity in South Africa. Such authority or ability will be presumed under the circumstances described below, subject to rebuttal by competent evidence provided to the Department of State at the time of registration (see § 62.1):

(1) The domestic concern identified in (b) beneficially owns or controls (whether directly or indirectly) 25 percent or more of the voting securities of the foreign subsidiary or entity, if no other person owns or controls (whether directly or indirectly) an equal or larger percentage;

(2) The foreign subsidiary or entity is operated by the domestic concern identified in (b) pursuant to the provisions of an exclusive management contract;

(3) A majority of the members of the board of directors of the foreign subsidiary or entity are also members of the comparable governing body of the domestic concern identified in (b);

(4) The domestic concern identified in (b) has the authority to appoint the majority of the members of the board of directors of the foreign subsidiary or entity; or

(5) The domestic concern has the authority to appoint the chief operating officer of the foreign subsidiary or entity.

PART 61—DEFINITIONS

Sec.
61.1 Adherence.
61.2 Fair labor standards.
61.3 Office of Southern African Affairs.
61.4 United States.
61.5 U.S. national.

Authority: Sec. 203, International Emergency Economic Powers Act (50 U.S.C. 1701); E.O. 12532, Sep. 9, 1985 (50 FR 36861).

§ 61.1 Adherence.

For purposes of this subchapter, adherence means (a) agreeing to implement the principles specified in § 61.2 in South Africa, (b) taking good faith measures to implement each of these principles, and (c) reporting accurately to the Department of State on the measures taken to implement the principles in accordance with § 63.1.

§ 61.2 Fair labor standards.

(a) The fair labor standards referred to in this subchapter are as follows:

(1) Desegregating the races in each employment facility;

(2) providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) Assuring that the pay system in South Africa is applied to all employees without regard to race or ethnic origin;

(4) Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families.

(5) Increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) Taking reasonable steps to improve the quality of employee's lives outside the work environment with respect to housing, transportation, schooling, recreation, and health;

(7) Implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(b) The supplement to this subchapter contains illustrative examples of the fair practices referred to in this subchapter.

§ 61.3 Office of Southern African Affairs.

"Office of Southern African Affairs" means the Office of Southern African Affairs, Bureau of African Affairs, Department of State, Washington, D.C. 20520.

§ 61.4 United States.

"United States," when used in the geographical sense, includes the several States, the Commonwealth of Puerto Rico, the insular possessions of the United States, and the District of Columbia.

§ 61.5 U.S. national.

For purposes of this subchapter, "U.S. national" means:

(a) Citizens or nationals of the United States or permanent residents of the United States (defined in the Immigration and Nationality Act (8 U.S.C. 1101, § 101(a) 20, 60 Stat. 163)); and

(b) Corporations, partnerships, and other business associations organized under the laws of the United States, any state or territory thereof, or the District of Columbia.

PART 62—REGISTRATION

Sec.
62.1 Registration.
62.2 Notification of changes in information furnished by registrats.
62.3 Maintenance of records by registrants.

Authority: Sec. 203, International Emergency Economic Powers Act (50 U.S.C. 1701); E.O. 12532, Sep. 9, 1985 (50 FR 36861).

§ 62.1 Registration.

Any U.S. national referred to in § 60.2 is required to register with the Department of State and to indicate whether the U.S. national or entity referred to in § 60.2 agrees to implement the principles stated in § 61.2. They may

also indicate whether they are participants in the voluntary Sullivan system. Registration can be accomplished by filing a completed form DSP–X with the Office of Southern African Affairs. Any such national who believes that it should not be required or is unable to report on the fair labor practices of a foreign subsidiary or entity described in § 60.2 (c) of this subchapter should provide a detailed explanation of the reasons. The explanation should be in the form of a letter, and should accompany the completed registration form. A detailed questionnaire on fair labor practices will be provided by the Office of Southern African Affairs on an annual basis to all registrants. No fee is required for registration.

§ 62.2 Notification of changes in information furnished by registrants.

A registered U.S. national must notify the Department of State of any material changes in the information contained in the registration. Examples of material changes include the establishment, acquisition, or sale of a subsidiary or of a foreign affiliate, a merger, a change of location, or engaging in a different kind of business in South Africa. Such information should be provided within 60 days from the date of the material change.

§ 62.3 Maintenance of records by registrants.

(a) A U.S. national who is required to register pursuant to §62.1 must maintain records concerning the fair labor practices employed in South Africa by the U.S. national or any entity referred to in § 6.2 effective January 1, 1986. Such records must be maintained for a period of 3 years.

(b) Records maintained under this section shall be available at all times for inspection by the Director of the Office of Southern African Affairs or a person designated by the Director.

PART 63—GENERAL POLICIES AND REPORTING REQUIREMENTS

Sec.
63.1 General policies.
63.2 Influencing activities outside the workplace.
63.3 State Department review.
63.4 Waiver.

Authority: Sec. 203, International Emergency Economic Powers Act (50 U.S.C. 1701); E.O. 12532, Sep. 9, 1985 (50 FR 36861).

§ 63.1 General policies.

(a) Any U.S. national or entity described in § 60.2 who does not adhere to the fair labor standards stated in § 61.2 of this subchapter shall be ineligible to receive the assistance specified in § 65.1(b).

(b) Any such U.S. national who does not register with the Department of State prior to February 1, 1986, in accordance with § 62.1 shall be ineligible for the assistance specified in § 65.1.

(c) All U.S. nationals subject to the requirements of this subchapter shall provide an annual report to the Department of State describing their implementation of the fair labor principles specified in § 61.2, including implementation by any entity described in § 60.2. They shall do so by submitting a completed questionnaire furnished by the Department of State at the time of registration to the Office of Southern African Affairs. The first report shall be provided no later than February 15, 1987.

(d)(1) Any U.S. national who is a *bona fide* participant in the Sullivan reporting and implementing system is exempt from submitting the questionnaire referred to in subsection (c). "*Bona fide*" participation means (1) subscribing to the Sullivan Code and (2) filing the report required by the Sullivan monitoring mechanism with that organization and (3) receiving a Category I or II standing. *Bona fide* participants are deemed to be adhering to the fair labor standards for purposes of this subchapter. Such U.S. nationals shall be required to file a letter with the Office of Southern African Affairs on an annual basis certifying that they are *bona fide* participants in the Sullivan system. Each such letter shall be provided not later than January 31 of each calander year, commencing on January 31, 1987. Each such letter shall include the following statement:

I certify that [name of firm] is a *bona fide* participant in the Sullivan system for fiscal year [insert], and the firm received a [insert] rating from the Sullivan system for that period.

(2) Any U.S. national participating in the Sullivan system who receives a Category III (A) standing may also use the procedures specified in this subsection. However, such nationals may use this procedure only once after receiving such a rating. If such a national does not receive a Category I or II standing for the next fiscal year, it shall not be deemed to be a *bona fide* participant pursuant to this subsection and must thereafter complete the required State Department questionnaire.

§ 63.2 Influencing activities outside the workplace.

U.S. nationals referred to in subsection § 60.2 are encouraged to take reasonable measures to extend the scope of their influence on activities outside the workplace by measures such as (a) supporting the right of all businesses, regardless of the racial character of their owners or employees, to locate in urban areas; (b) by influencing other companies in South Africa to follow the principles specifed in § 61.2; (c) by supporting the freedom of mobility of all workers, regardless of race, to seek employment opportunities wherever they exist, and (d) by making provision for adequate housing and education for families of employees within the proximity of the employee's place of work.

§ 63.3 State Department review.

(a) The Office of Southern African Affairs shall review each report submitted pursuant to § 63.1(c) to determine whether the U.S. national is adhering to the principles stated in § 61.2.

(b) If the Office of Southern African Affairs concludes that a person is not taking such steps, it shall afford the person thirty days to provide additional written information to the Department of State.

(c) If a U.S. national who was a participant in the Sullivan system does not file the reports required by the Sullivan monitoring system or otherwise fails to meet the standards for continued participation in the Sullivan system, the U.S. national shall immediately inform the Department of State. Such notification should be provided no later than 30 days after receipt of a notification from the Sullivan system that the person is no longer a *bona fide* participant.

§ 63.4 Waiver.

The Director, Office of Southern African Affairs, may make exceptions to the provisions of this subchapter in cases of exceptional or undue hardship or when it is otherwise in the interest of the United States Government.

PART 64—ADMINISTRATIVE PROVISIONS

Sec.
64.1 Administrative procedures.
64.2 Annual report.
64.3 Disclosure of information to the public.

Authority: Sec. 203, International Emergency Economic Powers Act (50 U.S.C. 1701); E.O. 12532, Sep. 9, 1985 (50 FR 36861).

§ 64.1 Administrative procedures

(a) If the Director, Office of Southern African Affairs, concludes that a U.S. national or entity referred to in § 60.2 is not adhering to the principles specified in § 61.2, the Office of Southern African Affairs shall immediately inform the U.S. national concerned and other U.S.

Government agencies by appropriate means.

(b) Any U.S. national who has been the subject of an adverse decision pursuant to subsection (a) shall be entitled to file a written appeal within 30 days of notification of the decision with the Board of Appellate Review of the Department of State. The requirements of Part 7 of subchapter 1 of CFR this title shall be applicable to proceedings before the Board of Appellate Review.

§ 64.2 Annual report.

The Office of Southern African Affairs shall prepare an annual report regarding implementation of Part 63 of this subchapter, which shall be forwarded to other affected U.S. Government agencies and the appropriate standing committees of the United States Congress.

§ 64.3 Disclosure of information to the public.

Subchapter R of this title of CFR contains regulations on the availability to the public of information and records of the Department of State. The provisions of subchapter R apply to such disclosures by the Office of Southern African Affairs.

PART 65—NON-ADHERENCE AND PENALTIES

Sec.

65.1 Denial of export marketing support.
65.2 Civil and criminal penalties.

Authority: Sec. 203, International Emergency Economic Powers Act (50 U.S.C. 1701); E.O. 12532, Sep. 9, 1985 (50 FR 36861).

§ 65.1 Denial of export marketing support.

(a) In accordance with Part 63 of this subchapter, no department or agency of the United States may intercede with any foreign government regarding the export marketing activity in any country of any U.S. national or entity referred to in § 60.2 who does not adhere to the principles stated in § 61.2 with respect to that U.S. national's operations in South Africa.

(b) For purposes of this section, "export marketing activity" includes any contact by U.S. Government personnel with officials of any foreign government, which involves or contemplates any effort to assist in selling a good, service, or technology in a foreign market. The following are examples of the activities prohibited:

(1) Assisting non-complying firms by arranging appointments with foreign government officials relating to the pursuit by the firm of a bid, project, or other commercial activity;

(2) Intervening with a foreign government on behalf of a non-complying firm in pursuit of a bid or project, unless such intervention is necessary to ensure a foreign government's compliance with its obligations, if any, under the Agreement on Government Procurement of April 12, 1979 (T.I.A.S. No. 10403);

(3) Assisting non-complying firms in obtaining end-user or other foreign government certificates or documentation necessary for the issuance of U.S. export licenses;

(4) Taking any action to assist a non-complying firm in selling its products, services or technology with respect to a foreign government, including assistance in making appeals regarding foreign government procedures and practices adversely affecting the firm's ability to gain access to the foreign marketplace;

(5) Participation by non-complying firms in Department of Commerce or certified trade exhibitions and video catalog shows in foreign countries;

(6) Authenticating documents pursuant to Part 131 of Subchapter N of this title with respect to the other activities under this subsection.

(c) The following activities with respect to non-complying firms are not prohibited pursuant to this section of the Executive Order:

(1) Preparing market research for use by more than one company and providing general export information;

(2) Distributing generally available informational publication such as Overseas Business Reports, Foreign Economic Trends, and Business America; and

(3) Multilateral and bilateral, government-to-government trade negotiations to resolve trade issues which may affect non-complying firms.

§ 65.2 Civil and criminal penalties.

(a) This subchapter is promulgated pursuant to the authority of E.O. 12532 and the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA)). Section 206 of this Act provides that:

> A civil penalty of not to exceed $10,000 may be imposed on any person who violates any license, order, or regulation issued under this title.
>
> Whoever willfully violates any license, order, or regulation issued under this title shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than ten years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

Section 206 of the International Emergency Economic Powers Act is applicable to violations of this subchapter and to any license, ruling, regulation, order, direction, or instruction issued hereunder. These criminal and civil penalties are applicable to failures to comply with the registration and reporting requirements established in this subchapter. However, they are not applicable to failures to adhere to the principles stated in § 61.2

(b) Attention is also directed to 18 U.S.C. 1001, which provides:

> Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both.

(c) This section does not apply to the financing of exports by the Export-Import Bank to South Africa. Such financing continues to be the subject of the requirements contained in Section 2(b)(9) of the Export-Import Bank Act of 1945, as amended.

Appendix to Subchapter G—Examples of Fair Labor Practices

The following are illustrative examples of the fair labor standards specified in § 61.2.

(1) Desegregating the races in each employment facility:

(a) Removing all race designation signs;

(b) Desegregating all eating, medical, recreation, and work facilities; and

(c) Terminating all regulations which are based on racial discrimination or preference.

(2) Providing equal employment opportunity for all employees without regard to race or ethnic origin:

(a) Assuring that any health, accident, pension, or death benefit plans that are established are nondiscriminatory and open to all employees without regard to race or ethnic origin; and

(b) Implementing equal and nondiscriminatory terms and conditions of employment for all employees, abolishing job restrictions and differential employment criteria which discriminate on the basis of race or ethnic origin.

(3) Assuring that the pay system is applied to all employees without regard to race or ethnic origins:

(a) Assuring that any wage and salary structure that is implemented is applied equally to all employees without regard to race or ethnic origin;

(b) Eliminating any distinctions between hourly and salaried job classifications on the basis of race or ethnic origin; and

(c) Eliminating any differences in seniority and in grade benefits which are based on race or ethnic origin.

(4) Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families:

(a) Offering a minimum wage or salary structure that is 30 percent or more higher than the most recent University of South Africa Minimum Living Level for a family of 5 or 6 for the area in which the South African subsidiary or affiliate operates; or

(b) Offering a minimum wage or salary that is 30% or more higher than the most recent University of Port Elizabeth Household Subsistence Level for a family of 5 or 6 for the area in which the South African subsidiary or affiliate operates.

(5) Increasing, by appropriate means, the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs:

(a) Developing training programs that will prepare substantial numbers of persons disadvantaged by apartheid for such jobs as soon as possible, including: (i) Expanding existing programs and forming new programs to train, upgrade, and improve the skills of all categories of employees, including establishing and expanding programs to enable employees to further their education and skills at recognized educational facilities; and (ii) creating on-the-job training programs and facilities to assist employees to advance to higher paying jobs requiring greater skills.

(b) Establishing procedures to assess, identify, and actively recruit employees with potential for further advancement;

(c) Identifying persons disadvantaged by apartheid with significant management potential and enrolling them in accelerated management programs; and

(d) Establishing timetables to carry out this principle.

(6) Taking reasonable steps to improve the quality of employee's lives outside the work environment with respect to housing, transportation, schooling, recreation, and health:

(a) Providing assistance to employees disadvantaged by apartheid for housing, health care, transportation, and recreation either through the provision of facilities or services or providing financial assistance to employees for such purposes, including the expansion or creation of in-house medical facilities or other medical programs to improve medical care for employees disadvantaged by apartheid and their dependents; and

(b) Participating in the development of programs that address the educational needs of employees, their dependents, and the community.

(7) Implementing fair practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity:

(a) Refraining from: (i) Interfering with, restraining, or coercing employees in the exercise of their rights of self-organization under this paragraph; (ii) dominating or interfering with the formation or administration of any labor organization or sponsoring, controlling, or contributing financial or other assistance to it, (iii) encouraging or discouraging membership in any labor organization by discrimination in regard to hiring, tenure, promotion, or other condition of employment, (iv) discharging or otherwise disciplining or discriminating against any employee who has exercised any rights of self-organization under this principle, and (v) refusing to bargain collectively with any organization freely chosen by employees pursuant to this principle.

(b) Allowing employees to exercise rights of self-organization, including solicitation or fellow employees during nonworking hours, distribution and posting of union literature by employees during nonworking hours, nonworking areas, and reasonable access to labor organization representatives to communicate with employees on the employer's premises at reasonable times where there are no other available channels which will enable the labor organization to communicate with employees through reasonable efforts.

Dated: November 4, 1985.

Ronald I. Spiers,

Under Secretary of State for Management.

[FR Doc. 85-26811 Filed 11-7-85; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 25, 53, and 602

[LR-165-84]

Below-Market Loans; Public Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the Federal tax treatment of both the lender and the borrower in certain below-market interest rate loan transactions.

DATES: The public hearing will be held on Thursday, January 9, 1986, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, December 12, 1985.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-165-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 or telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 7872 of the Internal Revenue Code of 1954. The proposed regulations appeared in the **Federal Register** for Tuesday, August 20, 1985 (50 FR 33553).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted comments at the hearing on the proposed regulations should submit, not later than Thursday, December 12, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available of charge at the hearing.

By direction of the Commissioner of Internal Revenue:

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-26774 Filed 11-7-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1953

Supplement to New Mexico State Plan; Request for Public Comment

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Request for Comment: New Mexico State Standard.

SUMMARY: This notice invites comment on New Mexico's standard for Occupational Noise Exposure; Hearing Conservation Amendment, submitted on February 2, 1984, in response to a Federal program change under 29 CFR 1953.21. New Mexico's standard is substantially different from the Federal standard found at 29 CFR 1910.95 (amended). Where a State standard

adopted pursuant to an OSHA-approved State plan differs from the comparable Federal standard, the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) requires that the State standard must be "at least as effective" as the Federal standard. In addition, if the standard is applicable to a product distributed or used in interstate commerce, it must be required by compelling local conditions and not pose any undue burden on interstate commerce. OSHA, therefore, seeks public comment as to whether the New Mexico standard meets the above requirements.

DATE: Written comments should be submitted by December 9, 1985.

ADDRESS: Written comments should be submitted in quadruplicate to the Director, Federal-State Operations, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3476, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

A. Background

The requirements for adoption and enforcement of safety and health standards by a State with a State plan approved under section 18(b) of the Act are set forth in section 18(c)(2) of the Act and in 29 CFR Part 1902, 29 CFR 1952.7, 1952.8, 1952.9 and 29 CFR 1953.21, 1953.22, 1953.23. OSHA regulations (29 CFR 1953.22(a)(1) and 29 CFR 1953.23(a)) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register**. A 30-day response time is required for State adoption of a standard comparable to a Federal emergency temporary standard. Newly adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in 29 CFR Part 1953, but are enforceable by the State prior to Federal review and approval. Section 18(c)(2) of the Act provides that State standards must be at least as effective as their Federal counterpart, and that if State standards which are not identical to Federal standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce. (This latter requirement is commonly referred to as the "product clause.")

On December 10, 1975, notice was published in the **Federal Register** (40 FR 57455) of the approval of the New Mexico State plan and the adoption of Subpart DD to Part 1952 containing the decision. The New Mexico State plan provides for the adoption of State standards after:

1. Technical Advisory Committee recommendation to the Environmental Improvement Division.

2. Notice of public hearing published in a newspaper of general circulation in the State at least thirty days prior to the date of such hearing.

3. Public hearing conducted by the Environmental Improvement Board.

4. Filing of adopted regulations, amendments or revocations under the State Rules Act.

In January 1981 OSHA promulgated (46 FR 4078) a hearing conservation amendment to its occupational noise exposure standard (29 CFR 1910.95 (a) and (b)). Responding to legal challenges and concerns about the requirements of the January 1981 amendment, on March 8, 1983, OSHA issued a revised amendment (48 FR 9738), which adopted a performance approach toward hearing conservation programs, generally allowing employers to choose their own methods of complying with the obligations of the standard.

Prior to OSHA's promulgation of the March 8, 1983 revised hearing conservation amendment, New Mexico's Environmental Improvement Division, the agency responsible for administration of the State plan, initiated action to adopt OSHA's 1981 hearing conservation amendment by submitting the amendment, as proposed State regulations, to the State Occupational Health and Safety Technical Advisory Committee. This Committee, composed of experts representing the interests of management, labor and the public, recommended adoption of the proposed regulations. Consequently, a notice of public hearing to consider changes in the State's regulations to include the hearing conservation amendment (and other standards changes) was published in State newspapers of record. The Environmental Improvement Board conducted a public hearing on July 29, 1982.

There was no opposition or public comment on the proposal, and the amendment was adopted and filed on February 8, 1983. It went into effect on March 10, 1983.

In response to the subsequent 1983 revision of the hearing conservation amendment to the Federal noise standard, by letter dated February 2, 1984, New Mexico notified Gilbert J. Saulter, Regional Administrator, OSHA Region VI, of its decision to retain without further modification the Hearing Conservation Amendment to its standard for Occupational Noise Exposure as previously promulgated. That standard is identical to the January 1981 Federal OSHA Hearing Conservation Amendment (46 FR 4078), and therefore different from the current OSHA standard.

B. Issues for Determination

The New Mexico standard in question is now under review by the Assistant Secretary to determine whether it meets the requirements of section 18(c)(2) of the Act and 29 CFR Parts 1902 and 1953. Public comment is being sought by OSHA on the following issues.

1. *"At least as effective" requirement.* OSHA has preliminarily determined that the New Mexico standard on hearing conservation, although different, appears to be "at least as effective" as the comparable OSHA standard (29 CFR 1910.95) as amended in March 1983. This determination is based on information provided in the State of New Mexico's letter of February 2, 1984, to the Regional Administrator, in accordance with 29 CFR 1953.4. The State-submitted comparison of the two standards shows that both State and Federal standards require a continuing, effective hearing conservation program for employees with noise exposures equal to or exceeding an 8-hour time-weighted average sound level of 85 decibels measured on the A scale or, equivalently, a dose of fifty percent. However, the State standard sets more detailed requirements for initial determination of employee exposure and monitoring of exposure than does the Federal standard. Public comment on the effectiveness requirement is solicited for OSHA's consideration in its final decision on whether or not to approve the State's standard.

2. *Product clause requirement.* OSHA is also seeking through this notice public comment as to whether the New Mexico standard:

(a) Is applicable to products which are distributed or used in interstate commerce;

(b) If so, whether it is required by compelling local conditions; and

(c) Unduly burdens interstate commerce.

C. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to the issues described above. These comments must be postmarked on or before December 9, 1985, and submitted in quadruplicate to the Director, Federal-State Operations, Room N3476, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Written submissions must clearly identify the issues which are addressed and the position taken with respect to each issue. The Occupational Safety and Health Administration will consider all relevant comments, arguments and requests submitted concerning the supplement and will thereafter publish notice of the decision approving or disapproving it.

D. Location of Supplement for Inspection and Copying

A copy of the New Mexico supplement to the Noise Standard; Hearing Conservation Amendment (46 FR 4078), along with the approved State provisions for adoption of standards, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor—OSHA, 555 Griffin Square Building, Griffin and Young Streets, Dallas, Texas 75202; Director, Environmental Improvement Division, Crown Building, 725 St. Michaels Drive, Santa Fe, New Mexico 87503; and, Director, Federal-State Operations, Room N3476, 200 Constitution Avenue, NW., Washington, DC 20210.

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9-83 (43 FR 35736)

Signed this 4th day of November, 1985, in Washington, DC.

Patrick R. Tyson,

Acting Assistant Secretary of Labor.

[FR Doc. 85-26610 Filed 11-7-85; 8:45 am]

BILLING CODE 4510-26-M

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29 CFR Part 1953

Supplement to Arizona State Plan; Request for Public Comment

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Request for Comment: Arizona State Standard.

SUMMARY: This notice invites comment on Arizona's standard for Hoes for Weeding and Thinning Crops submitted for OSHA approval on September 6, 1984. The Arizona standard is an independent State standard for which there is no Federal OSHA equivalent. Where a State standard adopted pursuant to an OSHA-approved State plan differs significantly from a comparable Federal standard or is a State-initiated standard, the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) requires that the State standard must be "at least as effective" in providing safe and healthful employment and places of employment. In addition, if the standard is applicable to a product distributed or used in interstate commerce, it must be required by compelling local conditions and not pose any undue burden on interstate commerce. OSHA, therefore, seeks public comment as to whether the Arizona standard meets the above requirements.

DATES: Written comments should be submitted by December 9, 1985.

ADDRESSES: Written comments should be submitted in quadruplicate to the Director, Federal-State Operations, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3476, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8148.

SUPPLEMENTARY INFORMATION:

A. Background

The requirements for adoption and enforcement of safety and health standards by a State with a State plan approved under section 18(b) of the Act are set forth in section 18(c)(2) of the Act and in 29 CFR 1902, 29 CFR 1952.7, and 29 CFR 1953.21, 1953.22, and 1953.23. OSHA regulations require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register** (29 CFR 2953.23(a); a 30-day response time is required for State adoption of a standard comparable to a Federal emergency temporary standard (29 CFR 1953.22(a)(1)). Newly adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in 29 CFR Part 1953, but are enforceable by the State prior to Federal review and approval. Section 18(c)(2) of the Act provides that if State standards which are not identical to Federal standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce. (This latter requirement is commonly referred to as the "product clause.")

On October 29, 1974, notice was published in the **Federal Register** (39 FR 39037) of the approval of the Arizona State plan and the adoption of Subpart CC to Part 1952 containing the decision. The Arizona State plan provides for the adoption of State standards in the following manner.

The Arizona Division of Occupational Safety and Health either proposes to adopt Federal standards or drafts such standards as it considers necessary after agency review and research and consultation with the Arizona Occupational Safety and Health Advisory Committee and other persons knowledgeable in the specific field for which the standards are being formulated. The standards are submitted to the Arizona Industrial Commission for its approval. The Arizona Plan provides for adoption of a standard as a State standard after public notice and hearing and published in accord with the Administrative Rules and Regulations of Arizona.

The State has submitted a State initiated plan change by letter, with attachments, dated September 6, 1984, from Larry Etchechury, Director, to Russell B. Swanson, Regional Administrator, and incorporated the standard on Hoes for Weeding and Thinning Crops as part of its occupational safety and health plan. The subject standard prohibits the use of a hoe with a handle less than four feet in length for weeding and thinning crops, based upon the existence of other practical and adequate alternatives to the use of these short-handled hoes. The Commission held two public hearings on the standard (July 24, 1984 and August 2, 1984). After public testimony, the standard was adopted on August 16, 1984 and became effective on November 15, 1984.

B. Issues for determination

The Arizona standard in question is now under review by the Assistant Secretary to determine whether it meets the requirements of section 18(c)(2) of the Act and 29 CFR 1902 and 1953. Public comment is being sought by OSHA on the following issues.

1. *"At least as effective" requirement.* There is no equivalent Federal standard prohibiting the use of short handled hoes for thinning or weeding crops. Therefore, OSHA has preliminarily determined that the State standard in question meets the "at least as

effective" criterion of section 18(c)(2) of the Occupational Safety and Health Act. However, public comment on this issue is solicited for OSHA's consideration in its final decision on whether or not to approve the State's standard.

2. *Product clause requirement.* On its face, the Arizona standard appears to deal with a product that is used and distributed in interstate commerce. OSHA is nevertheless seeking through this notice public comment on this issue and also on whether the standard on Hoes for Weeding and Thinning Crops: (a) Is required by compelling local conditions; and (b) unduly burdens interstate commerce.

C. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to the issues described above. These comments must be postmarked on or before December 9, 1985, and submitted in quadruplicate to the Director, Federal-State Operations, Room N-3476, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Written submissions must clearly identify the issues which are addressed and the position taken with respect to each issue. The Occupational Safety and Health Administration will consider all relevant comments, arguments and requests submitted concerning the supplement and will thereafter publish notice of the decision approving or disapproving it.

D. Location of Supplement for Inspection and Copying

A copy of Arizona's standard on Hoes for Weeding and Thinning Crops along with approved State provisions for adoption of standards, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor, 11349 Federal Building; 450 Golden Gate Avenue, P.O. Box 36017, San Francisco, California 94102; Office of the Division of Occupational Safety and Health Administration, Industrial Commission of Arizona, 800 W. Washington, Phoenix, Arizona 85007; Office of the Director, Federal-State Operations, U.S. Department of Labor, Room N3476, 200 Constitution Avenue, NW., Washington, DC 20210.

Authority: Sec. 18, 84 Stat. 1608 (29 U.S.C. 667); 29 CFR Part 1902, Secretary of Labor's Order No. 9-83 (43 FR 35736)

Signed this 4th day of November, 1985, in Washington, D.C.

Patrick R. Tyson,

Acting Assistant Secretary of Labor.

[FR Doc. 85-26609 Filed 11-7-85; 8:45 am]

BILLING CODE 4510-26-M

POSTAL SERVICE

39 CFR Part 10

Proposed International Surface Air Lift Transit Service to Certain Latin American Countries

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to an agreement with the postal administration of Panama, the Postal Service intends to begin International Surface Air Lift Transit Service to certain Latin American countries through Panama at postage rates indicated in the tables below. The proposed service is scheduled to begin on January 18, 1986.

DATE: Comments must be received on or before December 8, 1985.

ADDRESSES: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260-5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260-5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268-2673.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new service, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410 (a)), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed International Surface Air Lift Transit Service to certain Latin American countries at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.

INTERNATIONAL SURFACE AIR LIFT

(See following list for AMF and country groups)

Origin AMF group	Rate group A	Rate group B	Rate group C	Rate group D	Rate group E
a. Pound Rate					
(1) Regular Service:					
East	$1.95	$2.22	$2.55	$2.66	$3.40
Central	1.70	2.47	N/A	2.57	3.22
West	1.99	2.53	2.99	2.33	3.13
(2) Regular Service M-Bag:					
East	1.76	2.00	2.30	2.39	3.06
Central	1.53	2.22	N/A	2.31	2.90
West	1.79	2.28	2.69	2.10	2.82
(3) Transit Service Regular:					
East	N/A	2.41	N/A	N/A	3.60
Central	[1] 2.02	2.64	[1] 2.40	N/A	3.42
West	N/A	2.82	N/A	N/A	3.30
(4) Transit Service M-Bag:					
East	N/A	2.17	N/A	N/A	3.24
Central	[1] 1.82	2.38	[1] 2.16	N/A	3.08
West	N/A	2.54	N/A	N/A	2.97

[1] Proposed pound rates.

INTERNATIONAL SURFACE AIR LIFT SERVICE RATE GROUPS

East	Central	West
Origin AMF's:		
Boston	Chicago	Los Angeles
New York City	Dallas	San Francisco
Philadelphia	Houston	
Washington, DC	Miami [1]	

[1] AMF servicing the proposed new destination countries. All AMF's do not service all destinating countries.

DESTINATION COUNTRIES FOR REGULAR AND/OR TRANSIT SERVICE

Rate Groups				
A	B	C	D	E
Belize [1]	Albania	Argentina	India	Australia
Columbia [1]	Austria	Bolivia [1]	Japan	Fiji Islands
Costa Rica [1]	Belgium	Brazil		New Guinea
Cuba [1]	Bulgaria	Chile [1]		New Zealand
Dominican Republic [1]	Czechoslovakia	French Guyana [1]		Philippines
	Denmark	Guyana [1]		South Africa
Ecuador [1]	East Germany	Paraguay [1]		
El Salvador [1]	Finland	Peru [1]		
Guatemala	France	Suriname [1]		
Haiti [1]	Great Britain	Uruguay [1]		
Honduras [1]	Greece			
Jamaica [1]	Hungary			
Mexico	Iceland			
	Ireland			
Netherlands Antilles [1]	Italy			
Nicaragua [1]	Luxembourg			
	Netherlands			
Trinidad and Tobago [1]	Norway			
Venezuela	Poland			
	Portugal			
	Rumania			
	Spain			
	Switzerland			
	West Germany			
	Yugoslavia			

[1] Proposed new destination countries.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85-26744 Filed 11-7-85; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Parts 310 and 320

Restrictions on Private Carriage of Letters; Proposed Clarification and Modification of Definition and of Regulations on Extremely Urgent Letters; Extension of Comment Period.

AGENCY: Postal Service.

ACTION: Proposed Rule; Extension of comment period.

SUMMARY: On October 10, 1985, the Postal Service published in the Federal Register (50 FR 41462) a proposed modification and clarification of the regulations on the Private Express Statutes, which was corrected in a minor respect on October 22, 1985 (50 FR 42729).

Several parties have requested that the comment period, originally thirty days, be extended. Because of the substantial public interest in the proposal and the likelihood that a modest extension of the comment period will permit greater public participation in this rulemaking process, the Postal Service is extending the comment period by an additional thirty days. The extended comment period will expire on December 12, 1985.

DATE: Comments must be received on or before December 12, 1985.

ADDRESS: Written comments should be addressed to the General Counsel, Law Department, United States Postal Service, Washington, D.C. 20260-1113. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 5128, 955 L'Enfant Plaza, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley (202) 268-2970.

Fred Eggleston,

Assistant General Counsel Legislative Division.

[FR Doc. 85-26742 Filed 11-7-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2881-3]

Standards of Performance for New Stationary Sources; Fluid Catalytic Cracking Unit Regenerators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Revision to proposed rule.

SUMMARY: Standards of performance for reducing emissions of sulfur oxides (SO_x from new, modified, and reconstructed fluid catalytic cracking unit (FCCU) regenerators were proposed on January 17, 1984 (49 FR 2058). Today's action revises the proposal as it relates to the averaging time and method in which compliance with the proposed standards would be determined, including the addition of requirements to determine compliance daily.

The comment period for these standards is being reopened to allow comments specific to the revisions. Additional comments are not being sought on other aspects.

DATE: Comments must be postmarked on or before December 9, 1985.

ADDRESS: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460. Specify Docket Number A-79-09.

Docket. Docket Number A-79-09, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, D.C. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For questions regarding the policy aspects of these proposed revisions, contact Ms. Gail Lacy or Mr. Gil Wood, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-5578. For questions regarding source testing and emission monitoring, contact Mr. Terry Harrison or Mr. Ed McCarley, Emission Measurement Branch, Emission Standards and Engineering Division (MD-13), U.S. EPA, Research Triangle Park, NC 27711, telephone number (919) 541-5543.

SUPPLEMENTARY INFORMATION:

Background and Summary of Proposed Revisions

Standards for FCCU's with and without add-on control devices were proposed on January 17, 1984 (49 FR 2058). In the remainder of this preamble, these requirements are referred to as the proposed standards. The Agency expects that scrubbers would be used to achieve the proposed standard for FCCU's with add-on controls, and SO_x reduction catalysts to achieve the proposed standard for FCCU's without add-on controls. Compliance with the proposed standards would have been determined by manual performance tests, consisting of three 1-hour test runs. Excess emissions would have been determined based on 3-hour averages using a sulfur dioxide (SO_2) continuous

emission monitor. For FCCU's with add-on control devices, the monitor would have been located at the outlet from the control device and the excess emission level would have been established during the initial compliance test.

Today's notice proposes revisions to the proposed standards. In the remainder of this preamble, these are referred to as the revised proposed standards. The revised proposed standard for FCCU's with add-on controls would increase the averaging time for determining compliance from 3 hours to 7 days. Compliance would be determined daily based on the performance of the control device averaged over a 7-day period which includes that day and the previous 6 days, i.e., a rolling 7-day average. The revised proposed standard would identify SO_2 as the regulated pollutant. For compliance determinations, control device performance would be calculated as an SO_2 emission reduction efficiency based on measurements by continuous SO_2 emission monitors at the inlet and outlet of the control device. The monitors would be required to meet the specifications described in Appendix F to 40 CFR Part 60, when the appendix is promulgated. The source owner would be required to provide a minimum of 22 days of data for every 30-day period using the continuous monitors or an approved manual emission test.

The revised proposed standard for FCCU's without add-on controls also would increase the averaging time for determining compliance from 3 hours to 7 days. The regulated pollutant would continue to be SO_x, as proposed. Compliance would be determined daily based on a rolling 7-day average of SO_x emissions measured daily using Reference Method 8. However, EPA invites comments on alternative approaches to ensuring continuous compliance.

Selection of Compliance Averaging Time

Comments received on the proposed standards stated that the 3-hour averaging period for determining compliance should be increased to at least 7 days. These comments related to the standards for FCCU's with and without add/on controls. The commenters' reasons included variability in SO_x emissions due to normal feedstock and operational changes, difficulties in adjusting process variables in a 3-hour period when using SO_x reduction catalysts, and consistency with the proposed feed sulfur standard.

The EPA reviewed emission test data to determine if the variation in FCCU SO_x emissions is significant. Continuous SO_2 monitoring data, presented in Appendix C of the background information document (BID) for the proposed standards, show that uncontrolled SO_2 emissions varied from 13 to 24 kg of SO_2/1,000 kg of coke burn-off over a period of 1 to 2 weeks. Several of the commenters pointed to these data as an illustration of the variability of SO_2 emissions from FCCU regenerators.

The EPA used data from this study in a time series analysis to simulate the long-term variability of scrubber performance in order to determine the appropriate compliance averaging time for the standard for FCCU's with add-on controls. For each averaging time evaluated, the time series model estimates the minimum value of the time-averaged scrubber performance (in terms of the percent emission reduction) that would be expected in a 10-year period. The results of this analysis confirmed that a 3-hour averaging period is too short to ensure that exceedances of the proposed standard would not occur due to normal FCCU or control system variability. However, with a 7-day rolling average, the minimum performance level expected in a 10-year period was better than the level of the standard, indicating that a 7-day averaging period would adequately account for normal variability.

The EPA considered a similar analysis for the standard for FCCU's without add-on controls. Because the SO_x reduction catalyst technology is still in the development stages, no source tests are available for use in a time series analysis for this control technology. However, EPA agrees with the comment that 7 days would allow a reasonable amount of time to adjust process variables after changes such as to a different feedstock, whereas 3 hours would not. Therefore, EPA concluded that a 7-day averaging time would be appropriate for the standards for both FCCU's with and without add-on controls.

Selection of Compliance Method

In the proposed standards, affected facilities complying with the standard for FCCU's with add-on controls would have been required to install a continuous SO_2 monitor only at the scrubber outlet. Excess emissions would have been determined based on the outlet SO_2 concentration level measured during the initial performance test. This outlet concentration is a function of both the inlet SO_2 concentration and the emission reduction efficiency. Several commenters stated that this method of determining excess emissions would be unsuitable for a standard that would require a particular control device efficiency (i.e., percent emission reduction). The reason is that, even with a constant scrubber efficiency, the scrubber outlet concentration would vary considerably if there were large variations in scrubber inlet concentrations. It would be difficult to choose a feed for the performance test that would result in the maximum scrubber inlet concentration expected over the life of an FCCU. One commenter states that the only reasonable method would be monitoring at both the inlet and outlet to the control device in order to allow direct calculation of the percent SO_2 emission reduction that is achieved. The EPA agrees. Therefore, the revised proposed standard for FCCU's with add-on controls would require monitoring of SO_2 emissions at both the inlet and outlet to the control device.

The proposed standards defined SO_x as the regulated pollutant for all FCCU's. Sulfur compounds other than SO_2, such as sulfur trioxide (SO_3), can be emitted and can be controlled. The intent was to prevent affected facilities from appearing to control SO_2 when the SO_2 actually was being converted to SO_3, especially when SO_x reduction catalysts are used. Reliable continuous monitors that measure SO_2 are available, but ones that measure SO_x are not currently available. Thus, as EPA considered longer averaging times and the addition of a continuous monitor on the inlet, EPA also considered whether the revised proposed standard for FCCU's with add-on control could identify SO_2 as the regulated pollutant so that continuous monitors could be used for compliance determinations. The EPA has concluded that this change can be made without changing the effect of the standard. The best demonstrated technology (BDT) would be the same for an SO_2 standard as for an SO_x standard; in both cases, flue gas scrubbers would be applied as the control device. In addition, the emission reduction efficiency that would best reflect BDT is essentially the same. Thus, the revised proposed standard for FCCU's with add-on controls would identify SO_2, rather than SO_x as the regulated pollutant, and would require daily compliance determinations over rolling 7-day averaging periods, using SO_2 continuous emission monitors.

The additional equipment necessary to monitor the control device inlet would add approximately $40,000 to the capital cost estimate for the continuous emission monitoring systems presented in Appendix D of the BID for the proposed standards. The EPA considers

this cost reasonable in light of the advantages offered by more frequent compliance determinations. Ensuring continuous compliance is important due to the large amount of emissions from FCCU's. For a typical plant, uncontrolled emissions may be around 2,000 to 6,000 Mg/yr and controlled emissions may be around 400 to 1,200 Mg/yr. The EPA has extensively studied the reliability of SO_2 continuous emission monitoring systems for determining compliance during the development of Subpart D, Subpart Da, and proposed Appendix F of 40 CFR Part 60. The EPA has concluded that state-of-the-art SO_2 continuous emission monitoring systems provide sufficiently precise and accurate SO_2 concentration data when proper operation and maintenance techniques are employed.

The EPA also intends to require continuous compliance determinations for FCCU's without add-on controls. In order to match the procedures for add-on control compliance determinations, use of continuous SO_2 emission monitors for the compliance determinations was considered; this would require either a change in the regulated pollutant from SO_x to SO_2, or a predictable ratio between SO_2 and SO_x emissions. However, a change in the pollutant is not appropriate for FCCU's without add-on controls and a predictable ratio is not possible based on EPA's current knowledge. The primary technology that would be used to comply with the standard for FCCU's without add-on controls is SO_x reduction catalysts. This technology appears to be more effective with a high ratio of SO_3 to SO_2 in the regenerator. Therefore, the FCCU would likely be operated in a way that would result in generally higher, but quite variable, ratios of SO_3 to SO_2 in the flue gas as compared to an FCCU with an add-on control device. The data that are available for SO_x reduction catalysts indicate that SO_3 is likely to constitute from 10 to 30 percent and may in some cases even be greater than 50 percent of the SO_x emissions. Thus, an SO_2 standard could inappropriately allow standard substantial quantities of SO_x to be emitted. There is some information from other industries to suggest that the current opacity standard of 30 percent for FCCU's, although developed to limit particulate matter emissions, may also limit the concentration of SO_3 in the flue gas, because SO_3 would condense to acid mist upon contact with the atmosphere. However, opacity test data are not available for FCCU's controlled by SO_x reduction catalysts. The EPA invites comments on the potential SO_3 contribution to the total SO_x emissions when SO_x reduction catalysts are used, including any potential limitations due to the current opacity standard.

The EPA next considered if the amount of SO_x in the flue gas could be predicted based on an SO_2 measurement, along with other operational information. Several variables are involved in determining the ratio of SO_3 to SO_2 in the flue gas, including the amount of SO_x reduction catalyst and CO promoter catalyst used, regenerator excess oxygen, regenerator temperature, and the amount of coke on the regenerated catalyst. The EPA does not have sufficient information to determine a correlation between SO_x and SO_2 emissions based on these (and potentially other) variables, or if such a correlation could reasonably be developed, even on an FCCU-specific basis. The EPA would like comments on such an approach. However, based on EPA's current information, continuous compliance determinations using a combination of continuous SO_2 emission monitors and an SO_2/SO_x correlation is not possible.

Because a measurement of SO_2, rather than SO_x emissions, would not necessarily indicate if the SO_x reduction catalyst was operating improperly for SO_x control, EPA intends to require continuous compliance determinations based on the measurement of SO_x. The EPA is considering several alternatives. However, our information is limited due to the lack of FCCU's commercially using SO_x reduction catalysts to test. Presently, the most viable method is to conduct manual tests daily using EPA Reference Method 8. The EPA estimates that such tests would cost on the order of $130,000/yr. Although EPA considers this cost to be reasonable considering the potentially large differences in the emission reduction achieved if SO_x, rather than SO_2, is measured, this cost is not trivial, and the Agency invites comments on the reasonableness of this. The EPA is also interested in comments and data on other options that are less costly but provide adequate enforceable compliance data. One such method is a modification of EPA Reference Method 6B. Another approach is the development of a reliable continuous monitor that measures SO_x, rather than only SO_2. A third may be monitoring of SO_2 emissions along with other parameters. Such an approach would require a demonstration of the relationship between the monitored parameters and SO_x emission rates, and might include periodic manual tests using Method 8.

Monitoring and Testing Requirements

FCCU's With Add-on Controls—Compliance Calculations and Monitoring Requirements

When establishing standards that require use of continuous emission monitors for determining compliance, it is necessary to consider that monitors undergo periods of downtime and, thus, are not available 100 percent of the time. Redundant monitoring systems are possible but, in EPA's judgment, their costs are not warranted for those proposed standards. Therefore, EPA is proposing minimum data requirements that provide for downtime, but limit the amount of data permitted to be lost before supplemental sampling is required. These proposed requirements would provide the owner or operator with time to maintain and calibrate the continuous emission monitoring equipment, correct minor malfunctions, and, if necessary, arrange for supplemental sampling, while at the same time, providing sufficient data for compliance determinations. They also would prevent the possibility of an affected facility operating for unreasonably long periods without collecting data.

The minimum data requirements for compliance determinations would be the same as those specified for utility boilers under Subpart Da and the proposed revisions to Subpart D of 40 CFR Part 60. The facility would be required to obtain at both the inlet and outlet of the control device at least 22 valid days of data for every rolling 30-day period. A valid day of data would consist of at least 18 valid hours, and a valid hour would consist of at least 2 valid data points. Malfunctions are not likely to occur during every 30-day period. Thus, EPA expects that most continuous emission monitors routinely will operate better than the proposed minimum data requirements and supplemental sampling will be required rarely. Supplemental sampling, if necessary to meet the minimum data requirements, could be achieved with a spare continuous SO_2 emission monitor, Reference Method 6 with samples at hourly intevals, or Reference Method 6B.

Compliance would be determined daily based on the average performance (in terms of percent emission reduction) of the add-on control device over rolling 7-day periods. Data from the inlet and the outlet of the control device would be averaged separately. The 7-day average performance would be calculated based on all valid hours of data rather than the data averages for each day. The 7-day average for the inlet minus the

corresponding 7-day average for the outlet divided by the 7-day average for the inlet will give the average performance of the control device for that 7-day period.

Exceedances of the standard during periods of startup, shutdown, and malfunction of the FCCU and the control device are not considered violations of the standard. Valid monitoring data collected during such periods may be excluded from calculations on the 7-day average performance. However, these data should be included when determining if the criteria for a valid-data day (i.e., at least 18 valid hours) are met.

To ensure the accuracy of continuous emission monitors used for compliance determinations, it is necessary to perform periodic quality assurance activities. Appendix F of 40 CFR Part 60, which was proposed on March 14, 1984 (49 FR 9676), will specify, when promulgated, the quality assurance procedures that would be required for continuous emission monitors on FCCU's with add-on control devices. Information regarding Appendix F can be found in Docket Number A–80–29.

FCCU's Without Add-on Controls—Compliance Testing Requirements

For FCCU's without add-on controls, compliance would be determined daily based on the average SO_x emissions measured that day and the previous 6 days; i.e., a rolling 7-day average. The measurement of SO_x emissions would be accomplished by conducting Reference Method 8 for one shift each day. The EPA estimates that the equipment to conduct Method 8 would cost about $40,000 initially, and about $10,000/yr for replacement parts. Labor to collect and analyze the samples is estimated to be about $120,000/yr. These cost estimates are based on the development of an automatic traversing system to minimize labor costs; the development cost comprises half of the initial $40,000 equipment cost. The EPA judges these costs to be reasonable in light of the assurance that the anticipated emission reduction is achieved continuously.

The presence of particulate matter in the stack gases from the FCCU regenerator can interfere with the Reference Method 8 testing. To eliminate this problem, Method 8 would be revised for this standard by requiring a heated filter prior to the impingers, and a probe and filter temperature greater than 160 °C. The filter and probe catch would not be included in the analysis. Also, the isopropanol impinger would be eliminated from the Method 8 sampling train.

Recordkeeping and Reporting Requirements

Today's action would change the recordkeeping and reporting requirements associated with the proposed standards. Refiners subject to the standard for FCCU's with add-on controls would be required to record the data from the continuous emission monitor at the inlet, as well as at the outlet. Refiners subject to the standard for FCCU's without add-on controls would be required to maintain a record of measurements obtained in the daily Method 8 tests. All refiners would also have to keep records of each 7-day average compliance determination. As stated in the General Provisions, 40 CFR 60.7, records would be retained for at least 2 years.

The EPA has reviewed the proposed reporting requirements and has modified them somewhat. In order for the public to understand better the requirements, the procedure under which EPA determines reporting frequencies for NSPS and for national emission standards for hazardous air pollutants (NESHAP) is described below.

For NSPS, the information collected is of three different types that are of different utilities to the enforcing agency. These types of information are:

1. Monitored Parameter Data—information on control device or process parameters (e.g., pressure drop). This information is used as an indicator of how well the control device is being operated and maintained and is useful in targeting inspections.

2. Excess Emission Data—generally continuous emission monitor reports. This information is used as an indicator of the compliance status of the source and may be used to target inspections or performance tests. In most cases, neither this nor monitored parameter data may be used as the sole evidence of a violation of the standard.

3. Direct Compliance Information—data which may be used by the enforcement agency as the sole evidence of a violation of the standard.

Direct compliance information is most useful to an enforcement agency because the compliance status of the source is evident from the information itself and no further testing is necessary for documentation. Because these data can be used so quickly, and because it is beneficial to an enforcement action to have the freshest data available, sources are required to report this information to EPA on a quarterly basis. However, if no exceedances of the standard have occurred during a particular quarter, only a statement to that effect (negative declaration) is needed. Further, these negative declarations may be made on a semiannual basis. Thus, the quarterly reporting period is activated only when a source has had an exceedance of the standard during that particular quarter. This helps focus the resources both of the industry and of EPA on sources where remedial action is warranted.

For the other types of reported information (i.e., not direct compliance information), EPA must take some other step (e.g., performance test, inspection, etc.) before an enforcement action may be taken. Under NSPS, reporting frequencies of data other than direct compliance information are reviewed on a case-by-base basis, and semiannual reporting is required in the absence of evidence as to why this is not sufficient. Factors that are reviewed include size, number and location of sources, likelihood of excess emissions, potential for severe adverse air quality impacts, and other factors as appropriate. For standards where semiannual reporting is judged insufficient to meet the needs of the enforcing agency, quarterly or more frequent reporting is required.

For the NESHAP program, quarterly (or more frequent) reporting will be required for all standards containing reporting requirements. This is because the hazardous nature of the pollutants involved makes it essential that EPA be notified as quickly as possible when a potential violation has occurred, so that EPA and the source may move quickly to correct the problem area.

For FCCU's, EPA has concluded that quarterly reporting (or semiannual reporting if no exceedances have occurred during a particular quarter) is the appropriate reporting frequency for the following reasons. The reports contain direct compliance information, rather than indicators of the source's performance. The FCCU is one of several significant emission sources in petroleum refineries. Quarterly reporting would be consistent with the FCCU NSPS for CO and particulate emissions, and with the NSPS for other sources of SO_2 emissions in refineries. An individual FCCU potentially can emit large quantities of SO_x, so periods of excess emissions could have a significant impact on the environment. This is particularly true because refineries generally are located in clusters near industrial, urban, populated, nonattainment areas. Because the refinery generally does not save money by operating the control techniques correctly and the pollutants cannot be recovered for resale, there is little incentive for this source category to be self-regulated. Therefore, to ensure that sources are not out of compliance

for long periods of time during which significant environmental impacts could occur, quarterly reporting (or semiannual reporting if no exceedances of the standard have occurred during a particular quarter) is appropriate.

Exceedances of the standard are periods when the performance is worse than the standard. For example, for an FCCU with an add-on control, a 7-day average of 88 percent is an exceedance. Also, periods when an owner or operator of an FCCU with an add-on control does not meet the minimum data requirements (i.e., does not collect at least 22 valid days of data out of every 30 days) are exceedances of the standard. The EPA does not expect exceedances of the minimum data requirements because supplemental sampling would be conducted if the continuous monitor does not supply sufficient data.

Reports for quarters in which exceedances of the standard have occurred should include the dates and explanations for the exceedance; whether the exceedance was concurrent with a startup, shutdown, or malfunction of the FCCU or control system; and a description of the corrective action taken. Reports for quarters with no exceedances would contain a statement that no exceedances had occurred. For FCCU's with add-on controls, all periodic reports (submitted either quarterly or semiannually) would also include dates of and a brief explanation for days when fewer than 18 valid hours of continuous emission monitoring data were obtained. Appendix F is expected to have associated reporting and recordkeeping requirements. However, this burden cannot be included until Appendix F is promulgated.

The reporting and recordkeeping burdens have been reestimated. The resources needed by the industry to complete and maintain records, and to collect, prepare, and use the reporting requirements of the revised standard, with revisions incorporated, would average about 1.5 person-years per year for the 10.2 projected units covered by the standards through the first 3 years. The resources needed by EPA and State and local agencies to process the reports and maintain records for the first 3 years would average about 0.1 person-year per year.

Miscellaneous

Owners or operators of FCCU's should note that this NSPS would not supersede any other restrictions imposed on an FCCU, such as requirements necessary to maintain a short-term limit set by the national ambient air quality standards (NAAQS) or a prevention of significant deterioration (PSD) operating permit. For example, it should not be assumed that averaging times associated with other limitations would be interpreted automatically as 7-day rolling averages when this rulemaking is promulgated.

Paperwork Reduction Act. The information collection requirements in this revised proposed rule have been submitted for approval to OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Submit comments on these requirements to the Office of Information and Regulatory Affairs; OMB; 726 Jackson Place, NW.; Washington, D.C. 20503 marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public written comments on the information collection requirements.

"Major Rule" Determination. Under Executive Order 12291, the Administrator is required to judge whether a regulation in a "major rule" and, therefore, subject to certain requirements of the Order. The Administrator has concluded that this rule is not "major" because: (1) The national annualized compliance costs, including capital charges resulting from the revised proposal, total less then $100 million; (2) the revised proposal does not cause a major increase in prices or production costs; and (3) them revised proposal does not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation, or competition in foreign markets.

This revised proposal was submitted to OMB for review as required in Executive Order 12291. Any written comments from OMB to EPA and any EPA responses to those comments are available for public inspection in Docket No. A-79-09, Central Docket Section, at the address given in the **ADDRESSES** section of this preamble.

Regulatory Flexibility Analysis Certification. The Regulatory Flexibility Act of 1980 requires that adverse effects of all Federal regulations upon small businesses should be identified. The EPA believes that, due to discontinuance of the entitlements program, very little construction is anticipated at small refineries. However, even if facilities owned by small businesses do become subject to the revised standards, none will be adversely affected. The economic impact for facilities owned by small businesses is not considered significant. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Reporting and recordkeeping requirements, Incorporation by reference, Intergovernmental relations, Petroleum refineries.

Dated: November 1, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-26715 Filed 11-7-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 261 and 302

[FRL 2866-8]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Iron Dextran

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to amend its regulations under the Resource Conservation and Recovery Act to remove iron dextran (CAS No. 9004-66-4) from its listing as a toxic commercial chemical product which would become hazardous waste when discarded or intended to be discarded, and as an Appendix VIII hazardous waste constitutent. EPA is also proposing to remove iron dextran from the list of hazardous substances under the Comprehensive Environmental Response, Compensation and Liability Act of 1980. EPA is taking this action because iron dextran, when disposed, does not pose a hazard to human health or the environment.

DATES: EPA will accept public comments on this proposed rule until January 7, 1986. Any person may request a hearing on this amendment by filing a request with Eileen B. Claussen, whose address appears below, by December 9, 1985.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460. Comments should identify the regulatory docket: "Iron Dextran." Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460.

The public docket for this amendment is located in room S-212, Southeast Mall entrance, U.S. Environmental Protection Agency, 401 M Street, SW., Washington,

DC, 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline at (800) 424-9346 or at (202) 382-3000. For technical information contact Agnes Ortiz, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

I. Background

Under the authority of section 3001 of the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, the Agency promulgated under 40 CFR 261.33 (e) and (f) two lists of commercial chemical products or manufacturing chemical intermediates that are hazaradous wastes when and if they are discarded or intended to be discarded. The phrase "commercial chemical product or manufacturing chemical intermediate" refers to a chemical substance that is manufactured or formulated for commercial or manufacturing use, and consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient.

A chemical substance is generally listed in § 261.33(e) as an acutely hazardous waste if it meets the criteria of § 261.11(a)(2); that is, if it has been shown to be fatal to humans in low doses or has been shown in animal studies to have an oral LD50 (rat) of less than 50 milligrams per kilogram, a dermal LD50 (rabbit) of less than 200 milligrams per kilogram, an inhalation LC50 (rat) of less than 2 mg/l, or is otherwise capable of causing or significantly contributing to serious illness.

Chemical substances are generally listed in § 261.33(f) if they satisfy the criteria in § 261.11(a)(1) or § 261.11(a)(3) (*i.e.*, exhibit any of the characteristics of hazardous waste, or contain any of the toxic constituents in Appendix VIII). In applying these criteria, the Agency considers the nature of the toxicity of the compound in accordance with § 261.11(a)(3)(i), and the concentration of the compound in accordance with § 261.11(a)(3)(ii). The concentration of the listed commercial chemical product will ordinarily be high because the commercial chemical product consist nearly entirely of the toxic compound, or contain the compound as an active ingredient.

Chemicals are listed in Appendix VIII if they have been shown in reputable scientific studies to have toxic, carcinogenic, mutagenic or teratogenic effects on humans or other life forms and include such substances as those identified by the Agency's Carcinogen Assessment Group (CAG) as being carcinogenic. The significance of including a compound in Appendix VIII is threefold. First, the compound can be cited as a basis for listing wastes in § § 264.31, 261.32, or 261.33. Second, permittees are required to monitor ground water for these constituents under the detection, compliance, and corrective action monitoring programs of § 261.91(a)(2) and (a)(3). Third, the Principal Organic Hazardous Constituents specified in incineration permits are drawn from Appendix VIII (see 40 CFR 264.342).

The Fisons Corporation, Bedford, MA, has petitioned the Agency, pursuant to the provisions in § 260.20, to remove iron dextran from its listings in § 261.33(f) and Appendix VIII, claiming that iron dextran does not meet the necessary criteria for listing.

II. Basis for Original Listing

The Agency originally listed iron dextran in § 261.33(f) (Hazardous Waste No. U139) and Appendix VIII based solely upon the CAG assessment that iron dextran exhibited sufficient animal evidence of carcinogenicity. It is the policy of the Agency to list such materials in § 261.33(f) and Appendix VIII, unless there is a basis for concluding that they are not capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise mismanaged.

III. Reason and Basis for Today's Proposed Amendment

Evidence for the carcinogenicity of iron dextran is limited to studies in which iron dextran was given to experimental animals by subcutaneous or intramuscular injection. Although these studies indicated that sarcomas were formed at the site of injection, there was no other evidence of carcinogenicity. There is also no evidence that, when orally or otherwise administered, iron dextran is carcinogenic. Finally, there is no significant evidence that iron dextran is carcinogenic when administered to humans in the usual therapeutic doses.

It therefore appears that iron dextran poses a risk as a carcinogen only upon injection. In a re-evaluation of the iron dextran data, the CAG indicated that the evidence for the potential carcinogenicity of iron dextran does not have relevance for environmental exposure situations.[1]

The Agency is aware of no other evidence indicating that iron dextran, if and when disposed, is capable of posing a present or potential hazard to human health or the environment. EPA believes, therefore, that no further basis exists for the listing of iron dextran as a hazardous waste under RCRA, and is therefore proposing to remove iron dextran from its listing in § 261.33(f) and Appendix VIII.

IV. Relationship to Other Regulatory Authorities

Whenever a hazardous waste or waste stream is listed under Section 3001 of RCRA, it automatically becomes a hazardous substance under the statutory provisions of section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980(CERCLA). The Agency, in its April 4, 1985, final rule on notification requirements and reportable quantity (RQ) adjustments, noted that iron dextran, along with numerous other elements, compounds, mixtures, solutions and hazardous wastes, was designated as a hazardous substance under section 102(a) of CERCLA. (See 50 FR 13456, 13474 and 13489.)

Because iron dextran was designated as a hazardous substance under CERCLA solely because of its listing as a hazardous waste under section 3001 of RCRA, its proposed removal under RCRA suggests that iron dextran should be removed from the list of CERCLA hazardous substances. Accordingly, EPA proposes in this rulemaking to delist iron dextran from Table 302.4 of 40 CFR 302.4 and thereby remove its designation as a CERCLA hazardous substance.

A statutory RQ of one pound was established by Congress for all CERCLA hazardous substances not previously regulated and assigned reportable quantities under section 311 of the Clean Water Act. Iron dextran, having been listed as a RCRA section 3001 hazardous waste, was accordingly assigned a one pound statutory RQ. In the Agency's recent assessment of iron dextran for the purpose of adjusting the one pound statutory RQ under CERCLA, the Agency found no data for any of the six primary criteria used in its RQ adjustment methodology (*i.e.*, aquatic

[1] U.S. EPA. 1983. Technical Support Document and Summary Table for the Ranking of Hazardous Chemicals Based on Carcinogenicity. Office of Emergency and Remedial Response. OHEA-C-07 (External Review Draft).

toxicity, mammalian toxicity, ignitability or reactivity) upon which to base on RQ. In the Agency's April 4, 1985 notice of proposed rulemaking (50 *FR* 13519) the Agency proposed an RQ of 5,000 pounds for iron dextran. The basis for the proposed 5,000 pound RQ was simply that this was the maximum RQ which could be assigned to a CERCLA hazardous substance within the five level reporting scheme.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed rule is not major because it would not result in an effect on the economy of $100 million or more, nor would it result in an increase in costs or prices to industry. There would be no adverse impact on the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

This amendment was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small business, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have a significant economic impact on small entities since if anything, it will reduce regulatory requirements. Moreover, relatively few small entities dispose of iron dextran. Accordingly, I certify that this proposed regulation would not have a significant economic impact on a substantial number of small entities. This regulation therefore does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects

40 CFR Part 261

Hazardous wastes, recycling.

40 CFR Part 302

Air pollution control, Chemicals, Hazardous materials, Hazardous substances, Hazardous wastes, Intergovernmental relations, Natural resources, Nuclear materials, Pesticides and pests, Radioactive materials, Recycling, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control.

Lee M. Thomas,

Administrator.

Dated: November 1, 1985.

For the reasons set out in the preamble, it is proposed to amend Title 40 of the Code of Federal Regulations as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921 and 6922].

§ 261.33 [Amended]

2. Amend the table in § 261.33(f) by removing: U139 . . . Iron dextran.

3. Amend Appendix VIII by removing the listing: Iron dextran (Ferric dextran).

PART 302—DESIGNATION, REPORTABLE QUANTITIES, AND NOTIFICATION

1. The authority citation for Part 302 continues to read as follows:

Authority: Section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9602; Sections 311 and 501(a) of the Federal Water Pollution Control Act, 33 U.S.C. 1321 and 1361.

§ 302.4 [Amended]

2. Amend 302.4 by removing the entire listing for iron dextran and Ferric dextran from Table 302.4

[FR Doc. 85–26714 Filed 11–7–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 31

Federal Acquisition Regulation (FAR); Training and Education Costs

Correction

In FR Doc. 85–26105 beginning on page 45708 in the issue of Friday, November 1, 1985, make the following corrections:

1. On page 45708, in the second column, in 31.109(h)(15), in the second line, "§ 31.205–44(h));" should read "31.105(d)); and".

2. On the same page, in the third column, in 31.205–44(b), in the sixth line, "increases" should read "increase".

BILLING CODE 1505–01–M

Notices

Federal Register
Vol. 50, No. 217
Friday, November 8, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement with Bureau of Reclamation, Department of the Interior, Concerning Responses to Major Natural Disasters and National Security Emergencies

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Council proposes to execute a Programmatic Memorandum of Agreement under 36 CFR 800.8 with the Bureau of Reclamation regarding how the Bureau will address historic properties when responding to a major natural disaster or a national security emergency. The agreement is adapted from the model published by the Council in the Federal Register on February 25, 1985. Copies of the draft agreement are available from the Council.

COMMENTS DUE: December 9, 1985.

ADDRESS: Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW, Room 809, Wasington, DC 20004, ATTN: Dr. Thomas F. King.

Dated: November 4, 1985.

Robert R. Garvey,

Executive Director.

[FR Doc. 85-26681 Filed 11-7-85; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Reestablishing Eligibility of Section 502 Rural Housing Applicants Selected for Processing Prior to October 1, 1985

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: The Farmers Home Administration (FmHA) is reestablishing the eligibility of section 502 rural housing applicants whose applications had been selected for processing prior to October 1, 1985, in cases where a loan had not been approved on or before September 30, 1985. Applicants who had been notified by mail by the FmHA County Supervisor to furnish all information necessary to approve a loan, and were in the actual process of doing so, will be given the opportunity of qualifying for a loan under the low-income eligibility limits in effect prior to October 1, 1985.

DATE: Eligibility will be reestablished pursuant to this notice for all applicants who provide the information necessary for loan processing by January 31, 1986.

FOR FURTHER INFORMATION CONTACT: Ruth Corcoran, Senior Loan Specialist, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5344, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202) 382-1488.

SUPPLEMENTARY INFORMATION: On October 1, 1985, FmHA published at 50 FR 39959 an interim rule implementing the provisions of Pub. L. 98-181 in its sections 502 and 504 rural housing programs. This interim rule effected major changes in the eligibility criteria for these loans and many applicants were rendered ineligible due to income limits based on size of household and changes in method of adjusting annual income. This action has the effect of "grandfathering in" the eligibility of those applicants who had been given tentative eligibility determinations, selected for processing to completion and so notified in writing and were made ineligible under the new guidelines since their loans had not been approved before October 1, 1985. Such applicants will retain their eligibility status if they provide the necessary information for processing their loan by January 31, 1986, provided they are eligible according to the income limits in effect on September 30, 1985, and meet all other eligibility requirements for the loan.

This program/activity is listed in the Catalog of Federal Domestic Assistance under numbers: 10.410, Low-Income Housing Loans (section 502 Rural Housing Loans) and § 10.417, Very Low-Income Housing Repair Loans and Grants. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Dated: November 1, 1985.

Vance L. Clark,

Administrator, Farmer Home Administration.

[FR Doc. 85-26748 Filed 11-7-85; 8:45 am]

BILLING CODE 3410-07-M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Partially Closed Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB Meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 10:00 AM to 1:30 PM, on Thursday, November 14, 1985, to take place in the Department of Transportation Conference Room 4230, 400 Seventh Street, SW, Washington, D.C.

Items on the agenda: Priorities for the future in accessibility; ATBCB FY 1985 contracts status report; FY 1985 Annual Report; a report of findings and recommendations on ATBCB publications; a report on compensatory time; and, consideration of draft statements of work—technical papers.

The portion of the meeting relating to consideration of draft statements of work will require being closed to all non-government employees due to possible contracting of these items.

DATE: Thursday, November 14, 1985—10:00 AM–1:30 PM.

ADDRESS: Department of Transportation Conference Room 4230, 400 Seventh Street, SW, Washington, D.C.

All other committees of the ATBCB will meet on Tuesday and Wednesday, November 12 and 13, 1985, in the Department of Transportation Conference Room 4230, 400 Seventh Street, SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for

External Affairs (202) 245–1591 (voice or TDD).

Merrily Raffa,

Acting Executive Director.

[FR Doc. 85–26769 Filed 11–7–85; 8:45 am]

BILLING CODE 6820–BP–M

ARCTIC RESEARCH COMMISSION

Meeting

Notice is hereby given that the Arctic Research Commission will meet on 14–15 November 1985 in Seattle, Washington. On 14 November the meeting will be held in Room 319, Alexis Hotel, 1007 First Avenue, Seattle, Washington starting at 8:30 A.M. Matters to be considered include a review and discussion of proposed Arctic research policy, Arctic research priorities, and the Commission's report to Congress and the President.

On 15 November the Commission will meet in the Sixth Floor Meeting Room, Applied Physics Laboratory, University of Washington, 1013 N.E. 40th Street, Seattle, Washington starting at 8:30 A.M. Matters to be considered include (1) Chairman's items, (2) Comments from the Chairman of the Interagency Arctic Research Policy Committee, (3) Review and Status of Implementation of the Arctic Research and Policy Act, (4) Public Comments and Suggestions for Arctic Research Policy, (5) Mechanisms to Establish Links with the State of Alaska, (6) International Activities, (7) Other Business, and (8) Next Meeting.

The Commission will meet in Executive Session on 15 November from 3 to 4 P.M. Matters to be discussed in the Executive Session will include (1) Nominations for a Scientific Committee, (2) Future Activities of the Commission, and (3) Commission Budgetary Matters.

Contact Person for More Information: W. Timothy Hushen, Executive Director, Arctic Research Commission (213) 743–0970.

W. Timothy Hushen,

Executive Director, Arctic Research Commission.

[FR Doc. 85–26689 Filed 11–7–85; 8:45 am]

BILLING CODE 7555–01–M

DEPARTMENT OF COMMERCE

New Members of the Departmental Performance Review Board

This notice announces the new members of the Departmental Performance Review Board (PRB) in the Department of Commerce. The purpose of the Departmental PRB is to review the performance of appointing authorities and their immediate deputies who are in the SES and SES members whose ratings are initially prepared by their respective appointing authorities.

Theses Departmental PRB members are appointed for the two year term ending November 30, 1987. The list of new members eligible to serve on the Departmental PRB is as follows:

Office of the Secretary

Mark R. Policinski, Associate Deputy Secretary;
Helen W. Robbins, Executive Asistant to the Secretary;
Otto J. Wolff, Deputy Assistant Secretary, Office of Assistant Secretary for Administration;
Joseph C. Brown, Deputy Director, Office of Personnel and Civil Rights.

International Trade Administration

Saul Pawdo, Director, Office of Trade Information Services, United States and Foreign Commercial Services;
Peter B. Hale, Director, Office of Western Europe, International Economic Policy;
Vincent F. DeCain, Deputy to the Deputy Assistant Secretary for Export Administration, Trade Administration;
John A. Richards, Director, Office of Industrial Resource Administration, Trade Administration;
Roger D. Severance, Director, Office of the Pacific Basin, International Economic Policy.

National Telecommunications and Information Administration

Dennis R. Connors, Director, Office of Policy Coordination and Management.

Minority Business Development Agency

John Christian, Assistant Director for the Office of Field Operations.

National Bureau of Standards

Lyle H. Schwartz, Director, Institute for Material Science and Engineering;
Guy W. Chamberlin, Jr., Director of Administration;
Edward L. Brady, Associate Director for International Affairs;
Samuel Kramer, Deputy Driector for Programs, National Engineering Laboratory.

National Oceanic and Atmospheric Administration

Alan R. Thomas, Deputy Assistant Administrator, Office of Oceanic and Atmospheric Research;
Paul M. Wolff, Assistnt Administrator, Ocean Services and Coastal Zone Management.

Patent and Trademark Office

William L. Lawson, Patent Documentation Administrator;
Stephen G. Kunnin, Group Director.

Office of the General Counsel

Robert H. Brumley, Deputy General Counsel.

Office of the Under Secretary for Economic Affairs

C. Louis Kincannon, Deputy Driector, Bureau of the Census;
Allan H. Young, Director, Bureau of Economic Analysis;
Lucy A. Falcone, Senior Advisor to the Chief Economist.

Economic Development Administration

John E. Corrigan, Philadelphia Regional Director.

Persons desiring any further information about the Departmental PRB or its membership may contact Mr. Charles E. Patterson, Executive Secretary to the Departmental Performance Review Board, Office of Personnel, Herbert C. Hoover Building, Room 5119, Washington, D.C. 20230, (202) 377–3453.

Dated: November 4, 1985.

Charles E. Patterson,

Executive Secretary, Departmental Performance Review Board, Department of Commerce.

[FR Doc. 85–26323 Filed 11–7–85; 8:45 am]

BILLING CODE 3510–BS–M

National Bureau of Standards

[Docket No. 50839–5139]

Federal Information Processing Standard 119, Ada[1]

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce (Secretary) has approved a new standard, which will be published as FIPS Publication 119.

SUMMARY: On March 25, 1985, notice was published in the **Federal Register** (50 FR 11748) that a Federal Information Processing Standard for Ada was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended that the Secretary

[1] Ada is a registered trademark of the U.S. Government, Ada Joint Program Office.

approve the standard as Federal Information Processing Standard (FIPS) and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

This approved standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice.

ADDRESS: Interested parties may purchase copies of this new standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

FOR FURTHER INFORMATION CONTACT: Ms. Mabel Vickers, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921-2431.

Dated: November 5, 1985.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 119

(date)

Announcing the Standard for Ada

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* Ada (FIPS PUB 119).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard Reference Manual for the Ada* Programming Language, ANSI/MIL-STD-1815A-1983, as a Federal Information Processing Standard (FIPS). The American National Standard Ada, ANSI/MIL-STD-1815A-1983, specifies the form and meaning of program units written in Ada. The purpose of the standard is to promote portability of Ada programs for use on a variety of data processing systems. The standard is for use by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors; and by other computer professionals who need to know the precise syntactic and semantic rules of the standard.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard Reference Manual for the Ada Programming Language, ANSI/MIL-STD-1815A-1983.

7. *Related Documents.*

a. Federal Information Resources Management Regulation 201-6.107, Federal Information Processing Standards (FIPS) Programming Languages Requirement Statements.

b. NBS Special Publication 500-117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal department and agencies to exercise more effective control over the production, management, and use of the Governments's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems;

—To protect the existing software assets of the Federal Government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS Ada is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS Ada is suitable for use in programming the following applications:

—Those involving control of real-time processes or parallel processing;

—Very large systems, for which correct modularization is crucial;

—Systems with requirements for very high reliability;

—Systems which are to be developed with reusable software packages.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.

—The program will or might be run on equipment other than that for which the program is initially written.

—The program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. The standard for Ada adopted herein (ANSI/MIL-STD-1815A-1983) does not allow conforming implementations to extend the language. Representation clauses and implementation-dependent features (see

*Ada is a registered trademark of the U.S. Government, Ada Joint Program Office.

section 13 and Appendix F of the standard), whose semantics may differ among processors, should be used only when the needed operation or function cannot reasonably be implemented with the portable features alone. Although implementation-dependent features can be very useful, it should be recognized that their use may make the interchange or programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of statistical and numerical software packages. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is an Ada source program, then the resulting program should conform to the conditions and specifications of FIPS Ada.

10. *Specifications.* FIPS Ada specifications are the language specifications contained in American National Standard Reference Manual for the Ada Programming Language, ANSI/MIL-STD-1815A-1983.

The ANSI/MIL-STD1815A-1983 document specifies the form of a program written in Ada, the effect of translating and executing a program unit, the manner in which program units are combined to form Ada programs, predefined program units that must be supplied, permissible variations from the standard, and violations of the standard that must be and those not required to be detected by a conforming implementation.

The standard does not specify limits on the size or complexity of programs, the results when the rules of the standard fail to establish an interpretation, the means of supervisory control of programs, or the means of transforming programs for processing.

11. *Implementation.* The implementation of FIPS Ada involves three areas of consideration: Acquisition of Ada processors, interpretation of FIPS Ada, and validation of Ada processors.

11.1 *Acquisition of Ada Processors.* This publication becomes effective May 1, 1986. Ada processors acquired for Federal use after this date should implement FIPS Ada. Conformance to FIPS Ada should be considered whether Ada processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce Ada processors conforming to the standard. The transition period begins on the effective date and continues for eighteen (18) months thereafter. The provisions of this publication apply to orders placed after the effective date.

11.2 *Interpretation of FIPS Ada.* This FIPS PUB includes two parts: (1) The announcement portion (this document only), which contains the applicability and implementation provisions of FIPS Ada; and (2) the technical language specifications, which are contained in ANSI/MIL-STD-1815A-1983.

Resolution of questions regarding the announcement portion of FIPS Ada will be provided by NBS. Questions concerning this part of FIPS Ada should be addressed to: Driector Institute for Computer Science and Technology, ATTN: Ada Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

The responsibility for the resolution of questions concerning the technical language specifications part of FIPS Ada (i.e., ANSI/MIL-STD-1815A-1983) is assigned to the Ada Joint Program Office, which is the sponsor of the ANSI standard. All questions concerning the meaning of FIPS language specifications should be addressed to: Director Ada Joint Program Office, 3D139 (400 A/N) The Pentagon, Washington, DC 20301.

11.3 *Validation of Ada Processors.* The General Services Administration (GSA), through its Federal Software Testing Center (FSTC), provides a service for the purpose of validating the conformance to this standard of compliers offered for Federal procurement. The validation system reports the nature of any deviations that are detected. This serivece is offered on a reimbursable basis. Further information about the validation service can be obtained from the FSTC which is located at 5203 Leesburg Pike, Suite 1100, Falls Church, Virginia 22041-3467 (703-756-6156).

12. *Where to Obtain Copies.* Copies of this Publication are for sale by the National Technical Information Service, U.S. Dpeartment of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 119 (FIPS PUB 119), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 85-26706 Filed 11-7-85; 8:45 am]
BILLING CODE 3510-CN-M

[Docket No. 50953-5153]

Proposed Federal Information Processing Standard for Optical Character Recognition (OCR) Dot Matrix Character Sets for OCR-MA

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of Proposed Federal Information Processing Standard.

SUMMARY: This proposed standard adopts a voluntary industry standard, Optical Character Recognition (OCR) Dot Matrix Character Sets for OCR-MA, for Federal use. The standard is currently a draft standard that is expected to be approved as an American National Standard in 1985.

Prior to the submission of this proposed standard to the Secretary of Commerce for review and approval as a FIPS, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposal Federal information Processing Standard (FIPS) contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard, is provided in its entirety in this notice; and (2) a specification portion which deals with the technical requirements of the standard. Interested parties may obtain a copy of the technical specifications from the Computer and Business Equipment Manufacturers Association (CBEMA), Attn: X3 Secretariat, 311 First Street, NW, Washington, DC 20001, (202) 737-8888.

DATE: To be considered, comments on this proposed FIPS must be received on or before February 6, 1986.

ADDRESS: Comments concerning the adoption of Optical Character Recognition (OCR) Dot Matrix Character Sets for OCR-MA as a FIPS are invited and may be sent to Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS for OCR-MA, National Bureau of Standards, Technology Building, Room B154, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be available for inspection and copying in

the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Bagg, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921–3165.

Dated: November 5, 1985.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication——

Announcing the Standard for Optical Character Recognition (OCR) Dot Matrix Character Sets for OCR–MA

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Optical Character Recognition (OCR)-Dot Matrix Character Sets for OCR–MA.

Category of Standard. Hardware Standard, Character Recognition.

Explanation. This Federal Information Processing Standard announces the adoption of the American National Standard, X3.111–1985, *Optical Character Recognition (OCR)-Matrix Character Sets for OCR–MA*, as a Federal Information Processing Standard. This standard provides the description, scope, and application rules for a character set that is generated by dot matrix printers and is designed to match, as close as practical, the design of the OCR–A character set. A major purpose of this OCR standard is to reduce the cost of data input into ADP systems which use Optical Character Recognition (OCR) equipment.

Approving Authority. Secretary of Commerce.

Maintenance Agency. U.S. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standard Optical Character Recognition (OCR)-Matrix Character Sets for OCR–MA (ANSI X3.111–1985).

Related Documents.

a. Federal Information Processing Standards Publication (FIPS PUB) 32–1, *Character Sets for Optical Character Recognition (OCR).*

b. Federal Information Processing Standards Publication (FIPS PUB) 40, *Guideline for Optical Character Recognition Forms.*

c. Federal Information Processing Standards Publication (FIPS PUB) 85, *Optical Character Recognition (OCR) Inks.*

d. Federal Information Processing Standards Publication (FIPS PUB) 90, *Guidelines for Optical Character Recognition (OCR) Print Quality.*

e. Federal Information Processing Standards Publication (FIPS PUB) 1–2, *Code for Information Interchange, Its Representations, Subsets, and Extensions.*

f. American National Standard X3.17–1981, *American National Standard for Character Sets for Optical Character Recognition (OCR–A)*

g. American National Standard X3.86–1980, *American National Standard for Optical Character Recognition (OCR) Inks.*

h. American National Standard X3.99–1983, *American National Standard for Information Systems-Optical Character Recognition (OCR)-Guidelines for OCR Print Quality.*

i. American National Standard X3.4–1977, *American National Standard for Code for Information Interchange (ADSII).*

Applicability. This standard is applicable to Optical Character Recognition (OCR) systems utilizing any part or all of a character set contained herein when used in data entry systems. However, when data or information is being prepared using OCR techniques for the purposes of interchanging information, the appropriate graphic or control characters of FIPS PUB 1–2 *Code of Information Interchange, Its Representations, Subsets, and Extensions* shall be used for such interchange.

Specifications. This standard adopts in whole the American National Standard X3.111–1985, Optical Character Recognition (OCR)-Matrix Character Sets for OCR–MA.

Qualifications. The American National Standard Optical Character Recognition (OCR)-Matrix Character Sets for OCR–MA describes sets of characters and associated procedural rules for use with characters generated by dot matrix printers which match OCR–A characters as closely as practical. Additional standards and information sources are required to describe the full set of necessary characteristics of an installed, operating OCR system. In general, these cover the topics of OCR Forms, OCR Print Quality, and OCR Tutorial Papers.

This standard shows variations in conformance to OCR–A shapes for different sets of characters, depending on the matrix resolution of the printed character. The character sets are defined by a specific combination of "dots" on a fixed grid. The character sets for OCR–MA1, OCR–MA2, and OCR–MA3 are defined. OCR–M1 can be met with 5x7, 7x7, 7x9 and 9x9 matrices. OCR–M2 can be met with 7x7, 7x9, and 9x9 matrices. The OCR–MA3 characters can be obtained with the 7x9 and the 9x9 matrices. In all cases, the 9x9 matrix is the recommended matrix for the best recognition results. The 7x9 matrix is the first alternative, the 7x7 is the second, and the 5x7 is the last recommended alternative to 9x9. The 9x9 matrix characters, illustrated in Figures 7 through 58, of the referenced American National Standard and the 7x7 matrix characters, illustrated in Figures 110 through 139, are designed to increase printer throughput by imposing the restriction that there are no dots on adjacent horizontal positions. Unlike OCR–A, where the emphasis is on reader performance, this standard has been written to reduce printing constraints to a level that will allow lower resolution printers to be usefully applied for OCR applications.

This standard has been written to incorporate many of the characteristics defined in European Computers Manufacturers Association (ECMA) Standard ECMA–51, *"Implementation of the Numeric OCR–A Font with 9x9 Matrix Printers,"* Standard ECMA–42, *"Alphanumeric Character Set for 7x9 Matrix Printers"*, and Deutsches Institut fur Normung (DIN) Standard 66 008, *"Font A for Optical Character Recognition; Character Representation by Dots Within 9x9 Matrix Dimensions"*.

Matrices with resolutions of dot densities greater than 9x9 are not covered in this standard. However, higher resolution printers can create characters that meet the requirements of this standard. Often this can be accomplished by using a group of small dots closely spaced to create the same effect as one larger dot. High resolution matrix printers can also be used to create character sets that conform to FIPS 32–1.

Implementation Schedule. This standard is effective ——— (six months after approval by the Secretary of Commerce). Immediate use by Federal agencies is strongly recommended when the use of dot matrix printers would contribute to operational benefits, efficiency or economy.

Waivers. Under certain exceptional circumstances, the head of the agency is authorized to waive the application of the provisions of this FIPS PUB. Exceptional circumstances which would warrant a waiver are:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers on an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication —— (FIPSPUB ——), and title. Payment may be made by check, money order, purchase order, credit card, or deposit account.

[FR Doc. 85-26705 Filed 11-7-85; 8:45 am]

BILLING CODE 1510-CN-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Imprecisely Located Targets

ACTION: Change in Title of Advisory Committee Meeting Notice.

SUMMARY: The meeting notice titled the Defense Science Board Task Force on On-Site Inspection as published in the **Federal Register** (Vol. 50, No. 183, Friday, September 20, 1985, FR Doc. 85-22523) should read Task Force on Imprecisely Located Targets. The name listed in the body of the notice is correct. In all other respects the original notice remains unchanged.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 4, 1985.

[FR Doc. 85-26692 Filed 11-7-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Proposed Acquisition Policy

In accordance with section 302 of Pub. L. 98-577, Small Business and Federal Procurement Competition Enhancement Act, notice is hereby given of Air Force System Command's intent to incorporate the following two clauses in all undefinitized long lead contracts.

The first clause requires that a contract definitization schedule be stated in the contract and allows the government the unilateral right to definitize the contract if award is not made by the target date.

Insert the following clause in all undefinitized long lead contracts substantially as written. If at the time of entering into the long lead contract, the contracting officer knows that the definitive contract will be based on adequate price competition or will otherwise meet the criteria of Federal Acquisition Regulation 15.804-3 for not requiring submission of cost or pricing data, the words "and cost or pricing data" may be deleted from paragraph (a) of the clause.

Long Lead Contract Definitization

(a) A —— (insert specific type of contract) definitive contract is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer upon full program release, the terms of a definitive contract that will include: (1) All clauses required by the Federal Acquisition Regulation (FAR) on the date of the execution of the long lead contract, (2) all clauses required by law on the date of execution of the definitive contract and (3) any other mutually agreeable clauses, terms and conditions. The Contractor agrees to submit a —— [insert specific type of proposal (e.g., fixed-price or cost-and-fee)] proposal and cost or pricing data supporting its proposal.

(b) The schedule for definitizing this contract is —— [in target date for definitization of the contract and dates for submission of proposal, beginning of negotiations and, if appropriate, submission of make-or-buy and subcontracting plans and cost or pricing data].

(c) If agreement on a definitive contract to supersede this long lead contract is not reached by the target date in paragraph (b) above, or within any extension granted by the Contracting Officer, the Contracting Officer may, with the approval of the Head of the Contracting Activity, determine a reasonable price or fee in accordance with Subpart 15.8 and Part 31 of the FAR, subject to Contractor appeal as provided in the Disputes clause. In any event the Contractor shall proceed with completion of the contract, subject only to the Long Lead Limitation of Government Liability clause.

(1) After the Contracting Officer's determination of price and fee, the contract shall be governed by—

(i) All clauses required by FAR on the date of execution of this long lead contract for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c).

(ii) All clauses required by law as of the date of Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with subparagraph (c)(1) above, all clauses, terms, and conditions included in this long lead contract shall continue in effect, except those that by their nature only apply to a long lead contract.

(End of clause)

The second clause limits the contractor expenditure or incurrence of obligations exceeding a specified dollar amount.

Insert the following clause in all undefinitized long lead contracts:

Long Lead Limitation of Government Liability

(a) In performing this contract, the Contractor is not authorized to make expenditures or incur obligations exceeding —— dollars.

(bb) The maximum amount for which the Government shall be liable if this contract is terminated is ____ dollars.

(End of clause)

Interested persons are invited to submit written comments on the clauses to Ms Susan Wright, HQ AFSC/PKCP, Andrews AFB MD 20334-5000 within 30 days from this date of this notice.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-26684 Filed 11-7-85; 8:45 am]

BILLING CODE 3910-01-M

Privacy Act of 1974; Systems of Records

AGENCY: Department of the Air Force (DAF), DOD.

ACTION: Notice of deletion and amendment of Air Force Systems of Records Notices.

SUMMARY: The Air Force proposes to delete 4 and amend 11 systems of records notices. Changes are summarized below and the rewritten notices follow in their entirety.

EFFECTIVE DATE: The deletions are effective November 8, 1985, and the amendments shall be effective without further notice on or before December 9, 1985, unless public comments are received which result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Updike, HQ USAF/DAQD(S), The Pentagon, Washington, D.C., telephone: 202/694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records inventory subject to the Privacy Act of 1974, Title 5, United States Code, Section 552a (Pub. L. 93-579; 44 Stat. 1896 *et seq.*) has been published in the **Federal Register** as follows:

FR Doc. 85-10237 (50 FR 22332) May 29, 1985

FR Doc. 85-14122 (50 FR 24672) June 12, 1985

FR Doc. 85-15062 (50 FR 25737) June 21, 1985

None of the proposed changes requires an altered system report as mandated by 5 U.S.C. 552a(o).

DELETIONS

F011 SAC A

System Name:

Logistic Personnel Management System. (50 FR 22345), May 29, 1985.

Reason:

This system of records has been discontinued.

F050 ATC E

System Name:

Maintenance Management Automated Training System (MMATS). (50 FR 22450), May 29, 1985.

Reason:

This system of records has been replaced by F066 AF A, Maintenance Management Information and Control System MMICS.

F066 SAC A

System Name:

ICBM Maintenance Standardization and Evaluation Program. (50 FR 22468), May 29, 1985.

Reason:

This system of records has been discontinued.

F080 AFA A

System Name:

Minnesota Multiphase Personality Inventory. (50 FR 22475), May 29, 1985.

Reason:

This system of records has been discontinued.

AMENDMENTS

F030 AF MP E

System Name:

Drug Abuse Waiver Requests. (50 FR 22361), May 29, 1985.

Change:

System Location:

Delete, "3700 Personnel Processing Group, Lackland AFB, Texas 78236 (3700 PPG, Lackland AFB, Texas 78236)."

F030 ATC C

System Name:

Processing and Classification of Enlistee (PACE). (50 FR 22367), May 29, 1985.

Changes:

System Location:

Delete, "and USAF Recruiting Service (ATC), Randolph AFB TX 78150."

System Manager(s) and Address:

Change to read, "Headquarters ATC Assistant for Plans Analysis and Data Systems, Data Systems Support Division, Randolph AFB TX 78150, and 3507th Airman Classification Squadron (ATC), Lackland AFB TX 78236."

F035 AFA C

System Name:

Prospective Instructor Files. (50 FR 22386), May 29, 1985.

Change:

System Manager(s) and Address:

Delete, "Dean of Faculty."

F035 ATC G

System Name:

Recruiting Activities Management Support System (RAMSS). (50 FR 22403), May 29, 1985.

Changes:

Categories of Individuals Covered by the System:

Change next to last sentence to read, "Applicants for the Air Force commissioning programs."

Categories of Records in the System:

Change next to last sentence to read, "Officer applicant records showing SSN, name, and other educational and personal data necessary for the processing of candidates for commissioning as an Air Force officer."

F035 MP C

System Name:

Personnel Action File (Officer Digest File). (50 FR 22408), May 29, 1985.

Changes:

This notice has been extensively rewritten to more accurately describe handling of digest files for USAF Reserve officers not on extended active duty. Major changes are as follows:

System Location:

Add "Headquarters Air Force Reserve, Robins AFB GA 31098-6001 for non-extended active duty (EAD) unit assigned officers."

Purpose(s):

After "ARPC," add, "or HQ AFRES."

System Manager(s) and Address:

Change to read, "Promotion Division (HQ AFMPC/DPMAJ), Randolph AFB TX 78150-6001 for active duty officers. HQ ARPC, Denver CO 80280 for nonactive duty USAFR officers, and HQ AFRES, Robins AFB GA 31098-6001 for non-EAD unit assigned USAFR officers."

F045 ATC B

System Name:

Air Force Reserve Officer Training Corps (AFROTC) Cadet Personnel System (CPS). (50 FR 22436), May 29, 1985.

Changes:

Categories of Records in the System:

Add, "time-on-EAD."

System Manager(s) and Address:

Change to, "Chief, Information Systems Division, AFROTC/SI, Maxwell AFB AL 36112."

F050 AFCC C

System Name:

Individual Academic Training Record. (50 FR 22444), May 29, 1985.

Changes:

System location:

Add "AFCC Engineering Installation Academy, Engineering Installation Center, Tinker AFB OK 73145; Engineering Installation organizations."

Categories of records in the system:

Add "student questionnaires; individual academic standing."

Retention and disposal:

Add, "Records of individual training at EI organizations are retained until individual no longer performs EI duties, then are destroyed."

System manager(s) and address:

Add "Commandant, AFCC EI Academy, Engineering Installation Center, Tinker AFB OK."

F050 ATC B

System Name:

Community College of the Air Force Student Record System. (50 FR 22447), May 29, 1985.

Changes:

Authority for Maintenance of the System:

Change to read, "10 USC 9315, Community College of the Air Force: Associate in Applied Science Degree, as implemented by Air Force Regulation 53-29, Community College of the Air Force."

Purpose(s):

Change first sentence to read, "Records originated in the system document, in terms of credit awarded or accepted in transfer by the college, individual educational accomplishments which satisfy curricular requirements of study programs leading to an Associate in Applied Science degree offered by the college." Add after first sentence, "Transcripts of records in the college are, at the written request of persons concerned, furnished to any recipient(s) designated in such requests."

Retention and Disposal:

Change first sentence to read, "Records are retained in office files until superseded, obsolete, or no longer needed for reference."

F050 ATC C

System Name:

Faculty Board Ledger. (50 FR 22449), May 29, 1985.

Change:

System Manager(s) and Address:

Change to read, "Headquarters Air Training Command (ATC), Deputy Chief of Staff Personnel (DCSP), Randolph AFB TX, 78150.

F160 DODMERB A

System Name:

DOD Medical Examiniation Review Board Files. (50 FR 22057), May 29, 1985.

Changes:

Categories of Individuals Covered by the System:

After, "scholarship programs," add, "for Army, Navy and Air Force," and, after, "(CSP)," add, "for Army and Air Force."

F177 AFAFC L

System Name:

Retired Pay System. (50 FR 22540), May 29, 1985.

Changes:

System Location:

After, "backup storage only," add, "Air Force Accounting and Finance Offices (AFOs) at Air Force bases."

Record Access Procedures:

In second sentence, delete, "duty station or place of employment." Insert after first sentence, "However, retirees and annuitants may go to any Air Force Accounting and Finance Office (AFO) to request information regarding his or her account."

F030 AF MP E

SYSTEM NAME:

030 AF MP E Drug Abuse Waiver Requests.

SYSTEM LOCATION:

Directorate of Student Resources, USAF Recruiting Service, Air Training Command, Randolph Air Force Base, Texas 78148 (ATC/RSS, Randolph AFB TX 78148); USAF Recruiting Service Detachment Headquarters USAF Recruiting Service Offices; Deputy Chief of Staff, Education, Headquarters Air University, Maxwell AFB, Alabama 36112) (AU/ED, Maxwell AFB AL 36112); Directorate of Senior Programs, Headquarters Air Force Reserve Officer Training Corps (AFROTC), Maxwell AFB, Alabama 36112 (AFROTC/SD, Maxwell AFB, Alabama 36112); AFROTC Detachments; Directorate of Admissions and Registrar, United States Air Force Academy, USAF Academy, Colorado 80840 (USAFA/RR, USAF Academy, Colorado 80840);

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for enlisted or commissioning who have a history of pre-service drug abuse and who have requested a waiver of their disqualification.

CATEGORIES OF RECORDS IN THE SYSTEM:

A Copy of the USAF Drug Abuse Certificate and Drug Abuse Circumstances, Recommendation of Intermediate commands, and cover letter containing HQ USAF decision on waiver request are maintained.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 504, Persons not qualified.

PURPOSE(S):

This record is not released outside the Air Force. Records are maintained for future reference in the case of further inquiries relative to approval or disapproval of the request for waiver of pre-service drug abuse.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets.

RETRIEVABILITY:

Filed by Name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in safes and locked cabinets or rooms.

RETENTION AND DISPOSAL:

After action on the request, the paper record is filed in secured file cabinets, retained for no more than six months, and destroyed by tearing into pieces.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Records maintained in the system are provided by either Air Training Command, Air University, or the USAF Academy.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F030 ATC C

SYSTEM NAME:

030 ATC C Processing and Classification of Enlistees (PACE).

SYSTEM LOCATION:

At Air Training Command, Randolph AFB, TX 78150 and input/output remotes at 3507 Airman Classification Squadron (ATC) Lackland AFB, TX 78236.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty enlisted personnel. Attached records for Air National Guard and Air Force reserve personnel attending basic military training and Officer training school. Active duty enlisted personnel attending Officer training school in TDY status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Airmen trainee records containing name, Social Security Number (SSN), and other personnel data for assignment from basic military training, security investigation, job preferences, dependent data, education, test scores, grade and promotions, biographical history, physical data, drug abuse history, enlistment personal and guaranteed training enlistee program data, separation information, classification data, service dates, and basic training flight, squadron, entry and graduation dates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by; and Air Force Regulation 39–1, Airman Classification Regulation.

PURPOSE(S):

To create an initial record for the base level personnel data system (BLMPS); to provide AFMPC with initial accession information on non-prior service enlistees provide for improved classification and assignment procedures using computer processes; provide necessary information to joint military pay system (JUMPS) and Lackland Entering Pay System (LEAPS) for establishment of military pay records; interface the data ring process to the maximum extent with other functional areas; and to standardize and simplify personnel processing for the 3700 personnel processing group (ATC), Lackland AFB, TX 78236, so that they may more effectively control record preparation, processing, and clasification actions necessary to transition civilian enlistees to military status. Aptitude tests are administered; biographical history and job and assignment preferences are collected; and personal data is collected from enlistment records to establish a mechanized record necessary to support classification and assignment of trainees. Accession and update data is furnished through automatic interface to the advanced personnel data system (PDS) at AFMPC and Air Training Command, Randolph AFB, TX; to JUMPS at AFAFC, Denver, CO. and to LEAPS at accounting and finance, Lackland AFB, TX. History records are furnished monthly to the human resources laboratory (HRLPRD), personnel research division, Brooks AFB, TX, for statistical analysis and to USAF Recruiting Service/RSS, Randolph AFB, TX, for use in the enlistee quality control monitoring system. Data is used to prepare forms, processing schedules, reassignment and pomotion orders, classification actions, transaction and error rosters, autodin lists, and management products necessary to administer trainees while at Lackland AFB, TX. Standard BLMPS products such as JUMPS transaction registers, strength balance reports, and suspense lists are prepared. Changes in basic data, promotions, reassignments, separations, and duty status changes are reported to PDS, JUMPS, and LEAPS as the action occurs. History records used at HRLPRD and the enlistee quality contol monitoring system are augmented by additional data from PDS and technical training centers and are used to evaluate the quality of Airmen enlisted in the USAF and the effects of changes in procurement and classification policies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in card files and on computer magnetic media.

RETRIEVABILITY:

Filed by name or SSN.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Records are controlled by computer system sofware.

RETENTION AND DISPOSAL:

Records for basic trainees are retained in active file until departure from basic military training is confirmed then transferred to history file on magnetic tape for one year. Records for Officer trainees are maintained in the active file until end of fiscal year in which they enter training and then transferred to history file on magnetic tape for one year.

SYSTEM MANAGER(S) AND ADDRESS:

HQ ATC Assistant for Plans Analysis and Data Systems, Data Systems Support Division, Randolph AFB TX 78150 and 3507 Airman Classification Squadron (ATC), Lackland AFB, TX 78236.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager, and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from automated system interfaces, from source documents such as reports, and from forms prepared during enlistment processing and completed during interviews and testing at 3507 Airman Classification Squadron, Lackland AFB, TX 78236.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 AFA C

SYSTEM NAME:

035 AFA C Prospective Instructor Files.

SYSTEM LOCATION:

United States Air Force Academy, USAF Academy Colorado Springs CO 80840–5000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel applying for instructor duty at the Air Force Academy.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copy of Application for Instructor Duty, college transcripts, past Officer Effectiveness Reports, Officer Uniform Assignment Brief which contains information such as prior assignment information, aeronautical rating information, general personnel data including security clearance, date of birth, marital status, promotion dates; correspondence between individual and department, evaluations on individual's suitability and record of personal interview.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9331, Establishment; Superintendent; faculty.

PURPOSE(S):

Used by Dean of Faculty, Commandant of Cadets, Commander of Preparatory School and Director of Athletics to determine qualification, availability and location of potential instructors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine use published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets and in locked cabinets or rooms, and controlled by personnel screening.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, or no longer needed for reference.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, USAF Academy, Colorado Springs CO 80840–5000

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the Sytem Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from the individual, previous employers, educational institutions and source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 ATC G

SYSTEM NAME:

035 ATC G Recruiting Activities Management Support System (RAMSS).

SYSTEM LOCATION:

HQ United States Air Force Recruiting Service, Operations Directorate (RSO), Randolph Air Force Base, TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force enlisted personnel entering active duty. Individuals tested and processed for Air Force enlistment. Potential Air Force enlistees qualified through the Armed Services Vocational Aptitude Battery (ASVAB) high school testing program. Other military services Delayed Enlistment Program (DEP) and active duty enlistees. Applicants for Air officer commissioning programs. Air Force enlisted personnel on recruiting duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Air Force enlistment processing records showing name, SSN, scores on all qualification tests, physical job qualifications, job preferences, jobs offered, jobs accepted, other personal data relevant to jobs offered, recruiting and processing locations, education data, and dates of processing. Airman trainee history records containing name, SSN, and other personnel data for assignment from basic military training, revised job preferences, security clearance investigations, dependent data, education, test scores, grade and promotions, biographical history, physical information, drug abuse history, enlistment personal and guaranteed training enlistee program data, separation data, classification data, service dates, technical school eliminations, separations, honor graduates, and Article 15/ courts-martial actions. Records for high school seniors who are ASVAB tested and meet the basic Air Force enlistment criteria showing name, mailing address, test scores, and high school where tested. Enlistment processing records for other military services showing SSN, name, state and country of residence, test scores, educational level, physical profile, processing date and location, prior service, and other personal data such as age, sex, race, marital status, and number of dependents. Officer appliant records showing SSN, name, and other educational and personal data necessary for the processing of candidates for commisoning as an Air Force Officer. Air Force enlisted recruiter individual records showing such items as SSN, name, recruiting office assigned, and date assigned to Recruiting Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 503, Enlistments: Recruiting campaigns; and Air Training Command Regulation 33–2, Recruiting Procedures for the United States Air Force (Recruiting Service)

PURPOSE(S):

To furnish leads to the field recruiters derived from the high school ASVAB testing program, evaluate Air Force recruiters on effectiveness of screening out potential under/overweight applicants, evaluate recruiter's and job counselor's activity and efficiency

levels, analyze preenlistment job cancellations for common reasons, analyze post-enlistment training pipeline attritions for common reasons, evaluate Air Force job reservation pool and past enlistments for effect of potential changes in enlistment policies in areas such as mental qualifications and physical qualifications, evaluate interservice recruiting performance, screen other service enlistees from Air Force advertising lead files, determine pass/fail rates for mental and physical testing, track training performance of Air Force enlistees, study the correlation of job held with performance on the job, study correlation of quality indicators with post-enlistment performance, feedback to field recruiters of individual records on all training attritions, and analyze advertising responses. Used by the personnel record maintenance activity to cross-check file completeness and accuracy. Individual records are aggregated into various statistical analyses for all levels to ascertain recruiting and seasonal procurement trends, to predict future potential developments, and to assist in the development of procurement, classification, and assignment policies Air Force military personnel.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on computer magnetic tapes, computer magnetic disks and computer paper printouts.

RETRIEVABILITY:

Filed by name, SSN, or non-personal identifier.

SAFEGUARDS:

Records are accessed through computer run scheduling arrangements by persons responsible for servicing the system in performance of their official duties. Computer paper printouts are distributed only to authorized users. Records are physically safeguarded by controlled access to the computer facility, secured buildings and locked rooms.

RETENTION AND DISPOSAL:

Enlistment processing records and recruiter records are retained until no longer needed for recruiting purposes; potential enlistee records and high school test records are retained for two years; advertising lead records are retained for one year; interservice recruiting records are retained for six months. These retentions are built into the computer system program with automatic software controlled deletions from the machine-readable record.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Management and Analysis Division, Directorate of Recruiting Operations, HQ United States Air Force Recruiting Service, Randolph Air Force Base, TX 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Request must contain full name, and current mailing address.

RECORD ACCESS PROCEDURES:

Same as procedures for notification.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

The source of all records in the system are from automated system interfaces.

SYTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F035 MP C

SYSTEM NAME:

035 MP C Personnel Act File (Officer Digest File).

SYSTEM LOCATION:

Headquarters Air Force Manpower and Personnel Center, Randolph AFB TX 78150-6001 for active duty officers. Headquarters Air Reserve Personnel Center, Denver CO 80280 for nonactive duty USAFR officers, and Headquarters Air Force Reserve, Robins AFB GA 31098-6001 for non-Extended Active Duty (EAD) unit assigned USAFR officers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty officer personnel and USAFR officers who are the subject of a Digest File.

CATEGORIES OF RECORDS IN THE SYSTEM:

Composed largely of summaries/extracts or notices of the Air Force Office of Special Investigations (AFOSI) Reports of Investigation (ROIs). The system may also contain other official records or documents which reflect relevant derogatory information about officers, e.g., notice of involuntary separation proceedings, notice of Special Security File, reports of AWOL/Desertion status, administrative inquiries and investigations, Inspector General (IG) reports, and reports of violations of public trust in contract, procurement, and other matters. Additionally, a file will contain a statement regarding the subject matter from the officer if one is made, plus any comments and recommendations by the member's commander and intermediate commanders. A Digest File will contain copies of documentation used to notify the individual and a Decision Authority's decision to retain the file. The system of records also includes letters of notification when digest files are destroyed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties, delegation by, and Air Force Regulation 36-25, Officer Digest Files.

PURPOSE(S):

Digest Files are reviewed by career management officials and Central Selection Boards at HQ USAF, HQ AFMPC, HQ ARPC or HQ AFRES, as appropriate, to insure the propriety of personnel decisions finalized at those levels regarding promotion, assignment, mobilization, recall to extended active duty, selection, utilization and separation. The purpose of such review is to insure that individual career management decisions enhance the quality of professionalism in the Air Force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in paper form.

RETRIEVABILITY:

Filed Alphabetically by name or numerically by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by persons responsible for servicing the record system and by other personnel whose names appear on an authorized access list indicating they have a need to know in the performance of their official

duties. Records are stored in locked cabinets.

RETENTION AND DISPOSAL:

Files are destroyed 2 years from date established, or 2 years from date new derogatory information is added. Decision authority may destroy active digest files sooner than the specified retention. Active files are destroyed when member separates, retires (including placement on the Temporary Disability Retired List (TDRL)), or dies, except files on officers who separate and are transferred to AFRES are forwarded to HQ ARPC/DPAAS. Digest Files may be destroyed following receipt of nonjudicial punishment under Article 15, UCMJ, or conviction by court-martial, if either action is based upon the same incident(s) which caused the creation of a Digest File and a copy of the Article 15 or court-martial order are filed in the Officer Selection Record (OSR), maintained at HQ AFMPC.

SYSTEM MANAGER(S) AND ADDRESS:

Promotion Division (HQ AFMPC/DPMAJ), Randolph AFB TX 78150–6001 for active duty officers. HQ ARPC, Denver, CO 80280 for nonactive duty USAFR officers, and HQ AFRES, Robins AFB GA 31098–6001 for non-EAD unit assigned USAFR officers.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Written requests should contain the member's full name, rank, and SSN. Information may also be obtained by personal visit with the appropriate System Manager on normal workdays. Requests from individuals should be addressed to the, Promotion Division (AFMPC/DPMAJ), Randolph AFB TX 781506001 for active duty officers or the Command Records Manager (HQ ARPC/DAD), Denver CO 80280 for nonactive duty USAFR officers. Nonactive duty USAFR officers should also include current address and the case (control) number shown on any correspondence received from the Center. Information may be obtained by active duty officers by personal visit with the System Manager upon verification of the identification data required for written requests. Nonactive duty USAFR officers may review records in Record Receptionist's Review Room HQ ARPC, Denver 80280, between 8:00 a.m. and 3:00 p.m. on normal workdays. For personal visits, the individual should provide current Reserve ID cards and/or drivers license and present some verbal information that could verify their identify from their record.

RECORD ACCESS PROCEDURES:

Individuals can obtain access to their own Digest Files by following the procedures described above.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager or by reviewing AFR 36–25.

RECORD SOURCE CATEGORIES:

Digest File information is obtained from AFOSI, Commanders, Consolidated Base Personnel Offices, MAJCOMs, and from official records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F045 ATC B

SYSTEM NAME:

045 ATC B AFROTC Cadet Personnel System (CPS)

SYSTEM LOCATION:

AFROTC/SI, Maxwell AFB AL 36112. Copies pertaining to each AFROTC detachment are located at the respective detachment. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

AFROTC cadets.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, Social Security Number (SSN), AFROTC Detachment number, AFROTC Detachment assignment. Area crosstown/consortium student identification, type ROTC program, AFROTC Aerospace studies course, AFROTC student, status, initial AFROTC category when first enrolled, current AFROTC category, reason for change, Air Force officer qualifying test scores, established graduation date, current established commissioning date, field training status, AFROTC member field training rating academic specialty, date entered professional officer course training, prior service, date of enlistment in the Air Force Reserve, sex, race, date of birth, AFROTC college scholarship status, AFROTC Aerospace studies course when scholarship was activated, length of AFROTC scholarship entitlement, date of scholarship activtion, date of scholarship termination, Air Force Junior ROTC Corps identifier, cumulative grade point average, type academic credit, Flight Instruction Program Status, category eligibility, service component time-on-EAD.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapter 103-Senior Reserve Officer Training Corps; and Air Force Regulation 45–48, Air Force Reserve Officer Training Corps (AFROTC).

PURPOSE(S):

Cadet personnel data used by detachments, staff, and AFROTC Commandant to manage the program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses ublished by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computer and computer output products.

RETRIEVABILITY:

Filed by name or SSN.

SAFEGUARDS:

Records are accessed by custodian of the record system and stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation. Computer history tapes are retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Information Systems Division, AFROTC/SI, Maxwell AFB AL 36112.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager. Requests should include name, SSN, detachment, and date enrolled.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual converned may be obained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports and from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 AFCC C

SYSTEM NAME:

050 AFCC C Individual Academic Training Record.

SYSTEM LOCATION:

AFCC System Evaluation School, 1815 Test and Evaluation Squadron (AFCC), Wright-Patterson Air Force Base, OH 45433, AFCC Radar Evaluation School, Hill Air Force Base, UT 84056; AFCC Engineering Installation Academy, Engineering Installation Center, Tinker AFB, OK 73145; Engineering Installation organizations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military, Air Force Reserve, Air National Guard, Army National Guard, and Department of Defense civilian personnel who are electronics engineers, communications engineers, radio relay equipment maintenance specialists, technical control specialists, foreign Air Force students, and others who apply for this training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel index; absentee report; class pre-graduation/graduation roster; attendance record; student questionnaires; individual academic standing; record of individual training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

To record emergency data and course completion information and report student absences to the school commandant.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and card files, and on computer and computer output products.

RETRIEVABILITY:

Filed by student name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties. Stored in file cabinet.

RETENTION AND DISPOSAL:

Retained for ten years after individual completes or discontinues training course, then destroyed. Records of individual training at EI organizations are retained until individual no longer performs EI duties, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant, AFCC Systems Evaluation School, 1815 Test and Evaluation Squadron, Wright-Patterson Air Force Base, OH 45433; Commandant, AFCC Radar Evaluation School, Hill Air Force Base, UT 84056; Commandant, AFCC EI Academy, Engineering Installation Center, Tinker AFB, OK 73145.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information from instructor.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC B

SYSTEM NAME:

050 ATC B Community College of the Air Force Student Record System.

SYSTEM LOCATION:

The system is centrally administered by the Community College of the Air Force (ATC/ED), Maxwell AFB, AL 36112. Computer processing for the system is performed by the Systems Development Branch, Maxwell AFB, AL.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system may have a record for any person who since January 1, 1968 has completed a formal course of instruction conducted by one of the Air Force schools identified in the current Community College of the Air Force General Catalog. Such courses do not include precommissioning courses and courses conducted exclusively for officers or their civilian counterparts. The system includes records reflecting Air Force courses completed before 1968 and other educational accomplishments for persons who as enlisted members of the Air Force registered in programs of study leading to credentials awarded by the college. Both here and where appropriate below, the general term Air Force includes the regular Air Force, the Air Force Reserve, and the Air National Guard.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual academic records and, where necessary to serve airmen registered in study programs leading to credentials awarded by the college, a variety of source or substantiating records such as copies of registration applications and document control records derived from such applications, civilian college transcripts, college level examination program score reports; copies of educational records originated by other Air Force and non-Air Force agencies external to the college (such as the Federal Aviation Agency, the United States Armed Forces Institute, and the Defense Activity for Non-traditional Educaton Support), copies of a variety of Air Force personnel records (such as documents derived from master records maintained by the Air Force Manpower and Personnel Center and microfiche records of locator data); and records of credentials awarded to graduates. The college also maintains copies and related records of communications from, to, or regarding persons interested in the college, its educational programs, its student record system, and related matters. Copies of and statistical records derived from individual responses to surveys, questionnaires, and similar instruments authorized by HQ USAF may also be maintained as needed for managerial evaluation and planning by officers of the college.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 9315, Community College of the Air Force: Associate degree; and Air Force Regulation 53-29, Community College of the Air Force Mission.

PURPOSE(S):

Records originated in the system document, in terms of credit awarded or accepted in transfer by the college, individual educational accomplishments which satisfy curricular requirements of study programs leading to an Associate in Applied Science degree offered by the

college. Transcripts of records in the college are, at the written request of persons concerned, furnished to any recipient(s) designated in such requests. Such recipients typically include Air Force Education Services Centers, other offices where Air Force personnel are stationed, educational institutions, and potential or current employers. CCAF transcripts and copies of other records originated in the college are also used to support educational and occupational counselling, planning, and development; admission to other colleges; and related individual affairs. Disclosures of information recorded in the system may be made to employees of civilian contractors engaged by the Air Force to provide services which directly or indirectly support the record system.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Permanent student computer records are maintained on and as necessary reproduced from magnetic media. Paper records are maintained in file folders, card files, and special binders/cabinets designed for computer listings.

RETRIEVABILITY:

Computer records are retrievable by a combination of Social Security Number (SSN) and certain letters of last name. Paper records are retrievable by either SSN or name.

SAFEGUARDS:

Records maintained in the college are normally disclosed only upon written request from the subject of the records or upon written request from an Air Force officer or employee responsible to provide educational or related services to Air Force personnel. Disclosures to non-Air Force agencies not requested by the subject of the records require approval of an officer of the college. Except for disclosures within the college as may be necessary to its operations, requests by telephone and other unwritten means will not be honored unless in the judgment of a responsible member of the college staff the requester is a member or employee of the Air Force acting on behalf of, or is, the person whose record is requested. Special care is exercised to ensure complete identification of the requester, the person whose record is to be disclosed, and intended use. Other systematic safeguards to ensure integrity of records include secure storage of succesive generations of computer master files, existence and long-term retention in other Air Force facilities of records needed to rebuild the entire system in the event of catastrophe, and traditional measures to ensure the security of Air Force facilities. All records in the system are attended by responsible Air Force personnel during duty hours and stored in locked facilities under constant or periodic surveillance by Air Force security police during non-duty hours.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference. Specific rules for retention of permanent microfiche have not yet been determined. It is anticipated that such records may need to be retained for not less than 30 and not more than 50 years beyond the latest entries on each such record. Active master file records on the computer are by their nature evolutionary and will be maintained permanently. Paper records maintained to serve students registered in study programs are retained so long as a registrant remains active in his or her program. such records are destroyed 1 year after a registrant completes his or her study program. Other records are typically retained only so long as they may serve a useful purpose, which is typically between 30 and 90 days. No rule has yet been defined for retaining records which verify awards of credentials by the college, but it is expected that such records will need to be archival.

SYSTEM MANAGER(S) AND ADDRESS:

Senior official responsible for policies and procedures which govern the system; Deputy Chief of Staff/ Manpower and Personnel, Headquarters United States Air Force. System Manager: President, Community College of the Air Force (CCAF/CC) Maxwell AFB, AL 36112.

NOTIFICATION PROCEDURE:

Persons who have not registered in the college should address inquiries regarding records maintained by the college to Chief, Student Records Branch (CCAF/RRR), Maxwell AFB, AL 36112. Persons who have registered in the college may address inquiries as above or to Chief, Academic Programs Division (CCAF/AY), also at Maxwell AFB. Such inquiries will need to include the full name (and former names if appropriate), SSN, and birthdate of the inquirer, and should include a full return address (including ZIP Code). Visits to the college are welcomed, and visitors seeking information about personal records should first visit the Office of the Registrar.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager and from addresses listed above.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, automated system interfaces and from source documents submitted to the college by or at the request of individuals concerned, or by other Air Force agencies acting on behalf of individuals concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F050 ATC C

SYSTEM NAME:

050 ATC C Faculty Board Ledger.

SYSTEM LOCATION:

Headquarters Air training Command (ATC) Deputy Chief of Staff for Personnel (DCSP), Randolph AFB TX 78150.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Officers who meet a faculty board for elimination from undergraduate navigator or pilot training programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Composite listing containing board documentation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: Powers and duties; delegation by; and Air Training Command Regulation 53-1, Faculty Boards and Administrative Withdrawals and Losses.

PURPOSE(S):

DCS/P uses ledger to monitor case timeliness.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in note books/binders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked building.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cut-off, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Headquarters Air Training Command (ATC), Deputy Chief of Staff Personnel (DCSP) Randolph AFB TX, 78150.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORDS PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from source documents such as reports.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F160 DODMERB A

SYSTEM NAME:

160 DODMERB A Department of Defense Medical Examination Review Board Medical Examination Files.

SYSTEM LOCATION:

Department of Defense Medical Examination Review Board (DODMERB) US Air Force Academy CO 80840-6518.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All applicants to the five service academies, the Four Year Reserve Officer Training Corps (ROTC) Scholarship Program for Army, Navy and Air Force, Uniform University of Health Sciences (USUHS), Airman Scholarship Commissioning Program (ASCP), College Scholarship program (CSP) for Army, and Air Force, and the Primary Officer Corps (POC) Program of the Air Force ROTC.

CATEGORIES OF RECORDS IN THE SYSTEM:

The record system is maintained in three forms: The original hard copy report of medical examination, report of medical history, narrative summary and any associated civilian forms or tests that may have been accomplished; may also contain personal correspondence between the DODMERB and the applicant and/or parental/guardian consultation concerning applicant's medical history or status; the second portion is microform copy of the hard copy file; the third portion is in computer storage.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 133, Executive department.

PURPOSE(S)

The paper copy is used to determine medical acceptability for one or more of the service academies or the ROTC, USUHS, ASCR, CSP, and/or POC Program for Air Force ROTC. The microform portion is used for historical retrieval of previous actions. The computer form is used to advise the program managers of initial medical status any update actions on an applicant. Statistical summaries are extracted from the computer bank.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Consultations concerning medical conditions may be necessary with parent/guardian to clarify/explain applicant's medical status. Examinations may be accomplished by military medical facilities personnel, civilian contract agents of the government and/or private physicians. Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored in file folders, microfilm jackets and on computer disks or tapes.

RETRIEVABILITY:

Filed by Name and by Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are stored in locked cabinets or rooms and controlled by computer system software.

RETENTION AND DISPOSAL:

Paper copies from successful applicants to attend one of the five service academies, the ROTC Scholarship Program, and USUHS are forwarded to the Academy, ROTC, or USUHS Program to which the applicant has been accepted; paper copies of unsuccessful applicants to one of the five service academies, the ROTC Scholarship Program and USUHS, are destroyed at end of current year cycle; paper copy from applicants for ASCP, CSP, and the POC Program for Air Force ROTC are returned immediately after processing to the appropriate detachment for file; microfilm copy is kept five years and computer storage file is kept for two years following end of cycle.

SYSTEM MANAGER(S) AND ADDRESS:

Department of Defense Medical Examination Review Board, US Air Force Academy CO 80840-6518.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURES:

Individual can obtain assistance in gaining access from the System Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

F177 AFAFC L

SYSTEM NAME:

177 AFAFC L USAF Retired Pay System.

SYSTEM LOCATION:

Air Force Accounting and Finance Center, Denver CO 80279; Federal Archives and Records Center, Building 48, Denver Federal Center, Denver, CO 80225; Records Center Annex, GSA, P.O. Box 141, Neosho, MO 64850 (backup storage only); Accounting and Finance Offices (AFOs at Air Force bases; Air Reserve Personnel Center and Personal

Affairs offices at Air Force installations. Official mailing addresses are in the Department of Defense Directory in the Appendix to the Air Force's systems notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, Air Force Reserve and Air National Guard personnel, dependents and survivors of military personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include, but are not limited to retired pay and annuitant pay master files with supporting documentation relating to entitlements, deductions, collections and allotments Supporting documents include but are not limited to Retirement Orders, retirement pay orders, gross pay statements, statements of employment, employees' withholding exemption certificates, records of emergency data, retired pay allotment authorizations, retirees: United States savings bond authorizations, Air Reserve Forces retirement credit summaries, divorce decrees, computation of retired pay, death certificates, claims for unpaid pay and allowances of deceased members, marriage certificates, adoption papers, guardian papers, birth certificates, election certificates for retired servicemens' family protection plan (RSFPP), election certificates for survivor benefit plan (SBP), documents pertaining to status of childrens' schooling, and income tax withholding statements. Also included are listings of bonds, allotments, retired pay and annuitant pay checks, debts owed the government and direct remittances made by retirees for the costs of the RSFPP and SBP plans, records from dependents of retired military personnel, correspondence related to retirement entitlements such as reports from hospitals and medical review boards, print-outs of members' active duty military pay accounts from the joint uniform military pay system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC Chapters 61, Retirement or Separation for Physical Disability; 63, Retirement for Age; 65, Retirement for Length of Service; 67, Retired Pay for Non-Regular Service; 69, Retired Grade; 71, Computation of Retired Pay; 73, and 79, Correction of Military Records; 5 USC Chapter 83, Retirement; Title 37 USC, Pay and Allowances of the Uniformed Services; 38 USC 410, Deaths entitling survivors to dependency and indemnity compensation.

PURPOSE(S):

Used to accurately and timely pay the retired members of the Air Force and their survivors; provide members periodic statements of pay; document and account for all disbursements and collections; and to respond to inquiries concerning the retiree and annuitant accounts. Records are used to establish, maintain and close retiree and annuitant pay accounts and prepare related reports; compute retired and annuitant pay and initiate actions for monthly pay and allotment transactions; casualty cases are established upon the death of a member and arrears of pay are computed and disbursed to survivors; upon the death of a retired member who elected such coverage, RSFPP and/or SBP accounts are established and survival annuities are paid. Also, there is an automated interface with the joint uniform military pay system for data used to compute retiree payments; retiree's pay and their allotment (checking and savings accounts) payments as well as annuitant's pay are sent either directly to financial organizations or through the Direct Deposit/Electronic Fund Transfer Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force. Other users include, but are not limited to, any component of the Department of Defense for inquiries, audit and document utilization; other federal agencies such as the Internal Revenue Service for normal wage and tax withholding reporting, accounting, tax audits and levies; Comptroller General and the General Accounting Office for legal interpretations and audits. Disclosures are made to the Veteran's Administration regarding establishments, changes and discontinuances of VA compensation to retirees and annuitants; disclosures are made to the Social Security Administration regarding wages; information is furnished the American Red Cross and the Air Force Aid Society for their use in assisting retirees and their survivors. Information is supplied to state and local governments for use as follow-up data in welfare cases and for tax purposes. Information is also supplied to the Office of Personnel Management when a retiree waives his military retired pay in order to use his military service for computing his Civil Service Retirement Annuity. Information is supplied to the courts regarding retiree pay in garnishment cases. Disclosures are also made to attorneys, law firms, and other parties acting as executors or administrators of retirees estates and information is provided to trustees of mentally incompetent members and guardians of survivors (children).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders/note books/binders/visible file binders/cabinets/card files, computer magnetic tapes and paper printouts, and on roll microfilm and microfiche.

RETRIEVABILITY:

Filed by name and Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets/vaults/locked cabinets or rooms, protected by guards, and controlled by personnel screening, visitor registers and computer system software.

RETENTION AND DISPOSAL:

The records are retained for varied periods up to 56 years. Destruction of records is by shredding. Records are maintained at the Denver Federal Archives and Records Center. Duplicate records are maintained at the alternate site at Neosho, MO for storage where destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Accounting and Finance, United States Air Force, Washington DC 20330 (USAF). Assistant Deputy Chief of Staff Personnel for Military Personnel, Randolph Air Force Base, TX 78150 for Survivor Benefit Plans Briefing records and spouse notification letters.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from AFAFC/DAD, Denver, CO 80279.

telephone (303) 370–7553. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, duty station or place of employment, military status, military grade or other information verifiable from the record itself. For Survivor Benefits Plans Briefing records and spouse notification data, contact the System Manager specified in the preceding category or Personal Affairs officials at the servicing Air Force installation. Official mailing addresses are in the Department of Defense directory in the appendix to the Air Force's systems notices.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to AFAFC/DAD, Denver, CO 80279, telephone (303) 370–7553. However, retirees and annuitants may go to any Air Force Accounting and Finance Office (AFO) to request information regarding his or her account. The requester should be able to provide sufficient proof of identity, such as name, Social Security Number, military status, military grade or other information verifiable from the record itself.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12–35.

RECORD SOURCE CATEGORIES:

Information obtained from previous employers, financial, educational, and medical institutions, automated system interfaces, state or local governments, source documents such as reports. Also record sources include but are not limited to, the following: Members' survivors, trustees of mentally incompetent members, guardians of survivors (children), private law firms which are executors of estates in casualty cases, the Air Force Manpower and Personnel Center at Randolph Air Force Base, TX, and other government agencies such as the Veterans Administration and the Social Security Administration. Information also obtained from the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

November 5, 1985.

[FR Doc. 85–26775 Filed 11–7–85; 8:45am]

BILLING CODE 3810–01–M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondents; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Movement of Military Interchange Railroad Cars.

All commercial railroad yards must report DOD railcars when they ship, recieve and unload cars to MTMC so that the fleet railcars can be effectively managed to include movement, distribution, utilization and shopping (for repair) to support all DOD shipper agencies.

Businesses.

Responses: 34,800.

Burden hours: 2,900.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. Herbert F. Ewert, DAIM–ADI–M, Room 1C638 The Pentagon, Washington, DC 20310–0700, telephone (202) 694–0754.

Linda M. Lawson,

OSD Federal Register Liaison Officer, Department of Defense.

November 5, 1985.

[FR Doc. 85–26770 Filed 11–7–85; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation between the Government of the United States of America and the Government of Canada concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the supply of approximately 0.18 grams of plutonium, 15.7 grams of uranium, and other simulated radioactive wastes incorporated in glass for use in leaching experiments, to Atomic Energy of Canada, Ltd., Pinawa, Manitoba, Canada under contract number WC–CA–34. Upon completion of the experiments, the material will be disposed of as waste by Atomic Energy of Canada, Ltd.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 4, 1985.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 85–26700 Filed 11–7–85; 8:45 am]

BILLING CODE 6450–01–M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of

America and the Government of Canada concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above-mentioned agreements involve approval of the following sales:

Contract Number S-CA-382, to the Geological Survey of Canada, Ottawa, Canada, 0.0996 grams of uranium-235 and 0.0098 grams of uranium-233, for use as standard reference materials.

Contract Number S-EU-869, to the United Kingdom Atomic Energy Authority, England, 0.01 grams of plutonium-244 for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 4, 1985.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 85-26701 Filed 11-7-85; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangements; European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval of the following sale:

Contract Number S-EU-866, to Gesellschaft fur Schwerionenforschung mbH, Darmstadt, the Federal Republic of Germamy, one gram of uranium-233 as metal and one gram of uranium-235 as metal for use as heavy ion target materials at the UNILAC accelerator in basic research.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 4, 1985.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 85-26702 Filed 11-7-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP86-32-000 et al.]

Columbia Gas Transmission Corp. et. al.; Natural Gas Certificate Filings

November 1, 1985.

Take notice that the following filings have been made with the Commission:

1. Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company

[Docket No. CP86-32-000]

Take notice that on October 11, 1985, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginin 25325-1273, and Columbia Gulf Transmission Company (Columbia Gulf) (jointly referred to as Applicants), P.O. Box 683, Houston, Texas 77001, filed in Docket No. CP86-32-000 a joint request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Teledyne Ohio Steel Company (Teledyne) under the certificates issued in Docket Nos. CP83-76-000 and CP83-496-000, respectively, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicants propose to transport up to 2 billion Btu of natural gas per day to Teledyne's Lima, Ohio, plant. It is indicated that Teledyne has purchased gas from Exxon Corporation (Exxon) and that Exxon would deliver this natural gas to Columbia Gulf, which Columbia Gulf would transport and deliver to Columbia. It is further stated that it turn Columbia would transport and deliver equivalent volumes of natural gas to West Ohio Gas Company (WOH), the distribution company serving Teledyne in Lima, Ohio.

For this transportation Applicants state Columbia Gulf would charge Teledyne, pursuant to Rate Schedule T-2 of its FERC Gas Tariff, various rates and retain various amounts of gas for company-use and unaccounted-for gas. These charges are said to be:

Transportation	Cents per dt	Retainage (percent)
From offshore to Kentucky	23.92	1.69
From onshore lateral to Kentucky	14.28	1.50
From Payne, Louisiana, to Kentucky	12.76	1.50
From Corinth, Mississippi, to Kentucky	6.38	0.75

Applicants also state that Columbia would charge Teledyne, pursuant to Rate Schedule TS-1 of its FERC Gas Tariff, various rates. These rates are said to be:

For gas received from Columbia Gulf at—	Cents per dt
Leach, Kentucky, within WOH's total daily entitlement (TDE)	21.16
Points other than Leach, Kentucky, within WOH's TDE	29.93
Leach, Kentucky, in excess of WOH's TDE	32.50
Points other than Leach, Kentucky, in excess of WOH's TDE	41.27

It is stated that in addition Columbia would ratain 2.43 percent of the gas for company-use and unaccounted-for gas and would collect the General R&D Funding Unit of the Gas Research Institute for all quantities transported for Teledyne.

Applicants state that the gas was transported from March 1, 1985, through June 29, 1985, pursuant to § 157.209 of the Commission's Regulations and that since June 29, 1985, the gas has been transported under Columbia's special marketing program.

Applicants also request flexible authority to add or delete receipt/delivery points associated with sources of gas acquired by the end-user. The flexible authority requested would apply only to points related to sources of gas supply, not to delivery points in the market area. Applicants would file a report providing certain information with regard to the addition or deletion of sources of gas as further detailed in the application and any additional sources of gas would only be obtained to constitute the transportation quantities herein and not to increase those quantities.

Comment date: December 16, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Lone Star Gas Company, a Division of ENSERCH Corporation

[Docket No. CP86-61-000]

Take notice that on October 22, 1985, Lone Star Gas Company, a Division of ENSERCH Corporation (Lone Star), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP86-61-000 a request pursuant to § 157.205 of the

Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales taps and appurtenant facilities under Lone Star's blanket certificate issued in Docket Nos. CP83-59-000 and CP83-59-001, as amended in Docket No. CP83-002, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Lone Star proposes to sell approximately 100 Mcf of natural gas on an annual basis to each of the following residential customers:

Customer	Location	Line
Jerry Thomas	Bryan County, OK	E5-4
Vernon Blair	Clay County, TX	H

Sales to each of these customers would be made at the appropriate rate as provided by State authorities.

Comment date: December 16, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-26-000]

Take notice that on December 10, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-26-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Can-Am Corporation (Can-Am) under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the proposed service would be performed in accordance with the gas transportation agreement, as amended, dated May 24, 1985, which provides for the transportation of up to 5,500 Mcf of natural gas per day. It is stated that such volumes are received at the existing interconnection between Northern and Oklahoma Natural Gas Company (ONG) located in section 32, T22N, R22W, Woodward County, Oklahoma (ONG #1); and/or the existing interconnection between Northern and ONG located in section 24, T21N, R21W, Woodward County, Oklahoma (ONG #2); and/or the existing interconnection between Northern and ONG located in section 4, T12N, R22W, Roger Mills County, Oklahoma (ONG/RM); and/or the outlet of Northern Gas Products Company's plant located in section 31, T17S, R9W, Ellsworth County, Kansas (Bushton); and/or the existing interconnection between Northern and Northwest Central Pipeline Corporation located in section 32, T19N, R11W, Barton County, Kansas (Barton).

Northern states that it would deliver equivalent volumes for the account of Can-Am at the existing interconnection between the facilities of Northern and El Paso Natural Gas Company located in Section 20, Block B-1, Public School Lands, Winkler County, Texas.

Northern proposes to provide this transportation service for a term not to extend beyond May 31, 1986.

Northern states that it would charge Can-Am the following transportation rates for the transportation service:

Northern receipt points	Transportation rate (cents per Mcf)	Mileage *	Fuel retention percent
1. ONG #1	11.72	52FH/357BH	1.25
2. ONG #2	12.18	62FH/357BH	1.25
3. ONG/RM	12.51	89FH/317BH	1.70
4. Bushton	13.42	534BH	.725
5. Barton	13.04	518BH	.75

* FH—forward haul; BH—back haul

Northern submits that the subject gas would be purchased by Colony Natural Gas Corporation, acting as agent for Western Natural Gas Transmission Corporation, acting as agent for Can-Am, from Northern Gas Marketing, Inc. (NGMI), on behalf of Can-Am and would be used as process fuel in the operation of its mining facilities at Douglas, Arizona.

Northern estimates that the peak day, average day, and annual sales to be transported would be 5,500 Mcf, 1,400 Mcf, and 504,000 Mcf, respectively. Northern has submitted affidavits from NGMI indicating that the sales price would not exceed the maximum lawful price provisions of the Natural Gas Policy Act of 1978 and from ONG indicating that is has sufficient capacity to transport the gas without detriment to its other customers.

Northern also requests flexible authority to add or delete sources of gas and/or receipt and delivery points. Northern states that it is understood that any such changes would be on behalf of Can-Am at the same end-use location and would be within the maximum daily and annual volumes authorized herein and would apply only to points related to sources of supply and to existing delivery points with other intermeditate transporters. With respect to any such changes, Northern states that it would undertake within 30 days of the proposed change to file certain specified information with the Commission.

Comment date: December 16, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-27-000]

Take notice that on October 10, 1985, northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-27-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Apache Powder Company (Apache) under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the proposed service would be performed in accordance with the gas transportation agreement, as amended, dated June 4, 1985, which provides for the transportation of up to 2,000 Mcf of natural gas per day. It is stated that such volumes are received at the existing interconnection between Northen and Oklahoma Natural Gas Company (ONG) located in section 32, T22N, R22W, Woodward County, Oklahoma (ONG #1); and/or the existing interconnection between Northern and ONG located in section 24, T21N, R21W, Woodward County, Oklahoma (ONG #2); and/or the existing interconnection between Northern and ONG located in section 4, T12N, R22W, Roger Mills County, Oklahoma (ONG/RM); and/or the outlet of Northern Gas Products Company's plant located in section 31, T17S, R9W, Ellsworth County, Kansas (Bushton); and/or the existing interconnection between Northern and Northwest Central Pipeline Corporation located in section 32,T19N, R11W, Barton County, Kansas (Barton).

Northern states that it would deliver equivalent volumes for the account of Apache at the existing interconnection between the facilities of Northern and El Paso Natural Gas Company located in section 20, Block B-1, Public School Lands, Winkler County, Texas.

Northern proposes to provide this transportation service for a term not to extent beyond May 31, 1986.

Northern states that it would charge Apache the following transportation rates for the transportation service:

Northern receipt points	Transportation rate (cents per Mcf)	Mileage [1]	Fuel retention percent
1. ONG #1	11.72	52FH/357BH	1.25
2. ONG #2	12.18	62FH/357BH	1.25
3. ONG/RM	12.51	89FH/317BH	1.70
4. Bushton	13.42	534BH	.75
5. Barton	13.04	518BH	.75

[1] FH-Forward haul; BH-back haul.

Northern submits that the subject gas would be purchased by Colony Natural Gas Corporation, acting as agent for Western Natural Gas Transmission Corporation, acting as agent for Apache, from Northern Gas Marketing, Inc. (NGMI), on behalf of Apache and would be used as process fuel in the operation of its mining facilities near Benson, Arizona.

Northern estimates that the peak day, average day and annual sales to be transported would be 2,000 Mcf, 800 Mcf, and 288,000 Mcf, respectively. Northern has submitted affidavits from NGMI indicating that the sales price would not exceed the maximum lawful price provisions of the Natural Gas Policy Act of 1978 and from ONG indicating that it has sufficient capacity to transport the gas without detriment to its other customers.

Northern also requests flexible authority to add or delete sources of gas and/or receipt and delivery points. Northern states that it is understood that any such changes would be on behalf of Apache at the same end-use location and would be within the maximum daily and annual volumes authorized herein and would apply only to points related to sources of supply and to existing delivery points with other intermediate transporters. With respect to any such changes, Northern states that it would undertake within 30 days of the proposed change to file certain specified information with the Commission.

Comment date: December 16, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the National Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26680 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-35-000 et al.]

Chester and Irene Allen et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission

1. Chester and Irene Allen

[Docket No. QF86-36-000]

November 1, 1985.

On October 15, 1985, Chester and Irene Allen (Applicant), of Box 2140 Route 38, Livingston, Montana 59047 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 275 kW hydroelectric facility is located in Park County, Montana.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

2. Amoco Production Co.

[Docket No. QF86-33-000]

November 4, 1985.

On October 15, 1985, Amoco Production Co. (Applicant), of 1670 Broadway, Denver, Colorado 80202, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at the Wattenberg Gas Processing Plant, Adams County, Colorado. The facility consists of a combustion turbine generator and an exhaust heat recovery boiler. The primary energy source is natural gas. The power production capacity is 654 kilowatts. The steam output is used to remove hydrogen sulfide from natural gas liquid in the Wattenberg Natural Gas Liquid Treating Plant. Construction began on August 1, 1985.

3. Firestone Cogeneration Joint Venture

[Docket No. QF86-36-000]

November 1, 1985.

On October 16, 1985, Firestone Cogeneration Joint Venture (Applicant), of First Oklahoma Tower, Suite 810, 210 W. Park Avenue, Oklahoma City, Oklahoma 73102, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located within the Firestone Tire Plant in Oklahoma City, Oklahoma. It will consist of one combustion turbine generating unit, one supplementary fired heat recovery steam generator and one extraction/condensing steam turbine generating unit. The congeneration facility will supply steam to the Firestone Tire Plant to meet the balance of its process steam requirement. The net electric power production capacity of the facility will be 103.2 MW. The primary energy source will be natural gas. The installation of the facility will begin on December 20, 1987.

4. Empire Lumber Company, Inc.

[Docket No. QF86-19-000]

November 4, 1985.

On October 10, 1985, Empire Lumber Company, Inc., (Applicant), of P.O. Box 14917, North 25th Mullan, Spokane, Washington 99214 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Kamiah, Idaho and will consist of a boiler and a steam turbine generator unit. The electric power production capacity of the facility will be 9.9 MW. The primary source of energy will be wood.

5. Cleto McPherson

[Docket No. QF86-34-000]

November 4, 1985.

On October 15, 1985, Cleto McPherson (Applicant), of Box 2120, Route 38, Livingston, Montana 59047 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 100 kW hydroelectirc facility is located in Park County, Montana.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

6. Indeck Energy Services, Inc.

[Docket No. QF86-40-000]

November 4, 1985.

On October 15, 1985, Indeck Energy Services, Inc. (Applicant), of 1111 S. Willis Avenue, Wheeling, Illinois 60090, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at 45 East Garfield Avenue, Chicago, Illinois 60615. The facility will consist of one or two natural gas fired reciprocating engines and waste heat recovery boilers. The recovered heat will be used as process steam for production at Interstate Brands Corporation. The electric power production capacity of the facility will be 1 MW.

7. Marcal Paper Mills, Inc.

[Docket No. QF86-43-000]

November 4, 1985.

On October 17, 1985, Marcal Paper Mills, Inc. (Applicant), of One Market Street, Elmwood Park, New Jersey 07407 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 1320 kW hydroelectric facility is located in Androscoggin County, Maine.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State, or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

8. Marcal Paper Mills, Inc.

[Docket No. QF86-44-000]

November 4, 1985.

On October 17, 1985, Marcal Paper Mills, Inc. (Applicant), of One Market Street, Elmwood Park, New Jersey 07407 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 240 kW hydroelectric facility is located in Oxford, Maine.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

9. New Haven Copper Company

[Docket No. QF86-41-000]

November 4, 1985.

On October 16, 1985, New Haven Copper Company (Applicant), of 240 East Aurora Street, Waterbury, Connecticut 06720 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 900 kW hydroelectric facility (P. 8794-000) is located in New Haven County, Connecticut.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

10. Transworld Wind Corporation

[Docket No. QF85-105-001]

November 4, 1985.

On October 21, 1985, Transworld Wind Corporation (Applicant), 777 E., Tahquitz-McCallum Way, Suite 333, Palm Springs, California 92262, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Cabazon Windpark is located in the San Gorgonio Pass near Palm Springs, California. The facility was originally certified April 24, 1985. The applicant requests that the electric power production capacity be changed from 22,500 kilowatts to 80,000 kilowatts.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26682 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-15-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 5, 1985

Take notice that Columbia Gas Transmission Corporation (Columbia)

on October 31, 1985, tendered for filing six (6) copies of the following tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to be effective on October 31, 1985:

Original Sheet No. 16A2

Columbia states that Columbia and Columbia Gulf Transmission Company will notify the Commission that they will accept the terms of and comply with the Rules and Regulations promulgated in Order No. 436 in order to continue self-implementing transportation for the period November 1, 1985 through December 15, 1985. Pursuant to § 284.8 (a)(i) of said Rules and Regulations, Columbia must also provide firm transportation during that period. At present, Columbia does not have on file with the Commission firm transportation rates. Accordingly, Columbia states that the purpose of this filing is to provide firm transportation rates for the period November 1, 1985 through December 15, 1985. In the event Columbia does not file for a blanket certificate under § 284.221 before December 15, 1985, these rates will no longer be effective after December 15, 1985. Columbia notes that it will provide interruptible transportation for this interim period pursuant to its currently effective rates applicable to its Rate Schedules TS-1 and TS-2.

Columbia states that the interim firm transportation rates have been derived from Columbia's currently effective interruptible transportation rates applicable to its Rate Schedule TS-2. The rates also reflect a reservation charge for firm transportation which has been developed in accordance with § 284.8(d). Columbia has requested any waivers necessary to make its requested rates effective October 31, 1985.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capital Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 12, 1985. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26755 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-14-000]

Columbia Gulf Transmission Co.; Proposed Changes in FERC Gas Tariff

November 5, 1985.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on October 31, 1985, tendered for filing six (6) copies of the following tariff sheet to its FERC Gas Tariff, Original Volume No. 1, to be effective on October 31, 1985:

Original Sheet Nos. 58A, 117A, 118A, 119A and 119B

Columbia Gulf states that Columbia Gulf and Columbia Gas Transmission Corporation will notify the Commission that they will accept the terms of and comply with the Rules and Regulations promulgated in Order No. 436 in order to continue self-implementing transportation for the period November 1, 1985 through December 15, 1985. Pursuant to § 284.8(a)(i) of said Rules and Regulations, Columbia Gulf must also provide firm transportation during that period. At present, Columbia Gulf does not have on file with the Commission firm transportation rates. Accordingly, Columbia Gulf states that the purpose of this filing is to provide firm transportation rates for the period November 1, 1985 through December 15, 1985. In the event Columbia Gulf does not file for a blanket certificate under § 284.221 before December 15, 1985, these rates will no longer be effective after December 15, 1985. Columbia Gulf notes that it will provide interruptible transportation for this interim period pursuant to its currently effective rates applicable to its Rate Schedules T-2 and T-3.

Columbia Gulf states that the interim firm transportation rates have been derived from Columbia Gulf's currently effective interruptible transportation rates applicable to its Rate Schedules T-2 and T-3. The intrim rates also reflect a reservation charge for firm transportation which has been developed in accordance with Section 284.8(d). Columbia Gulf has requested any waivers necessary to make its requested rates effective October 31, 1985.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commission.

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, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 12, 1985. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Gulf's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26756 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-39-000 et al.]

Florida Gas Transmission Company et al.; Natural Gas Certificate Filings

November 4, 1985.

Take notice that the following filings have been made with the Commission:

1. Florida Gas Transmission Company

[Docket No. CP86-39-000]

Take notice that on October 15, 1985, Florida Gas Transmission Company (Applicant), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP86-39-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public covenience and necessity authorizing the construction and operation of a new delivery point, including a meter and regulatory station in Palm Beach County, Florida, in order to deliver natural gas to Florida Power and Light Company's (FP&L) Martin County generating plant (Martin plant) in Martin County, Florida, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that pursuant to an agreement dated March 12, 1964, Amoco Production Company delivers gas to Applicant for the account of FP&L in Louisiana and that Applicant subsequently delivers such gas to FP&L at certain designated plants in Florida. It is further submitted that FP&L has requested Applicant to provide an additional delivery point under such agreement for the delivery of up to 200 billion Btu of gas per day.

In order to establish such delivery point, Applicant proposes to construct

and operate approximately 250 feet of 18-inch pipeline extending from a point on Applicant's existing 24-inch mainline, a meter and regulator station and certain other appurtenant facilities to deliver the gas to FP&L's Martin plant.

Applicant estimates the cost of the proposed facilities to be $526,500, for which cost Applicant would be reimbursed by FP&L.

Comment date: November 25, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Consolidated Gas Transmission Corporation

[Docket No. CP86-42-000]

Take notice that on October 15, 1985, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP86-42-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing th continued sale for resale of natural gas to Rochester Gas and Electric Corporation (R G & E) under a revised service agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Consolidated states that it has entered into a revised service agreement with R G & E providing for continued requirements-type service under Consolidated's Rate Schedule RQ. Consolidated indicates that the revised service agreement provides, *inter alia* for access by R G & E to supplies of locally produced gas; for restatement of Consolidated delivery obligations to a heating value basis; for R G & E to obtain supplemental supplies of gas, to be transported by Consolidated if Consolidated is unable to deliver its sales obligation; for R G & E to terminate the service agreement if Consolidated ceases to be subject to cost of service regulation; for an increase in pressure at an existing delivery point at Caledonia, New York, from 200 psi to 300 psi; for an increase in the limitation on deliveries to R G & E for industrial customers; and for decreases in deliveries to R G & E to the lesser of 120 percent of R G & E's estimated requirements during any calendar year or 110 percent of the previous year's weather-normalized purchases by R G & E. Consolidated further states that no new or additional facilities and no changes in rate are proposed.

Comment date: November 25, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Michigan Consolidated Gas Company; Interstate Storage Division

[Docket No. CP84-293-006;

Docket No. CP84-425-005]

Panhandle Eastern Pipe Line Company

[Docket No. CP77-253-023]

Take notice that on September 27, 1985, Michigan Consolidated Gas Company; Interstate Storage Division (Petitioner), 500 Griswold Street, Detroit, Michigan 48226, filed in Docket Nos. CP84-293-006, CP84-425-005 and CP77-253-023 a petition pursuant to section 385.207 of the Commission's Rule of Practice and Procedure (18 CFR 385.207) requesting that, if the Commission denies rehearing of its order amending certificates issued on July 24, 1985, in Docket No. CP84-293-000, *et al.*, Petitioner be permitted to waive certain of its rate charges to Panhandle Eastern Pipe line Company (Panhandle) for natural gas storage services that Petitioner provides on behalf of Panhandle's customers, all as more fully set forth in the petitiion which is on file with the Commission and open to public inspection.

Petitioner states that for a number of years it has had certificated agreements with Panhandle to store natural gas on behalf of Panhandle, all for the benefit of certain Panhandle customers. Petitioner further reports that, in order to reflect certain changes in the storage service requirements of Panhandle and its customers, the parties concluded new contractual arrangement. However, as Petitioner concedes, filing and disposition of the certificate applications reflecting these contract revisions was delayed. The Commission refused to make retroactive its order of July 24, 1985, which approved the contract changes. Several parties have sought rehearing of the Commission's order.

In its instant filing, Petitioner notes that, under the amended contracts, its service obligations to Panhandle and its customers would on balance be reduced; correspondingly, its charges to Panhandle would be decreased. During the period between the proposed contract dates (variously, February 1, 1984, and April 1, 1984) and the date of the Commission's order (July 24, 1985), maintains Petitioner, it has actually rendered Panhandle and its customers some $2 million less in service, as it was directed to do by the certificated contractual amendments. Hence, Petitioner argues, it should be permitted in equity to charge Panhandle and its customers lower total revenues for that period of time. If, under the present circumstances, the Commission is reluctant to sanction the proposed retroactive effective dates, Petitioner suggests that Panhandle and its customers be permitted to treat the service reductions as if they had effective dates as requested for rate and reporting purposes.

Comment date: November 25, 1985, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-28-000]

Take notice that on October 10, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-28-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of ASARCO, Incorporated (ASARCO) under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the proposed service would be performed in accordance with the gas transportation agreement, as amended, dated May 31, 1985, which provides for the transportation of up to 7,500 Mcf of natural gas per day. It is stated that such volumes are received at the existing interconnection between Northern and Oklahoma Natural Gas Company (ONG) located in section 32, T22N, R22W, Woodward County, Oklahoma (ONG #1); and/or the existing interconnection between Northern and ONG located in Section 24, T21N, R21W, Woodward County, Oklahoma and (ONG #2); and/or the existing interconnection between Northern and ONG located in section 4, T12N, R22W, Roger Mills County, Oklahoma (ONG/RM); and/or the outlet of Northern Gas Products Company's, plant located in section 31, T17S, R9W, Ellsworth County, Kansas (Bushton); and/or the existing interconnection between Northern and Northwest Central Pipeline Corporation located in section 32, T19N, R11W, Barton County, Kansas (Barton).

Northern states that it would deliver equivalent volumes for the account of ASARCO at the existing interconnection between the facilities of Northern and El Paso Natural Gas Company located in section 20, Block B-1, Public School Lands, Winkler County, Texas.

Northern proposes to provide this transportation service for a term not to extend beyond May 31, 1986.

Northern states that it would charge ASARCO the following transportation rates for the transportation service:

Northern receipt points	Transportation rate (cents per Mcf)	Mileage *	Fuel retention percent
1. ONG #1	11.72	52FH/357BH	1.25
2. ONG #2	12.18	62FH/357BH	1.25
3. ONG/RM	12.51	89FH/317BH	1.70
4. Bushton	13.42	534BH	.75
5. Barton	13.04	518BH	.75

* FH = forward haul; BH = back haul.

Northern submits that the subject gas would be purchased by Colony Natural Gas Corporation, acting as agent for Western Natural Gas Transmission Corporation, acting as agent for ASARCO, from Northern Gas Marketing, Inc. (NGMI), on behalf of ASARCO and would be used as boiler fuel in the operation of its mining facilities near El Paso, Texas.

Northern estimates that the peak day, average day, and annual sales to be transported would be 7,500 Mcf, 3,800 Mcf, and 1,368,000 Mcf, respectively. Northern has submitted affidavits from NGMI indicating that the sales price would not exceed the maximum lawful price provisions of the Natural Gas Policy Act of 1978 and from ONG indicating that it has sufficient capacity to transport the gas without detriment to its other customers.

Northern also requests flexible authority to add or delete sources of gas and/or receipt and delivery points. Northern states that it is understood that any such changes would be on behalf of ASARCO at the same end-use location and would be within the meximum daily and annual volumes authorized herein and would apply only to points related to sources of supply and to existing delivery points with other intermediate transporters. With respect to any such changes, Northern states that it would undertake within 30 days of the proposed change to file certain specified information with the Commission.

Comment date: December 19, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-29-000]

Take notice that on October 10, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-29-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Chino Mines Company, A Kennicott-Mitsubishi Partnership (Chino), under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the proposed service would be performed in accordance with the gas transportation agreement, as amended, dated May 31, 1985, which provides for the transportation of up to 14,000 Mcf of natural gas per day. It is stated that such volumes are received at the existing interconnection between Northern and Oklahoma Natural Gas Company (ONG) located in section 32, T22N, R22W, Woodward County, Oklahoma (ONG #1); and/or the existing interconnection between Northern and ONG located in section 24, T21N, R21W, Woodward County, Oklahoma (ONG #2); and/or the existing interconnection between Northern and ONG located in section 4, T12N, R22W, Roger Mills County, Oklahoma (ONG/RM); and/or the outlet of Northern Gas Products Company's, plant located in section 31, T17S, R9W, Ellsworth County, Kansas (Bushton); and/or the existing interconnection between Northern and Northwest Central Pipeline Corporation located in section 32, T19N, R11W, Barton County, Kansas (Barton).

Northern states that it would deliver equivalent volumes for the account of Chino at the existing interconnection between the facilities of Northern and El Paso Natural Gas Company located in section 20, Block B-1, Public School Lands, Winkler County, Texas.

Northern proposes to provide this transportation service for a term to expire May 31, 1986.

Northern states that it would charge Chino the following transportation rates for the transportation service:

Northern receipt points	Transportation rate (cents per Mcf)	Mileage *	Fuel retention percent
1. ONG #1	11.72	52FH/357BH	1.25
2. ONG #2	12.18	62FH/357BH	1.25
3. ONG/RM	12.51	89FH/317BH	1.70
4. Bushton	13.42	534BH	.725
5. Barton	13.04	518BH	.75

* FH = forward haul; BH = back haul.

Northern submits that the subject gas would be purchased by Colony Natural Gas Corporation, acting as agent for Western Natural Gas Transportation Corporation, acting as agent for Chino, from Northern Gas Marketing, Inc. (MGMI), on behalf of Chino and would be used as process fuel and electrical generation in the operation of its mining facilities near Hurley, New Mexico.

Northern estimates that the peak day, average day, and annual sales to be transported would be 14,000 Mcf, 4,000 Mcf, and 1,440,000 Mcf, respectively. Northern has submitted affidavits from NGMI indicating that the sales price would not exceed the maximum lawful price provisions of the Natural Gas Policy Act of 1978 and from ONG indicating that it has sufficient capacity to transport the gas without detriment to its other customers.

Northern also requests flexible authority to add or delete sources of gas and/or receipt and delivery points. Northern states that it is understood that any such changes would be on behalf of Chino at the same end-use location and would be within the maximum daily and annual volumes authorized herein and would apply only to points related to sources of supply and to existing delivery points with other intermediate transporters. With respect to any such changes, Northern states that it would undertake within 30 days of the proposed change to file certain specified information with the Commission.

Comment date: December 19, 1985, in accordance with Standard Paragraph G at the end of this notice.

6. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-30-000]

Take notice that on October 10, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-30-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Inspiration Consolidated Copper Company (Inspiration) under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that the proposed service would be performed in accordance with the gas transportation agreement, as amended, dated May 28, 1985, which provides for the transportation of up to 6,000 Mcf of natural gas per day. It is stated that such volumes are received at the existing interconnection between Northern and Oklahoma Natural Gas Company (ONG) located in section 32, T22N, R22W, Woodward County, Oklahoma (ONG #1); and/or the existing interconnection

between Northern and ONG located in section 24, T21N, R21W, Woodward County, Oklahoma (ONG #2); and/or the existing interconnection between Northern and ONG located in section 4, T12N, R22W, Roger Mills County, Oklahoma (ONG/RM); and/or the outlet of Northern Gas Products Company's plant located in section 31, T17s, R9w, Ellsworth County, Kansas (Bushton); and/or the existing interconnection between Northern and Northwest Central Pipeline Corporation located in section 32,T19N, R11W, Barton County, Kansas (Barton).

Northern states that it would deliver equivalent volumes for the account of Inspiration at the existing interconnection between the facilities of Northern and El Paso Natural Gas Company located in section 20, Block B-1, Public School Lands, Winkler County, Texas.

Northern proposes to provide this transportation service for a term to expire May 31, 1986.

Northern states that it would charge Inspiration the following transportation rates for the transportation service:

Northern receipt points	Transportation rate (cents per Mcf)	Mileage *	Fuel retention percent
1. ONG #1	11.72	52FH/357BH	1.25
2. ONG #2	12.16	62FH/357BH	1.25
3. ONG/RM	12.51	69FH/317BH	1.70
4. Bushton	13.42	534BH	.75
5. Barton	13.04	518BH	.75

* FH = forward haul; BH = back haul.

Northern submits that the subject gas would be purchased by Colony Natural Gas Corporation, acting as agent for Western Natural Gas Transportation Corporation, acting as agent for Inspiration, from Northern Gas Marketing, Inc. (NGMI), on behalf of Inspiration and would be used as furnace, boiler, and plant heating fuel in the operation of its mining facilities near Claypool, Arizona.

Northern estimates that the peak day, average day, and annual sales to be transported would be 6,000 Mcf, 2,000 Mcf, and 720,000 Mcf, respectively. Northern has submitted affidavits from NGMI indicating that the sales price would not exceed the maximum lawful price provisions of the Natural Gas Policy Act of 1978 and from ONG indicating that it has sufficient capacity to transport the gas without detriment to its other customers.

Northern also requests flexible authority to add or delete sources of gas and/or receipt and delivery points. Northern states that it is understood that any such changes would be on behalf of Inspiration at the same end-use location and would be within the maximum daily and annual volumes authorized herein and would apply only to points related to sources of supply and to existing delivery points with other intermediate transporters. With respect to any such changes, Northern states that it would undertake within 30 days of the proposed change to file certain specified information with the Commission.

Comment date: December 19, 1985, in accordance with Standard Paragraph G at the end of this notice.

7. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-35-000]

Take notice that on October 11, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-35-000, an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon forty-eight compressor units, totaling 49,900 horsepower and located at various mainline compressor stations on Northern's pipeline system in Nebraska, Kansas, Iowa, Texas and Minnesota, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that increased north-end supply inputs of gas have reduced both the amount of south-end volumes flowing to Northern's markets and the related need for compression used to move the south-end gas volumes. Northern states the abandonment would improve the system's overall efficiency ultimately benefiting the ratepayer by keeping operating and maintenance costs to a minimum. Northern further states the proposed abandonment would not jeopardize the company's ability to meet its firm entitlement obligations. A summary of Northern's proposal follows:

Compressor station	County, State	Units to abandon	Hp to abandon	Existing Hp	Hp to remain
Beatrice	Gage, Nebraska	10	14,000	59,300	45,300
Clifton	Clay, Kansas	10	11,000	58,300	47,300
Fowler	Meade, Kansas	1	1,080	8,080	7,000
Oakland	Pottawattamie, Iowa	5	4,750	35,750	31,000
Ogden	Boone, Iowa	6	5,100	38,700	33,600
S. Sioux City	Dakota, Nebraska	6	5,100	5,100	0
Sunray	Moore, Texas	1	1,100	26,200	25,100
Ventura	Hancock, Iowa	5	4,250	24,580	20,330
Welcome	Martin, Minnesota	4	3,520	3,520	0
Total		48	49,900	259,530	209,630

Comment date: November 25, 1985, in accordance with Standard Paragraph F at the end of this notice.

8. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-40-000]

Take notice that on October 15, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-40-000, an application pursuant to section 7(b) of the Natural Gas Act, for permission and approval to abandon 43 miles of mainline in Kansas all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern proposes to abandon a 43-mile section of its Mullinville-to-Macksville "A" Line which was installed in 1932 and has been idled due to declining gas flows and physical deterioration. Northern projects there would be operation and maintenance savings due to the proposed abandonment. Northern states that the proposed abandonment would not impact the operation of Northern's pipeline system or detrimentally affect any of its customers. Northern explains that the remaining parallel Lines B, C, D and E are adequate to transport the related volumes of natural gas for its markets.

Northern estimates the cost of removing the facilities to be $210,000 and the salvage value to be $325,000.

Comment date: November 25, 1985, in accordance with Standard Paragraph F at the end of this notice.

9. Northwest Central Pipeline Corporation

[Docket Nos. CP86-2-00 and CP86-2-001]

Take notice that on October 1, 1985, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP86-2-000 an application, as amended October 17, 1985 in Docket No. CP86-2-001, pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to construct and operate a new delivery point in Butler County, Kansas, for the sale and delivery of natural gas to The Kansas Power and Light Company (KPL Gas Service), an

existing distributor customer, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest Central states KPL Gas Service has requested this additional delivery point in order to serve better the area and specifically to make a sale of gas to customers in a rural subdivision. Northwest Central states that the projected volume of delivery through these facilities is 3,600 Mcf per year with a maximum peak load of 54 Mcf per day the first year increasing to 12,000 Mcf per year with a maximum peak load of 162 Mcf per day by the fifth year. The estimated cost of these facilities is $11,830, which would be paid from treasury cash.

Northwest Central states that this change is not prohibited by an existing tariff and it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers. It is explained that natural gas sales are being made to KPL Gas Service under Northwest's Central's F, C, and I Rate Schedules and an underlying service agreement which provides that Northwest Central would supply all the gas requirements of KPL Gas Service.

Comment date: November 25, 1985, in accordance with Standard Paragraph F at the end of this notice.

10. Spindletop Gas Distribution System

[Docket No. CP86-52-000]

Take notice that on October 18, 1985, Spindletop Distribution Gas System (Applicant), 1200 Milam, Suite 2700, Houston, Texas 77002, filed in Docket No. CP86-52-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.222(e) of the Commission's Regulations for a certificate of public convenience and necessity providing blanket authorization to transport, sell and/or assign natural gas in interstate commerce as if Applicant were an intrastate pipeline subject to Subparts C, D, and E of Part 284 of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is submitted that the Applicant meets the requirements of the two-fold test to qualify as a Hinshaw pipeline pursuant to section 1(c) of the Natural Gas Act and it is consistent with Natural Gas Pipeline Company of America (17 FERC ¶61,235), in which the Commission stated that a company does not need a declaration to be considered a Hinshaw pipeline as long as it satisfies the two-fold test of section 1(c) of the Natural Gas Act. Applicant asserts that its rates, services and facilities are regulated by the Railroad Commission of Texas and all gas produced outside of Texas which Applicant receives for further transportation and sale is consumed within Texas.

Applicant states that during the year ended July 31, 1985, it received 11,203,817 billion Btu equivalent of natural gas within or at the boundary of the State of Texas and that the volume of natural gas which was exempt from the Natural Gas Act jurisdiction by reason of section 1(c) thereof was 957,156 billion Btu.

It is asserted that Applicant has not set forth any rate methodology for approval under § 284.222(e)(2) of the Commission's Regulations. It is further asserted that if Applicant elects to charge a transportation rate for services under the requested blanket certificate, Applicant would file an application under § 284.222 (e)(2) for approval of a rate methodology. In the alternative, if Applicant elects to charge an individual rate for each such transaction, Applicant would file for rate approval for each transaction pursuant to § 284.123 (b)(2) of the Commission's Regulations.

Comment date: November 25, 1985, in accordance with Standard Paragraph F at the end of this notice.

11. Southern Natural Gas Company

[Docket No. CP86-58-000]

Take notice that on October 21, 1985, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP86-58-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for Bickerstaff Clay Products Company, Inc. (Bickerstaff), under its certificate issued in Docket No. CP82-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern indicates that this filing was made so that the services described therein might be performed under the "grandfather provisions" of § 284.223 (g)(2) of the Commission's Regulations promulgated by the Commission's Order No. 436 in Docket No. RM85-1-000. It is indicated that Southern made this filing in order to prevent ro minimize any interruption of the transportation services hereinafter described that were initiated under § 157.209(e) of the Commission's Regulations in the event Southern elects to participate in the self-implementing transportation program authorized under the Commission's Order No. 436 or to continue the transportation service pursuant to the "grandfather provisions" of said order. Southern also states that it made this filing on the understanding that it would not prejudice in any manner Southen's right to elect to participate, or not participate, in said self-implementing transportation program or to continue to provide transportation services after November 1, 1985, under the "grandfather provisions" of Order No. 436.

Southern states that Bickerstaff has entered into a gas sales contract with SNG Trading, Inc. (SNG Trading), dated August 12, 1985, to acquire natural gas. Southern also states that in order to effectuate delivery of the gas purchased, Bickerstaff entered into agreements with Southern dated August 13, 1985, wherein Southern agreed to transport through its facilities the gas purchased by Bickerstaff to its plants in Phenix City, Alabama. Southern states that the agreements provide that Bickerstaff would cause SNG Trading to deliver up to 1.8 billion Btu of gas per day to Southern for Bickerstaff's account at various points of delivery in Louisiana, Mississippi and Texas. It is stated that Southern would deliver the gas to Bickerstaff less 3.25 percent for compressor fuel and line loss on an interruptible basis at the existing sales meters currently serving the two plants in Phenix City, Alabama. It is stated that Bickerstaff would use the gas for process fuel and industrial, non-boiler fuel uses.

Southern indicates it would charge Bickerstaff according to its currently effective Rate Schedule T-IS which was approved by order of the Commission issued July 9, 1985, in Docket No. CP84-342-000. That rate schedule provides for a rate of 66.15 cents per million Btu's of transportation service. Southern indicates it would also charge the Gas Research Institute surcharge of 1.25 cent per Mcf. Southern seeks authorization to transport natural gas for Bickerstaff for a period ending the earlier of: (i) June 30, 1986; (ii) termination of authorization as provided by Subpart G of Part 284 of the Commission's Regulations as promulgated by Order No. 436 in Docket No. RM85-1-000; or (iii) termination of the agreement by either party. Southern states that it would not construct any facilities to provide for this service.

Southern also requests flexible authority to add or delete sources of supply and/or delivery points in order to provide service for Bickerstaff. Southern indicates the additional transportation service would be to the same end-user location and within the peak day.

average day and annual transportation volumes as stated in the application. Southern would file a report providing certain information with regard to the addition or deletion of any sources of supply and/or delivery points.

Southern estimates the peak day, average day and annual transportation volumes in million Btu's at 1,800, and 630,000.

Comment date: December 19, 1985, in accordance with Standard Paragraph G at the end of this notice.

12. Southern Natural Gas Company

[Docket No. CP86-55-000]

Take notice that on October 18, 1985, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP86-55-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport gas for Atlanta Gas Light Company (AGL), acting as agent for Bickerstaff Clay Products Company, Inc. (Bickerstaff), and Southwire Company, Inc. (Southwire), under its certificate issued in Docket No. CP82-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern indicates that this filing was made so that the services described therein might be performed under the "grandfather provisions" of § 284.223(g)(2) of the Commission's Regulations authorized by the Commission's Order No. 436 in Docket No. RM85-1-000. It is indicated that Southern made this filing in order to prevent or minimize any interruption of the transportation services hereinafter described that were initiated under § 157.209(e) of the Commission's Regulations in the event Southern elects to participate in the self-implementation transportation program authorized under the Commission's Order No. 436 or to continue the transportation service pursuant to the "grandfather provisions" of said order. Southern also states that it made this filing on the understanding that it would not prejudice in any manner Southern's right to elect to participate, or not participate, in said self-implementing transportation program or to continue to provide transportation services after November 1, 1985, under the "grandfather provisions" of Order No. 436.

Southern states that Bickerstaff has entered into a gas sales contract with SNG Trading, Inc. (SNG Trading), dated August 12, 1985, to acquire natural gas. Southern also states that in order to effectuate delivery of the gas purchased, Bickerstaff entered into an agreement with AGL dated August 12, 1985, wherein AGL agreed to transport through its facilities the gas purchased by Bickerstaff to its plant in Atlanta, Georgia, and to act as agent for Bickerstaff in arranging transportation by Southern of the gas purchased by Bickerstaff. It is indicated that AGL has, therefore, acting as agent for Bickerstaff, entered into a service agreement-industrial service transportation with Southern dated August 14, 1985. Southern states that the agreement provides that AGL would Cause SNG Trading to deliver up to 1.3 billion Btu of gas per day to Southern for Bickerstaff's account at various points of delivery in Louisiana, Mississippi and Texas. It is stated that Southern would deliver the gas to AGL for Bickerstaff's account less 3.25 percent for compressor fuel and line loss on an interruptible basis at the Atlanta area delivery point as set forth in the Exhibit A to the service agreement between AGL and Southern dated September 23, 1969. AGL would then transport and redeliver the volumes to Bickerstaff at its plant in Atlanta, Georgia. It is stated that Bickerstaff would use the gas for process fuel and industrial, non-boiler fuel uses.

Southern states that Southwire Company, Inc. (Southwire) has entered into a gas sales contact with EnTrade Corporation (EnTrade), dated August 5, 1985, to acquire natural gas. Southern states that in order to effectuate delivery of the gas purchased, Southwire entered into an agreement with AGL dated August 5, 1985, wherein AGL agreed to transport through its facilities the gas purchased by Southwire to its plant in Carrollton, Georgia, and to act as agent for Southwire in arranging transportation by Southern of the gas purchased by Southwire. AGL has, therefore, acting as agent for Southwire, entered into a service agreement-industrual service transportation with Southern dated August 6, 1985. It is stated that the agreement provides that AGL would cause EnTrade to deliver up to 3,165 million Btu of gas per day to Southern for Southwire's account at the inlet of Southern's pipeline facilities located at the point of interconnection between the pipeline facilities of United Gas Pipe Line Company located at the vacinity of Southern's Shadyside Compressor Station in St. Mary Parish, Louisiana. It is stated that Southern would redeliver the gas to AGL for Southwire's account on an interruptible basis at Southern's existing measurement station known as the Carrollton meter station, Carrollton County, Georgia. AGL would then transport and redeliver the volumes to Southwire at its plant in Carrollton, Georgia. It is stated that Southwire would use the gas for plant protection, process fuel, industrial non-boiler fuel uses, and boiler fuel.

Southern indicates it would charge AGL according to its currently effective Rate Schedule T-IS which was approved by order of the Commission issued July 9, 1985, in Docket No. CP84-342-000. It is explained that that rate schedule provides for rates of 49.45 cents per million Btu if Southern's volumes transported to AGL under Rate Schedule T-IS, when added to volumes of gas delivered to AGL under Rate Schedule OCD do not exceed AGL's daily contract demand and 78.85 cents per million Btu if those volumes do not exceed AGL's daily contract demand. Southern indicates it would also charge the Gas Research Institute surcharge of 1.25 cents per Mcf. Southern seeks authorization to transport natural gas for AGL, as agent for Bickerstaff and Southwire for a period ending the earlier of: (i) June 30, 1986; (ii) termination of authorization as provided by Subpart G of Part 284 of the Commission's Regulations as promulgated by Order No. 436 in Docket No. RM85-1-000; or (iii) termination of the agreement by either party. Southern states that it would not construct any facilities to provide for this service.

Southern also requests flexible authority to add or delete source of supply and/or delivery or redelivery points in order to provide service on behalf of Shipper as agent for Bickerstaff and Southwire. The additional transportation service would be to the same end-user location and within the peak day, average day and annual transportation volumes as stated in the application, and any additional redelivery points would be existing points of interconnection between Southern and AGL. Southern would file a report providing certain information with regard to the addition or deletion of any gas suppliers and/or delivery or redelivery points.

Southern estimates the peak day, average day and annual transportation in million Btu to Bickerstaff and Southwire as follows:

Bickerstaff

Peak day: 1,300
Average day: 1,000
Annual volume: 450,000

Southwire

Peak day: 3,165
Average day: 3,000
Annual volume: 723,260

Comment date: December 19, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26754 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-46-002]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

November 5, 1985.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on October 31, 1985, tendered for filing with the Federal Energy Regulatory Commission (Commission) its Sixteenth Revised Sheet No. 27A to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1985.

The proposed tariff sheet amends the PGA filing made by Kentucky West herein on September 30, 1985, so as to reflect a reduction in current purchased gas costs due to Kentucky West's exercise of market-out provisions in its various gas purchase contracts with independent producers and purchases of natural gas from affiliated companies, effective November 1, 1985.

The current purchase gas adjustment is a reduction of 7.17¢ per dekatherm (dth). This reduction results in a total net jurisdictional sales rate of 293.71¢ per dth, to become effective November 1, 1985. This net jurisdictional sales rate is a decrease of 8.31¢ per dth below the net jurisdictional sales rate in Kentucky West's September 30, 1985 filing herein.

Apart from reflecting the decrease in purchase gas costs resulting from Kentucky West's exercise of market-out provisions effective November 1, 1985, no other amendment is proposed by Kentucky West to its PGA filing herein of September 30, 1985. Kentucky West requests waiver of the Commission's Regulations and the 30 day notice requirement to the extent necessary to permit its amended PGA adjustment to become effective November 1, 1985.

Kentucky West states that a copy of its filing has been served upon its purchasers and interested state commissions and upon each party to these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a 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, 385.214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26757 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-13-000]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

November 5, 1985.

Take notice that on October 31, 1985, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, initial Rate Schedule IOST consisting of Original Sheet Nos. 86 and 87.

The purpose of this filing is to put into effect tariff provisions that will allow Natural to continue the offshore transportation services which it is currently performing pursuant to Part 284, Subparts B and G of the Commission's Regulations under the Natural Gas Policy Act, of 1978 and the blanket certificate issued Natural at Docket No. CP80-125-000.

A waiver of applicable Commission regulations or orders to the extent necessary to make the proposed tariff sheets effective on October 31, 1985, was requested.

A copy of this filing was mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

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 §§ 385.214 and 385.211. All such motions or protests must be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary

[FR Doc. 85-26758 Field 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-183-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

November 5, 1985.

Take notice that on November 1, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-183-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 10,000 Mcf of natural gas per day (Mcfd) for Marathon Oil Company (Marathon), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern requests authority to transport natural gas on behalf of Marathon in accordance with an October 31, 1985, gas transportation agreement (Agreement). Northern states that during the year 1985, it has provided transportation service for Marathon pursuant to a January 28, 1985, transportation agreement and the terms and conditions set forth in § 157.209(a)(2) of the Commission's Regulations.[1] However, it is explained, this service terminated October 31, 1985, in accordance with the Commission's implementation of Order No. 436. Northern, in Docket No. CP86-183-000 requests authority to transport and deliver up to 10,000 Mcf of natural gas per day to Marathon at its Yates gas plant to Pecos County, Texas. It is explained that these volumes would be used as fuel for compressors which compress unprocessed produced gas for reinjection into the reservoir at the Yates field unit in Pecos and Crockett Counties, Texas, and as fuel for compressors which compress inert gas for injection in the reservoir. Marathon, it is stated, has contracted to purchase this gas from Northern Gas Marketing, Inc.

It is asserted that pursuant to the terms of the Agreement, Marathon agrees to deliver or cause to be delivered up to 10,000 Mcf of gas per day to Northern at (1) two existing interconnections between Northern and Oklahoma Natural Gas Company (ONG) in Woodward County, Oklahoma, (2) the existing interconnection between Northern and ONG in Roger Mills County, Oklahoma, (3) the existing interconnection between Northern and Oasis Pipeline Company in Pecos County, Texas, (4) the existing interconnection between Northern and Delhi Gas Pipeline in Beaver County, Oklahoma, and (5) the existing interconnection between Northern and Diamond Shamrock Corporation in Moore County, Texas. Northern would charge its currently effective system-wide average cost of service and allocation factor (4.6 cents per 100 miles of forward-haul plus 1 cent for general and administrative expenses) effectuated subject to refund by Commission orders dated October 25, 1985, in Docket No. RP85-206-000. Northern states that it would also charge Marathon 1.25 cents per Mcf for funding the Gas Research Institute. 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.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 15, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northern to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26759 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[1] On March 15, 1985, Northern filed an application with the Commission in Docket No. CP85-366-000, as later amended in Docket No. CP85-366-001, to transport gas for Marathon beyond the initial 120 day period. The authority requested became effective June 5, 1985, pursuant to the Prior Notice Procedure of § 157.209(e)(2) of the Commission's Regulations.

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 5, 1985

Take notice that on October 30, 1985 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Fifty-Third Revised Sheet No. 3-A

First Substitute Thirtieth Revised Sheet No. 3-B

The proposed effective date of these revised tariff sheets is October 1, 1985.

Panhandle states that on August 30, 1985 Panhandle filed revised tariff sheets to establish a new base tariff rate in accordance with § 154.38(d)(4)(vi)(a) of the Commission's Regulations. Panhandle's filing was approved, subject to refund and conditions, by Commission Order dated September 30, 1985 to become effective October 1, 1985. The tariff sheets included in that filing, while establishing restated base tariff rates, reflected no change in Panhandle's currently effective rates as reflected in the September 1, 1985 PGA filing in Docket No. TA85-3-28-000 and 001.

Subsequent to the August 30, 1985 filing in Docket No. RP85-194-000 Panhandle filed on September 19, 1985 revised tariff sheets in Docket No. TA85-3-28-000 and 001 to reflect a (9.66¢) reduction in its applicable commodity and one-part rates in compliance with the Commission's Order of August 30, 1985 in Docket No. TA85-3-28-000 and 001. These revised tariff sheets were approved by Commission Order dated October 15, 1985 to be effective September 1, 1985.

Accordingly, the revised tariff sheets submitted herewith by Panhandle are being filed to reflect the reduction of (9.66¢) per dekatherm in the applicable commodity and one-part rates, to become effective October 1, 1985.

Copies of this letter and enclosures are being served on all intervenors, jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26760 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-9-000]

Southwest Gas Corp; Proposed Changes in FERC Gas Tariff

November 5, 1985.

Take notice that Southwest Gas Corporation (Southwest) on October 31, 1985, tendered for filing Twenty-ninth Revised Sheet No. 10, Third Revised Sheet No. 30 and Fifth Revised Sheet No. 31 as part of its FERC Gas Tariff Original Volume No. 1. The proposed tariff sheets do not reflect any change in the level of Southwest's revenues at rates now in effect for the jurisdictional transmission portion of Southwest's northern Nevada system, but instead restate Southwest's presently effective rates to establsih new Base Tariff Rates in accordance with § 154.38(d)(4)(vi)(a) of the Commission's Regulations.

The proposed tariff sheets also contain revisions to Southwest's PGA mechanism to provide for (1) storage injections and withdrawals to be included in the calculation of the annualized cost of purchased gas, which will be consistent with the accounting treatment of these transactions on the books of the company and (2) the tracking of changes in the cost of purchased gas on a sales basis. These changes will revise Southwest's PGA provisions in a manner consistent with the PGA provisions of Southwest's pipeline supplier, Northwest Pipeline Corporation, and those that have been approved by the Commission for many other interstate pipeline companies. The conversion of the PGA provisions from a purchase to sales basis increase the jurisdictional commodity rate by $.00050 per therm which will have no impact on the net revenues received by Southwest.

Southwest states that a copy of this filing has been mailed to the Public Service Commission of Nevada, the California Public Utilities Commission, Sierra Pacific Power Company and CP National Corporation.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26761 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-8-000]

Transwestern Pipeline Co.; Petition for Authority to Institute Direct Billing of Retroactive Order No. 94 Costs

November 5, 1985.

Take notice that Transwestern Pipeline Company (Transwestern) on October 31, 1985 tendered for filing with the Federal Energy Regulatory Commission (Commission) a petition for authority to institute a direct billing program to recover from Transwestern's jurisdictional sales customers retroactive payments for production related costs incurred pursuant to § 271.1104 of the Commission's Regulations as promulgated in Order Nos. 94, et seq. and Order Nos. 334 and 334-A. The retroactive payments relate to gas purchased by Transwestern during the period from July 25, 1980 through September 30, 1985.

Each customer's share of the Order No. 94 costs during the Retroactive period as determined by month will be calculated based on the ratio of that customer's purchases from Transwestern for such month during the Retroactive Period to the total of all purchases from Transwestern for such respective month during the Retroactive Period. Transwestern proposes to bill the sums through lump-sum payments or, the payments may be made at the customer's option in monthly installments with interest over a period of two succeeding six-month periods commencing on December 1, 1985 or with the month following the Commission's approval of this proposal if a customer's share of Order No. 94 costs exceed $500.00. At the conclusion of the initial six-month period, Transwestern is proposing to direct bill the amounts paid subsequent to September 30, 1985 over a second six-month period in a manner similar to that used for the initial six-month period.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol, Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26762 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-56-000, 001]

Valero Interstate Transmission Co.; Change in Rates Pursuant to Purchased Gas Cost Adjustment Provisions

November 5, 1985.

Take notice that on October 31, 1985, Valero Interstate Transmission Company ("Vitco") tendered the following tariff sheets for filing containing changes in rates pursuant to purchased gas cost adjustment provisions:

4th Revised Sheet No. 6, Superseding 3rd Sheet No. 6, to FERC Gas Tariff, Original Volume No. 2.

10th Revised Sheet No. 14, Superseding 9th

Revised Sheet No. 14, to FERC Gas Tariff, Original Volume No. 1.

Vitco states that the rates stated on 4th Revised Sheet No. 6 and 10th Revised Sheet No. 14 reflect the change in purchased gas costs based on the six months ended August 31, 1985. With this filing, Vitco is also resolving the company use gas factor issue that was raised in Docket No. TA85-2-56-000.

The change in rate to Rate Schedule S-1, FERC Gas Tariff, Original Volume No. 2 includes a decrease in purchased gas costs of 12.38¢ per Mcf and a negative surcharge of 10.77¢ per Mcf. The change in rate to Rate Schedule S-3 includes a decrease in purchased gas costs of 2.90¢ per Mcf and a negative surcharge of 32.51¢ per Mcf. The change in rate to Bate Schedule T-1, FERC Gas Tariff Original Volume No. 1 includes a decrease in purchased gas cost of 2.77¢ resulting from changes in gas costs charged for lost and unaccounted for gas and a negative surcharge of 4.85¢ per Mcf. Vitco has had to defer a portion of a negative Account 191 surcharge balance related to its Rate Schedule No. T-1 because the balance appears to be the result of an as yet undetermined error. Vitco expects to resolve this matter shortly. Otherwise, the surcharge in each Rate Schedule is designed to eliminate the balance in the deferred purchased gas cost account.

The proposed effective date for the above filing is December 1, 1985. Vitco requests a waiver of any Commission regulations or orders which would prohibit implementation by December 1, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the 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 November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26763 Filed 11-7-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51595; TSH-FRL 2918-2]

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 nineteen PMNs and provide a summary of each.

DATES: Close of Review Period:

P 86-71, 86-72, 86-73 and 86-74—January 15, 1986;

P 86-75, 86-76, 86-77, 86-78 and 86-79—January 18, 1986;

P 86-80, 86-81, 86-82, and 86-83—January 19, 1986;

P-86-84 and 86-85—January 20, 1986;

P-86-86, 86-87, 86-88 and 86-90—January 21, 1986.

Written comments by:

P 86-71, 86-72, 86-73 and 86-74—December 16, 1985;

P 86-75, 86-76, 86-77, 86-78 and 86-79—December 19, 1985;

P 86-80, 80-81, 86-82 and 86-83—December 20, 1985;

P-86-84 and 86-85—December 20, 1985;

P-86-86, 86-87, 86-88 and 86-90—December 21, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-51595]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., 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 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 86-71

Manufacturer. Ashland Chemical Company.

Chemical. (G) Etherified phenol-formaldehyde resole.

Use/Production. (G) Open, non-dispersive use. Prod. range. 45,000—450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 6 workers.

Environmental Release/Disposal. Trace release to land. Disposal in the form of solid waste.

P 86-72

Manufacturer. Ashland Chemical Company.

Chemical. (G) Etherified phenol-formaldehyde resole.

Use/Production. (G) Open, non-dispersive use. Prod. range. 57,000—570,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 6 workers.

Environmental Release/Disposal. Trace release to land. Disposal in the form of solid waste.

P 86-73

Manufacturer. Confidential.

Chemical. (S) Methyl glucoside, C_{12-8} fatty esters.

Use/Production. (G) Plastics lubricant. Prod. range Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 10 workers, up to 1 hr/da, up to 46 da/yr.

Environmental Release/Disposal. 2.5 kg released to water. Disposal by POTW.

P 86-74

Manufacturer. Confidential.

Chemical. (G) Urea compound.

Use/Production. (G) SAG control agent. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-75

Manufacturer. Confidential.

Chemical. (G) Cationic polymer.

Use/Production. (S) Industrial paper saturant. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-76

Manufacturer. Texaco Chemical Company.

Chemical. (G) Poly(alkylmethacrylate-N,N-dialkylaminoalkylmethacrylamide).

Use/Production. (S) Industrial dispersant pour point depressant for automotive lubricating oils. Prod. range. Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 1 hr/da, up to 120 da/yr.

Environmental Release/Disposal. No release.

P 86-77

Manufacturer. Thatcher Chemical Company.

Chemical. (G) C9-11 linear primary alcohol ethoxysulfate, ammonium salt.

Use/Production. (G) Well-drilling foamer, wetting agent for manufacture of building materials and an industrial surfactant. Prod. range. 60,000—250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 6 hrs/da, up to 30 da/yr.

Environmental Release/Disposal. 5 ml/sample released to water. Disposal by POTW.

P 86-78

Manufacturer. Monsanto Company.

Chemical. (S) Nonyltoluene (methylnonylbenzene).

Use/Production. (S) Industrial plasticizer in vinyl sheet flooring. Prod. range. Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Acute dermal 5,000 mg/kg; Irritation: Skin—Mild/moderate (4 hrs) and Moderate/severe (24 hrs); Eye—Very mild; LC_{50} 96 hr (Fathead minnow): >10 mg. L; LC_{50} 96 hr (Green algae): > 100 ug/L; LC_{50} 48 hr: (Daphnia magna): > 0.10 mg/L.

Exposure. Manufacture: dermal and inhalation, a total of 25 workers, 1 operator/shift, 7 da/wk, 200 da/yr; 2 workers, 1 operator/shift, 2 shifts/da, 5 to 7 da/wk, 200 da/yr; 4 workers, 6.0 hr/da, 40 da/yr.

Environmental Release/Disposal. 4.4 kg/batch released to land or air with 250 kg/batch to water. Disposal by incineration, landfill and navigable waterway.

P 86-79

Importer. Confidential.

Chemical. (G) Silane, organo-, reaction product with silica.

Use/Production. (G) Thickening and thixotropic agent. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-80

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Site-limited open, non-dispersive use. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 5 workers, up to 1 hr/da, up to 15 da/yr.

Environmental Release/Disposal. 1 to 10 kg/batch released to land. Disposal at a Class A dumpsite.

P 86-81

Manufacturer. Confidential.

Chemical. (G) Disubstituted sulfamoylcarbomonocycle azo substituted napthalene sulfonic acid, substituted alkylamine salt.

Use/Production. (G) Open, non-dispersive use. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 3 workers.

Environmental Release/Disposal. Confidential. Disposal by POTW.

P 86-82

Manufacturer. Confidential.

Chemical. (G) Disubstituted sulfamoylcarbomonocycle azo substituted naphthalene sulfonic acid salt.

Use/Production/Import. (S) Site-limited isolated intermediate. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 6 workers.

Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

P 86-83

Manufacturer. Velsicol Chemical Company.

Chemical. (S) 3-chloro-2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)-benzenamine.

Use/Production. Intermediate in the synthesis of another organic compound. Prod. range. Confidential.

Toxicity Data. Acute oral: 3,951 mg/kg; Ames test: Negative.

Exposure. Manufacture and processing: dermal, a total of 4 workers, up to 2 hrs/da, up to 27 da/yr.

Environmental Release/Disposal. Confidential.

P 86-84

Manufacturer. Confidential.

Chemical. (G) Quaternary ammonium salt.

Use/Production. (G) A site-limited intermediate in polymerizatrion process. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

P 86-85

Manufacturer. Allied Corporation.

Chemical. (S) Polymer of 3,3,3-trifluoro-2-trifluoromethyl-1-propene, hexafluoroisobutylene (HFIB) 1, 1-difluoroethylene, and vinylidene fluoride (VF_2).

Use/Production. (S) Industrial corrosion resistant and mold release coatings, bearings and molded parts for chemical equipment. Prod. range. Confidential.

Toxicity Data. Acute oral: 11,043 mg/kg; Irritation: Skin—Non-irritant; Eye—Non-irritant; Hypersensitization test: Negative.

Exposure. Manufacture: dermal and inhalation, a total of 18 workers, up to 8 hrs/da, up to 175 da/yr.

Environmental Release/Disposal. Less than 100 to 500 lbs/yr released to land.

P 86-86

Manufacturer. Eastman Kodak Company.

Chemical. (S) [29H, 31H-phthalocyaninetetrasulfonyltetrachloridato(2)-N29,N30,N31,N32]-copper.

Use/Production. (S) Site limited chemical intermediate used in the manufacture of a dye. Prod. range. 15-30 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: a total of 4 workers, up to 0.1 hr/da, up to 2 da/yr.

Environmental Release/Disposal. No release.

P 86-87

Manufacturer. Confidential.

Chemical. (G) Arylalkyl substituted phosphonium salt.

Use/Production. (G) Non-dispersive use in a formulation. Prod. range. 30-2,700 kg/yr.

Toxicity Data. Acute oral: males—200 mg/kg, females—100 mg/kg; Irritation: Skin—Moderate; Eye—strong; Inhalation: 5,000 mg/m^3; Skin sensitization: normal.

Exposure. Manufacture and processing: dermal, a total of 7 workers, up to 3.0 hrs/da, up to 8 da/yr.

Environmental Release/Disposal. No release. Less than 35 to < 50 kg/batch incinerated.

P 86-88

Importer. Confidential.

Chemical. (S) Phosphonium, butyltriphenyl-, bromide.

Use/Production/Import. (G) Polymer additive. Prod. range. Confidential.

Toxicity Data. Acute oral: 186 mg/kg bw, death; Acute dermal: 2,000 mg/kg bw dyspnea.

Exposure. Import. A total of 36 workers would be involved for 8 hr/da, 240 da/yr in the formulation process.

Environmental Release/Disposal. Released to air less than 90 kg/yr.

P 86-90

Manufacturer. Confidential.

Chemical. (G) Poly (vinul ester co-unsaturated dicarboxylic acid ester co-olefin).

Use/Production. (G) Pressure sensitive adhesive. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by plant treatment works.

Dated: October 31, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-26264 Filed 11-7-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59738; TSH-FRL 2918-1]

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). 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 eight such PMNs and provides a summary of each .

DATES: Close of Review Period:

Y 86-11, 86-12, 86-13 and 86-14—November 10, 1985;

Y 86-15 and 86-16—November 11, 1985;

Y 86-17 and 86-18—November 12, 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 86-11

Manufacturer. C. J. Osborn Chemicals, Inc.

Chemical. (G) 2-butenedioic acid, fatty acid.

Use/Production. (S) Clear and pigmented finishes. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1½ hrs/da, up to 6 da/yr.

Environmental Release/Disposal. No release.

Y 86-12

Importer. Hitachi Chemical Company America, Ltd.

Chemical. (G) Acrylonitrile-acrylic-styrene polymer B.

Use/Import. (S) Used to produce commercial and consumer molded parts for electronic, automotive and construction applications. Import range. 907—63,490 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-13

Importer. Hitachi Chemical Company America, Ltd.

Chemical. (G) Acrylonitrile-acrylic-styrene polymer A.

Use/Import. (S) Used to produce commercial and consumer molded parts for electronic, automotive and construction applications. Import range. 10,000—60,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-14

Importer. Hitachi Chemical Company America, Ltd.

Chemical. (G) Acrylonitrile-acrylic-styrene polymer C.

Use/Import. (S) Used to produce commercial and consumer molded parts for electronic, automotive and construction applications. Import range. 40,000—100,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86-15

Importer. Nuodex Inc.

Chemical. (G) Polyethene wax, ester.

Use/Import. (S) Industral processing aid for plastics. Import range. Confidential.

Toxicity Data. Acute oral: >10,000 mg/kg; Irritation: Skin—Non-irritant; Eye—Non-irritant; Ames test: Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No release to air or water.

Y 86-16

Importer. Nuodex Inc.

Chemical. (G) Polyethene wax, ester.

Use/Import. (S) Industrial processing aid for plastics. Import range. Confidential.

Toxicity Data. Acute oral: >10,000 mg/kg; Irritation: Skin—Non-irritant; Eye—Non-irritant; Ames test: Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No release to air or water.

Y 86-17

Manufacturer. Confidential.

Chemical. (G) Blocked polyurethane polyether.

Use/Production. (S) General purpose coating and modifier for coatings and inks. Prod. range. 100,000—200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, to 10 da/yr.

Environmental Release/Disposal. No release.

Y 86-18

Manufacturer. Bostick Division of USM Corporation.

Chemical. (G) Polyester.

Use/Production. (G) Open, non-dispersive use. Prod. range. Confidential.

Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

Dated: October 28, 1985.

Linda Travers,

Acting Director, Information Management Division.

[FR Doc. 85-26265 Filed 11-7-85; 8:45 am]

BILLING CODE 6560-50-M

[OPPE-FRL-2860-1]

Environmental Auditing Policy Statement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Policy Statement: Interim Guidance.

SUMMARY: It is EPA policy to encourage the use of environmental auditing by regulated entities to help achieve and maintain compliance with environmental laws and regulations, as well as to help identify and correct unregulated environmental hazards. This policy statement specifically:

- Encourages regulated entities to develop, implement and upgrade environmental auditing programs;
- Discusses when the Agency may request audit reports;
- Explains how EPA's inspection and enforcement activities may respond to regulated entities' efforts to assure compliance through auditing;
- Endorses environmental auditing at federal facilities;
- Encourages state and local environmental auditing initiatives; and
- Outlines elements of effective audit programs.

Environmental auditing includes a variety of compliance assessment techniques which go beyond those legally required and are used to identify actual and potential environmental problems. Effective environmental auditing can lead to higher levels of overall compliance and reduced risk to human health and the environment. EPA endorses the practice of environmental auditing and supports its accelerated use by regulated entities to help meet the goals of federal, state and local environmental requirements. However, the existence of an auditing program does not create any defense to, or otherwise limit, the responsibility of any regulated entity to comply with applicable regulatory requirements.

States are encouraged to adopt these or similar policies in order to advance the use of environmental auditing on a consistent nationwide basis.

DATES: This policy statement is effective as interim guidance upon publication. However, EPA urges interested parties to comment on this notice in writing. The deadline for submitting written comments is January 7, 1986.

ADDRESSES: All comments must be submitted (in triplicate if possible) to: Environmental Auditing Project, Office of Policy, Planning and Evaluation, PM-223, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Leonard Fleckenstein, Office of Policy, Planning and Evaluation, (202) 382-2726; or
James Edward, Office of Enforcement and Compliance Monitoring, (202) 382-7555.

ENVIRONMENTAL AUDITING POLICY STATEMENT

I. Preface

This notice is being issued to inform regulated entities and the public of EPA's policy toward environmental auditing. The policy was developed to help (a) encourage regulated entities to institutionalize effective audit practices, and (b) guide internal EPA actions directly related to regulated entities' environmental auditing programs. EPA welcomes comments on all aspects of this policy, including the degree to which commenters believe it may encourage better compliance over time and enhance development of information on, and means of preventing, potential risks to human health or the environment.

EPA will evaluate implementation of this policy to ensure it meets the above goals and continues to encourage better environmental management, while strengthening the Agency's own efforts to monitor and enforce compliance with environmental requirements.

II. General EPA Policy on Environmental Auditing

A. Introduction

Environmental auditing is a systematic, documented, periodic and objective review by regulated entities[1] of facility operations and practices related to meeting environmental requirements. Audits can be designed to accomplish any or all of the following: Verify compliance with environmental requirements; evaluate the effectiveness of environmental management systems already in place; or assess risks from regulated and unregulated materials and practices.

Auditing serves as a quality assurance check to help improve the effectiveness of basic environmental management by verifying that management practices are in place, functioning and adequate. Environmental audits evaluate, and are not a substitute for, direct compliance activities such as obtaining permits, installing controls, monitoring compliance, reporting violations, and keeping records. Environmental auditing may verify but does not include activities required by law, regulation or permit (e.g., continuous emissions monitoring, composite correction plans at wastewater treatment plants, etc.). Audits do not in any way replace regulatory agency inspections. However, environmental audits can improve compliance by complementing conventional federal, state and local oversight.

The appendix to this policy statement outlines some basic elements of environmental auditing (e.g., auditor independence and top management support) for use by those considering implementation of effective auditing programs to help achieve and maintain compliance. Additional information on environmental auditing practices can be found in various published materials.[2]

Environmental auditing has developed for sound business reasons, particularly as a means of helping regulated entities manage pollution control affirmatively over time instead of reacting to crises. Auditing can result in improved facility environmental performance, help communicate effective solutions to common environmental problems, focus facility managers' attention on current and upcoming regulatory requirements, and generate protocols and checklists which help facilities better manage themselves. Auditing also can result in better-integrated management of environmental hazards, since auditors frequently identify environmental liabilities which go beyond regulatory compliance. Companies, public entities and federal facilities have employed a variety of environmental auditing practices in recent years. Several hundred major firms in diverse industries now have environmental auditing programs, although they often are known by other names such as

[1] "Regulated entities" include private firms and public agencies with facilities subject to environmental regulation. Public agencies can include federal, state or local agencies as well as special-purpose organizations such as regional sewage commissions.

[2] See, e.g., "Current Practices in Environmental Auditing," EPA Report No. EPA-230-09-83-006, February 1984; "Annotated Bibliography on Environmental Auditing," Fifth Edition, September 1985, both available from: Regulatory Reform Staff, PM 223, EPA, 401 M Street SW, Washington, DC 20460.

assessment, survey, surveillance, review or appraisal.

While auditing has demonstrated its usefulness to those with audit programs, many others still do not audit. Clarification of EPA's position regarding auditing may help encourage regulated entities to establish audit programs or upgrade systems already in place.

B. EPA Encourages the Use of Environmental Auditing

EPA encourages regulated entities to adopt sound environmental management practices to improve environmental performance. In particular, EPA encourages regulated entities subject to environmental regulations to institute environmental auditing programs to help ensure the adequacy of internal systems to achieve, maintain and monitor compliance. Implementation of environmental auditing programs can result in better identification, resolution and avoidance of environmental problems, as well as improvements to management practices. Audits can be conducted effectively by independent internal or third party auditors. Larger organizations generally have greater resources to devote to an internal audit team, while smaller entities might be more likely to use outside auditors.

Regulated entities are responsible for taking all necessary steps to ensure compliance with environmental requirements, whether or not they adopt audit programs. Although environmental laws do not require a regulated facility to have an auditing program, ultimate responsibility for the environmental performance of the facility lies with top management, which therefore has a strong incentive to use reasonable means, such as environmental auditing, to secure reliable information on facility compliance status.

EPA does not intend to dictate or interfere with the environmental management practices of private or public organizations. Nor does EPA intend to mandate auditing (though in certain instances EPA may seek to include provisions for environmental auditing as part of settlement agreements, as noted below). Because environmental auditing systems have been widely adopted on a voluntary basis in the past, and because audit quality depends to a large degree upon genuine management commitment to the program and its objectives, auditing should remain a voluntary activity.

III. EPA Policy on Specific Environmental Auditing Issues

A. Agency Requests for Audit Reports

EPA has broad statutory authority to request relevant information on the environmental compliance status of regulated entities. However, EPA believes routine Agency requests for audit reports [3] could inhibit auditing in the long run, decreasing both the quantity and quality of audits conducted. Therefore, as a matter of policy, EPA will *not* routinely request environmental audit reports.

EPA's authority to seek audit reports will be exercised on a case-by-case basis where the Agency determines it needs an audit report, or relevant portions of a report, to accomplish a statutory mission, or where the government deems an audit report to be material to a criminal investigation. EPA expects such circumstances to be limited. Examples would likely include situations where: audits are conducted under consent decrees or other settlement agreements; a company has placed its management practices at issue by raising them as a defense; or state of mind or intent are a relevant element of inquiry, such as during a criminal investigation. This list is illustrative rather than exhaustive, since there doubtless will be other situations, not subject to prediction, in which audit reports rather than information may be required.

EPA acknowledges regulated entities' need to self-evaluate environmental performance with some measure of privacy and encourages such activity. However, audit reports may not shield monitoring, compliance, or other information that would otherwise be reportable and/or accessible to EPA, even if there is no explicit 'requirement' to generate that data.[4] Thus, this policy does not alter regulated entities' existing or future obligations to monitor, record or report information required under environmental statutes, regulations or permits, or to allow EPA access to that information. Nor does this policy alter EPA's authority to request and receive any relevant information—including that contained in audit reports—under various environmental statutes (e.g., Clean Water Act section 308, Clean Air Act sections 114 & 208) or in other administrative or judicial proceedings.

Regulated entities also should be aware that certain audit findings may by law have to be reported to government agencies. However, in addition to any such requirements, EPA encourages regulated entities to notify appropriate state or federal officials of findings which suggest significant environmental or public health risks, even when not specifically required to do so.

. B. EPA Response to Environmental Auditing

1. General Policy

EPA will not promise to forgo inspections, reduce enforcement responses, or offer other such incentives in exchange for implementation of environmental auditing or other sound environmental practice. Indeed, a creditable enforcement program provides a strong incentive for regulated entities to audit.

Regulatory agencies have an obligation to assess source compliance status independently and cannot eliminate inspections for particular firms or classes of firms. Although environmental audits may complement inspections, they are in no way a substitute for regulatory oversight. Moreover, certain statutes (e.g. RCRA) and Agency policies establish minimum facility inspection frequencies to which EPA will adhere.

However, EPA will continue to address environmental problems on a priority basis and will consequently inspect facilities with poor environmental records and practices more frequently. Since effective environmental auditing helps management identify and promptly correct actual or potential problems, audited facilities' environmental performance should improve. Thus, while EPA inspections of self-audited facilities will continue, to the extent that compliance performance is considered in setting inspection priorities, facilities with a good compliance history may be subject to fewer inspections.

In fashioning enforcement responses to violations, EPA policy is to take into account, on a case-by-case basis, the honest and genuine efforts of regulated entities to avoid and promptly correct environmental problems. When regulated entities take reasonable precautions to avoid noncompliance, expeditiously correct environmental problems. When regulated entities take reasonable precautions to avoid

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[3] An "environmental audit report" is a written report which candidly and throughly presents findings from a review, conducted as part of an environmental audit as described in Section II.A., of facility environmental performance and practices. An audit report is not a substitute for compliance monitoring reports or other reports or records which may be required by EPA or other regulatory agencies.

[4] See, for example, "Duties to Report or Disclose Information on the Environmental Aspects of Business Activities," Environmental Law Institute report to EPA, final report, September 1985.

noncompliance, expeditiously correct environmental problems discovered through audits or other means, and implement measures to prevent their recurrence, EPA may exercise its discretion to consider such actions as honest and genuine efforts to assure compliance. Such consideration applies particularly when a regulated entity promptly reports violations or compliance data which otherwise were not required to be recorded or reported to EPA.

2. Audit Provisions as Remedies in Enforcement Actions

EPA may propose environmental auditing provisions in consent decrees and in other settlement negotiations where auditing could provide a remedy for identified problems and reduce the likelihood of similar problems recurring in the future.[5] Environmental auditing provisions are most likely to be proposed in settlement negotiations where:

- A pattern of violations can be attributed, at least in part, to the absence or poor functioning of an environmental management system; or
- The type or nature of violations indicates a likelihood that similar noncompliance problems may exist or occur elsewhere in the facility or at other facilities operated by the regulated entity.

Through this consent decree approach and other means, EPA may consider how to encourage effective auditing by publicly-owned sewage treatment works (POTWs). POTWs often have compliance problems related to operation and maintenance procedures which can be addressed effectively through the use of environmental auditing. Under its National Municipal Policy EPA already is requiring many POTWs to develop composite correction plans to identify and correct compliance problems.

C. Environmental Auditing at Federal Facilities

EPA encourages of all federal agencies subject to environmental laws and regulations to institute environmental auditing systems to help ensure the adequacy of internal systems to achieve, maintain and monitor compliance. Environmental auditing at federal facilities can be an effective supplement to EPA and state inspections. Such federal facility environmental audit programs should be structured to promptly identify environmental problems and expeditiously develop schedules for remedial action.

To the extent feasible, EPA will provide technical assistance to help federal agencies design and initiate audit programs. Where appropriate, EPA will enter into agreements with other agencies to clarify the respective roles, responsibilities and commitments of each agency in conducting and responding to federal facility environmental audits.

With respect to inspections of self-audited facilities (see Section III.B.1 above) and requests for audit reports (see Section III.A above), EPA generally will respond to environmental audits by federal facilities in the same manner as it does for other regulated entities, in keeping with the spirit and intent of Executive Order 12088 and the EPA *Federal Facilities Compliance Program* (January 1984). Federal agencies should, however, be aware that the Freedom of Information Act will govern any disclosure of audit reports or audit-generated information requested for federal agencies by the public.

When federal agencies discover significant violations through an environmental audit, EPA encourages them to submit the related audit findings and remedial action plans expeditiously to the applicable EPA regional office (and responsible state agencies, where appropriate) even when not specifically required to do so. EPA will review the audit findings and action plans and either provide written approval or negotiate a Federal Facilities Compliance Agreement. EPA will utilize the escalation procedures provided in Executive Order 12088 and the EPA *Federal Facilities Compliance Program* only when agreement between agencies cannot be reached. In any event, federal agencies are expected to report pollution abatement projects involving costs (necessary to correct problems discovered through the audit) to EPA in accordance with OMB Circular A–106. Upon request, and in appropriate circumstances, EPA will assist affected federal agencies through coordination of any public release of audit findings with approved action plans once agreement has been reached.

IV. Relationship to State or Local Regulatory Agencies

State and local regulatory agencies have independent jurisdiction over regulated entities. EPA encourages them to adopt these or similar policies, in order to advance the use of effective environmental auditing in a consistent manner.

EPA recognizes that some states have already undertaken environmental auditing initiatives which differ somewhat from this policy. Other states also may want to develop auditing policies which accommodate their particular needs or circumstances. Nothing in this policy statement is intended to preempt or preclude states from developing other approaches to environmental auditing. EPA encourages state and local authorities to consider the basic principles which guided the Agency in developing this policy:

- Regulated entities must continue to report or record compliance information required under existing statutes or regulations, regardless of whether such information is generated by an environmental audit or contained in an audit report. Required information cannot be withheld merely because it is generated by an audit rather than by some other means.
- Regulatory agencies cannot make promises to forgo or limit enforcement action against a particular facility or class of facilities in exchange for the use of environmental auditing systems. However, such agencies may use their discretion to adjust enforcement actions on a case-by-case basis in response to honest and genuine efforts by regulated entities to assure environmental compliance.
- When setting inspection priorities regulatory agencies should focus to the extent possible on compliance performance and environmental results.
- Regulatory agencies must continue to meet minimum program requirements (e.g., minimum inspection requirements, etc.).
- Regulatory agencies should not attempt to prescribe the precise form and structure of regulated entities' environmental management or auditing programs.

An effective state/federal partnership is needed to accomplish the mutual goal of achieving and maintaining high levels of compliance with environmental laws and regulations. The greater the consistency between state or local policies and this federal response to environmental auditing, the greater the degree to which sound auditing practices might be adopted and compliance levels improve.

[5] EPA is developing guidance for use by Agency negotiators in structuring appropriate environmental audit provisions for consent decrees and other settlement negotiations.

Dated: November 1, 1985.

Lee M. Thomas,

Administrator.

Appendix—Elements of Effective Environmental Auditing Programs

Introduction

Environmental auditing is a systematic, documented, periodic and objective review by a regulated entity of facility operations and practices related to meeting environmental requirements.

Private sector environmental audits of facilities have been conducted for several years and have taken a variety of forms, in part to accommodate unique organizational structures and circumstances. Nevertheless, effective environmental audits appear to have certain discernible elements in common with other kinds of audits. Standards for internal audits have been documented extensively. The elements outlined below draw heavily on two of these documents: "Compendium of Audit Standards" (©1983, Walter Willborn, American Society for Quality Control) and "Standards for the Professional Practice of Internal Auditing" (©1981, The Institute of Internal Auditors, Inc.). They also reflect Agency analyses conducted over the last several years.

Performance-oriented auditing elements are outlined here to help accomplish several objectives. A general description of features of effective, mature audit programs can help those starting audit programs, especially federal agencies and smaller businesses. These elements also indicate the attributes of auditing EPA generally considers important to ensure program effectiveness. Regulatory agencies may use these elements in negotiating environmental auditing provisions for consent decrees. Finally, these elements can help guide states and localities considering auditing initiatives.

An effective environmental auditing system will likely include the following general elements:

I. *Explicit top management support for environmental auditing and commitment to follow-up on audit findings.* Management support may be demonstrated by a written policy articulating upper management support for the auditing program, and for compliance with all pertinent requirements, including corporate policies and permits requirements as well as federal, state and local statutes, and regulations.

Management support for the auditing program also should be demonstrated by an explicit written commitment to follow-up on audit findings to correct identified problems and prevent their recurrence.

II. *An environmetal auditing function independent of audited activities.* The status or organizational locus of environmental auditors should be sufficient to ensure objective and unobstructed inquiry, observation and testing. Auditor objectivity should not be impaired by personal relationships, financial or other conflicts of interests, interference with free inquiry or judgment, or fear or potential retribution.

III. *Adquate team staffing and auditor training.* Environmental auditors should possess or have ready access to the knowledge, skills, and discipline needed to accomplish audit objectives. Each individual auditor should comply with the company's professional standards of conduct. Auditors, whether full-time or part-time, should maintain their technical and analytical competence through continuing education and training.

IV. *Explicit audit program objectives, scope, resources and frequency.* At a minimum, audit objectives should include assessing compliance with applicable environmental laws and evaluating the adequacy of internal compliance policies, procedures and personnel training programs to ensure continued compliance.

Audits should be based on a process which provides auditors: all corporate policies, permits, and federal, state, and local regulations pertinent to the facility; and checklists or protocols addressing specific features that should be evaluated by auditors.

Explicit written audit procedures generally should be used for planning audits, establishing audit scope, examining and evaluating audit findings, communicating audit results, and following-up.

V. *A process which collects, analyzes, interprets and documents information sufficient to achieve audit objectives.* Information should be collected before and during an on-site visit regarding environmental compliance,[1] environmental management effectiveness,[2] and other matters [3] related to audit objectives and scope.

This information should be sufficient, reliable, relevant and useful to provide a sound basis for audit findings and recommendations.

a. *Sufficient* information is factual, adequate and convincing so that a prudent, informed person would be likely to reach the same conclusions as the auditor.

b. *Reliable* information is the best attainable through use of appropriate audit techniques.

c. *Relevant* information supports audit findings and recommendations and is consistent with the objectives for the audit.

d. *Useful* information helps the organization meet its goals.

The audit process should include a periodic review of the reliability and integrity of this information and the means used to identify, measure, classify and report it. Audit procedures, including the testing and sampling techniques employed, should be selected in advance, to the extent practical, and expanded or altered if circumstances warrant. The process of collecting, analyzing, interpreting, and documenting information should provide reasonable assurance that audit objectivity is maintained and audit goals are met.

VI. *A process which includes specific procedures to promptly prepare candid, clear and appropriate written reports on audit findings, corrective actions, and schedules for implementation.* Procedures should be in place to ensure that such information is communicated to managers, including facility and corporate management, who can evaluate the information and ensure correction of identified problems. Procedures also should be in place for determining what internal findings are reportable to state or federal agencies.

VII. *A process which includes quality assurance procedures to assure the accuracy and thoroughness of environmental audits.* Quality assurance may be accomplished through supervision, independent internal reviews, external reviews, or a combination of these approaches.

Footnotes to Appendix

[1] A comprehensive assessment of compliance with federal environmental regulations requires and analysis of facility performance against numerous environmental statutes and implementing regulations. These statutes include:

Resource Conservation and Recovery Act
Federal Water Pollution Control Act
Clean Air Act
Toxic Substances Control Act
Comprehensive Environmental Response, Compensation and Liability Act
Safe Drinking Water Act
Federal Insecticide, Fungicide and Rodenticide Act
Marine Protection, Research and Sanctuaries Act
Uranium Mill Tailings Radiation Control Act

In addition, state and local governments are likely to have their own environmental laws. Many states have been delegated authority to administer federal programs. Many local governments' building, fire, safety and health codes also have environmental requirements relevant to an audit evaluation.

[2] An environmental audit could go well beyond the type of compliance assessment normally conducted during regulatory inspections, for example, by evaluating policies and practices, regardless of whether they are part of the environmental management system or the operating and maintenance procedures. Specifically, audits can evaluate the extent to which systems or procedures:

1. develop organizational environmental policies which:
   a. implement regulatory requirements;
   b. provide management guidance for environmental hazards not specifically addressed in regulations;
2. train and motivate facility personnel to work in an environmentally-acceptable manner and to understand and comply with government regulations and the entity's environmental policy;
3. communicate relevant environmental developments expeditiously to facility and other personnel;
4. communicate effectively with government and the public regarding serious environmental incidents;
5. require third parties working for, with or on behalf of the organization to follow its environmental procedures;
6. make proficient personnel available at all times to carry out environmental (especially emergency) procedures;
7. incorporate environmental protection into written operating procedures;
8. apply best management practices and operating procedures, including "good housekeeping" techniques;
9. institute preventive and corrective maintenance systems to minimize actual and potential environmental harm;
10. utilize best available process and control technologies;
11. use most-effective sampling and monitoring techniques, test methods, recordkeeping systems or reporting protocols (beyond minimum legal requirements);
12. evaluate causes behind any serious environmental incidents and establish procedures to avoid recurrence;
13. exploit source reduction, recycle reuse potential wherever practical; and
14. substitute materials or processes to allow use of the least-hazardous substances feasible.

[3] auditors could also assess environmental risks and uncertainties.

[FR Doc. 85-26712 Filed 11-7-85; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-51596,TSH-FRL 2921-5]

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 twenty-four PMNs and provides a summary of each.

DATES: Close of Review period:

P 86-89, 86-91 and 86-92—January 22, 1986;

P 86-93, 86-94, 86-95, 86-96, 86-97, 86-98, 86-99, 86-100, 86-101, 86-102 and 86-103—January 25, 1986;

P 86-104, 86-105, 86-106, 86-107, 86-108, 86-109 and 86-110—January 26, 1986;

P 86-111, 86-112, 86-113—January 28, 1986.

Written comments by:

P 86-89, 86-91 and 86-92—December 23, 1985;

P 86-93, 86-94, 86-95, 86-96, 86-97, 86-93, 86-99, 86-100, 86-101, 86-102 and 86-103—December 26, 1985;

P 86-104, 86-105, 86-106, 86-107, 86-108, 86-109 and 86-110, 86-111, 86-112 and 86-113—December 27, 1985, December 29, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-51596]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Confidential Data 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 PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

P 86-89

Manufacture. Sylvachem Corporation.
Chemical. (S) Amidoamine epoxy resin adduct.
Use/Production. (G) Co-reactant to be used in 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 40 da/yr.
Environmental Release/Disposal. 1 lb released to land. Disposal by approved landfill.

P 86-91

Importer. Ashland Chemical Company.
Chemical. (G) Phenolic acrylic.
Use/Import. (G) Coating resin. Import range. Confidential
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW) and incineration.

P 86-92

Manufacturer. Confidential.
Chemical. (G) Modified acrylate polymer.
Use/Production. (S) Industrial flocculant and aid for wastewater sludge dewatering. Prod. range. Confidential.
Toxicity Data. Acute oral: 5.0 to 10.0 mL/kg; Irritation: Skin—Mild; Eye—Mild to moderate; Ames test: Negative; Skin sensitization: Strong; Genetic endpoint assay: Weak.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 86-93

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-94

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-95

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-96

Importer. Confidential.
Chemical. (G) Polyamide resin.

Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-97

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-98

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-99

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-100

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-101

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. (G) Ink additive. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-102

Manufacturer. Confidential.
Chemical. (G) Polyester of aromatic dibasic acids.
Use/Production. (S) Commerical protective coatings. Prod. range. 100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers, up to 1 hr/da, up to 12 da/yr.
Environmental Release/Disposal. Less than 4.5 kg/batch released to land. Disposal by sawdust landfill.

P 86-103

Manufacturer. Confidential.
Chemical. (G) Polyester of aliphatic polyols and aliphatic and aromatic dibasic and monobasic acids.
Use/Production. (S) Gel coats. Prod. range. 60,000—15,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 4 hrs/da, up to 251 da/yr.
Environmental Release/Disposal. Less than 10 lbs/batch released to land. Disposal by sawdust landfill.

P 86-104

Importer. Confidential.
Chemical. (S) 1-[3'-chloro-5'-(p-ethyl sulfonyl sulfuric ester sodium salt-phenylamino)-S-triazinylamino]-5-[2"-naphthylazo-1", 5"-disulfonic acid-disodium salt]-6-hydroxy-4-naphthalene sulfonic acid sodium salt.
Use/Import. (S) Reactive dye for textile. Import range. 8,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No workers exposed.
Environmental Release/Disposal. No release.

P 86-105

Manufacturer. Confidential.
Chemical. (G) Dimer acids, dicarboxylic acid, ethylenediamine, diamine polyamide resin.
Use/Production. (S) Industrial, hot melt adhesive for use in bonding plastics in automobile applications. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, and inhalation, a total of 4 workers.
Environmental Release/Disposal. Less than 0.1 kg/batch released to water with <2kg/batch released to land. Disposal by state approved treatment systems.

P 86-106

Manufacturer. Confidential.
Chemical. (G) Aliphatic dibasic acid polymer with aliphatic diols and aliphatic alcohols.
Use/Production. (G) Open, non-dispersive use. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 86-107

Manufacturer. Confidential.
Chemical. (G) Alkyl amino aryl ketone.
Use/Production. (G) Chemical intermediate. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 12 workers, up to 1 hr/da, up to 4 da/yr.
Environmental Release/Disposal. Less than 0.1 to 0.5 kg/batch released. Disposal by incineration.

P 86-108

Manufacturer. Confidential.
Chemical. (G) Substituted benzothiazole.
Use/Production. (G) Gear oil additive. Prod. range. Confidential.
Toxicity Data. Acute oral: >2g/kg but <5g/kg; Acute dermal: >2g/kg; Irritation: Skin—Moderate; Eye—Non-irritant; Ames test: Negative.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-109

Manufacturer. Confidential.
Chemical. (G) Mixed alkyl phosphonates.
Use/Production. (G) Lube oil additive. Prod. range. Confidential.
Toxicity Data. Acute Oral: >5 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Moderate; Eye—Moderate; Ames test: Negative; Serum cholinesterase: Activity was not inhibited in rats given 5 g/kg orally.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-110

Manufacturer. Confidential.
Chemical. (G) Alkyl amino chalcone.
Use/Production. (G) A component of a coating solution. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 19 workers, up to 2 hrs/da, up to 15 da/yr.
Environmental Release/Disposal. Less than 0.04 to 0.5 kg/batch released. Disposal by incineration.

P 86-111

Manufacturer. Confidential.
Chemical. (G) Siloxane resin.
Use/Production. (S) Component of a mixture which is used as a paper release coating. Prod. range. Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Very slight; Eye—Slight; Ames test: Negative.
Exposure. Manufacture: dermal, a total of 2 workers, up to 2 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. Less than 1.0 kg released to air. Disposal by incineration.

P 86-112

Importer. Confidential.

Chemical. (G) Aryl alkenyl aryl nitrile.

Use/Import. (S) Industrial optical brightener. Import range. Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Minimal; Eye—Non-irritant.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

P 86-113

Manufacturer. Confidential.

Chemical. (G) Polymer of alkyl alcohol; alkyl diol; monocyclic dicarboxyic acid, dimethyl ester; and cylic ether.

Use/Production. (G) Component of consumer products. Prod. range. Confidential.

Toxicity Data. Acute oral: Male—0.33 mL/kg (Beagle dogs); Female—4.1 mL/kg; Acute dermal: >2.0 mL/kg;—; Irritation: Skin Minimal (Human), slight—Mild (rabbit); Eye—Non-irritant (Human), Slight (rabbit); Ames test: Negative; Skin sensitization: Non-sensitizer (Human/Guinea pig); LC_{50} 96 hr. (Freshwater fish) >1,000 mg/L; LC_{50} 48 hr (Freshwater fish invertebrate): >1,000 mg/L; 28 Day percutaneous test: No histomophologic alterations noted; 14 Day -day oral toxicity test: 770 treatment-related gross pathologic findings or histomophologic alterations were observed; Mutagenicity test: Non-mutagenic; DNA/UDS test: Negative; Mouse lymphoma assay—Negative; Cytogeneticity study—No clastogenic potential.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated: November 4, 1985.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 85-26709 Filed 11-7-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59207; BH-FRL 2921-3]

Certain Chemicals Premanufacture Exemption Applications

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)(l) 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: November 25, 1985.

ADDRESS: Written comments, identified by the document control number "[OPTS-59207]" and the specific TME number should be sent to: Document Control Officer (TS-793), Confidential Data 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 TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

T 86-6

Close of Review Period. December 12, 1985.

Manufacturer. Confidential.

Chemical. (G) Mixed alkylated diphenyl amine.

Use/Production. (G) Petroleum and rubber additive. Prod. range. Confidential

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

T 86-7

Close of Review Preriod. December 12, 1985.

Manufacturer. Confidential.

Chemical. (G) Aliphatic dibasic acid polymer with aliphatic diols and aliphatic alcohols.

Use/Production. (G) Open, non-dispersive use. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Released/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

Dated: November 4, 1985.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 85-26711 Filed 11-7-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2910-4]

Environmental Impact Statements; Availability

Correction

In FR Doc. 85-24454 beginning on page 41584 in the issue of Friday, October 11, 1985, make the following correction:

On page 41585, first column, first line, "Final" should have read "Draft".

BILLING CODE 1505-01-M

[ER-FRL-2920-9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared October 21, 1985 through October 25, 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-J65130-CO, Rating EC2, Stevens Gulch Rd. Extension and Hubbard, Dyke, and Elk Creeks Timber Sale Offerings, Grand Mesa, Uncompahgre and Gunnison Nat'l Forests, Co. Summary: EPA is concerned that extensive timber harvesting in presently degraded watersheds will increase erosion and sedimentation and decrese water quality. EPA recommends modification of activity in these sensitive areas.

ERP No. D-COE-F90006-IL, Rating E02, Lake Calumet Wetland Sanitary Landfill Development, Sect. 404 and 10 Permits, IL. Summary: EPA believes the scope of the site selection process was

unnecessarily limited, and therefore, the 116th street site has not been shown to be the only available and environmentally preferred site. A wider range of alternatives should have been investigated including additional upland areas, other disposal methods, and sites outside the ten mile radius of the preferred site. The Metropolitan Sanitary District of the Greater Chicago site should also be given further consideration. The value of the mitigation plan cannot be evaluated until some time after its completion, by which time work on the landfill will have started. If the birds displaced by the landfill, especially the Illinois threatened and endangered species, do not use the mitigation sites, the value of the mitigation will be reduced considerably. Waste Management Inc. should offer guarantees that the landfill will not be constructed unless the mitigation is successful and, even so, should also guarantee that the land will be properly maintained and protected.

ERP No. DS-FHW-A42009-MD, Rating EC2, Nat'l Freeway/US-48 Gap Completion, Wolfe Mill to M. V. Smith Road, Construction, 404 Permit, MD. Summary: EPA was not satisfied that adequate mitigative measures were incorporated into this project, and recommended additional consideration for mitigation.

ERP No. DS-FHW-A42123-WA, Rating LO, Pasco-Kennewick Intercity Steel Truss Bridge Removal, Columbia R., WA. Summary: EPA completed its review and found the project to be satisfactory.

ERP No. D-NOA-D90011-VA, Rating EC2, Commonwealth of Virginia Coastal Resources Mgmt. Program, VA. Summary: EPA recommends development of a centralized coastal resource management program lead by the Virginia Council of the Environment. EPA also recommends identification of current environmental problems, pressures, and areas of particular concern. Further, EPA recommends a comparative analysis of existing coastal programs to guide development of the Virginia program.

ERP No. D-NSF-A84027-00, Rating LO, Scientific Ocean Drilling Program, Expansion, Drilling in High Latitudes, Drilling In/Near Environmentally Sensitive Regions, Drilling on Continental Margins and Drilling With a Riser and Blowout Prevention System Summary: EPA believes that the National Science Foundation could reduce potential environmental harm and improve its environmental analysis by supporting findings of negligible environmental impacts with additional information. EPA recommends providing additional mitigation measures via operating rules, and designating hydrothermal vent sites as biologically significant communities.

Final EISs

ERP No. F-AFS-E65030-MS, Mississippi Nat'l. Forests, and Land and Resource Mgmt. Plan, Bienville, Delta, De Soto, Holly Springs, Homochitto, and Tombigbee Nat'l Forests, MS. Summary: EPA continues to be concerned about the possible water contamination problems of aerial herbicide application, and the erosion and sedimentation problems created by the plan's emphasis on clear cutting and road construction. EPA would like to ensure that adequate mitigation measures have been included to address the impacts of implementing the preferred alternative.

ERP No. F-BLM-J70000-MT, Garnet Resource Area, Resource Mgmt. Plan, MT. Summary: In its comments on the Draft Plan/EIS, EPA recommended that the final EIS contain a water quality monitoring plan and a full description of the areas of surface water contamination. EPA is pleased to see that the Final Plan/EIS provides a plan for water quality monitoring. However, the issue of surface water contamination remains unresolved. Furthermore, it is not clear how the consultation process will be carried out in order that those agencies concerned with water quality are appropriately involved in the development and implementation of the proposed remedial plan of action at areas of surface water contamination.

ERP No. F-FHW-L40141-OR, Oakland-Shady Highway/OR-99/ Stephens Street Widening, NW Hooker Avenue to NE Alameda Ave, Right-of-Way Acquisition, OR. Summary: EPA made no formal comments. EPA reviewed the Final EIS and found the project to be satisfactory.

Regulations

ERP No. R-BLM-A51915-00, Airport Leasing on Public Lands, 43 CFR Part 2910 (50 FR 33578). Summary: Although EPA has no objection to issuance of the proposed rulemaking (50 CFR 33578), we recommend two additions that we believe would assist in achieving improved compliance with NEPA when public lands administered by the Bureau of Land Management are proposed for airport leasing.

Dated: November 5, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85-26820 Filed 11-7-85; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-2921-1]

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 October 28, 1985 Through November 1, 1985 Pursuant to 40 CFR 1506.9.

EIS No. 850472, Final, COE, FL, Pinellas County Beach Erosion Control Project, Pinellas County, Due: December 9, 1985, Contact: Ronnie Tapp (904) 791-1690.

EIS No. 850478, Draft, COE, HI, Kahana Bay Light-Draft Navigation Improvements and Harbor of Refuge Development, Honolulu County, Due: December 23, 1985, Contact: James Maragos (808) 438-2263.

EIS No. 850479, Draft, FHW, VA, VA-600 Improvement, VA-603 to VA-762, Smyth County, Due: December 23, 1985, Contact: James Tumlin (804) 771-2371.

EIS No. 850480, Draft, COE, CA, Clifton Flood Control Plan, San Francisco River, Greenlee County, Due: December 23, 1985, Contact: Byrt Wammack (213) 894-5442.

EIS No. 850481, Final, COE, DE, Wilmington Harbor Federal Navigation Project, Dredged Material Disposal Area, Development and Designation, New Castle County, Due: December 9, 1985, Contact: John Forren (215) 597-4833.

EIS No. 850482, Final, FHW, TX, US 287/ Ennis Bypass Construction, US 287 to I-45, Ellis County, Due: December 9, 1985, Contact: William Hall (512) 482-5988.

EIS No. 850483, Final, FHW, OH, US 35 West Completion, I-75 to West 3rd Street, Construction, Montgomery County, Due: December 9, 1985, Contact: John McBee (614) 469-6896.

EIS No. 850484, Draft, COE, CA, Marathon Industrial/Commercial Business Park Development, Permits, Alameda County, Due: December 23, 1985, Contact: Les Tong (415) 784-8674.

EIS No. 850485, Final, MMS, MXG, AL, MS, TX, LA, 1986 Central and Western Gulf of Mexico Outer Continental Shelf (OCS) Oil and Gas Lease Sale, Nos. 104 and 105, Leasing, Due: December 9, 1985, Contact: Joseph Christopher (504) 837-4720.

EIS No. 850486, Draft, FHW, IL, Federal Aid Primary Rt-412/US 51

Improvement, Normal to Oglesby, Due: December 23, 1985, Contact: Jay Miller (217) 492–4600.

EIS No. 850487, Final, BPA, ID, Fall River-Lower Valley Transmission System Reinforcement, Stability and Reliability, Due: December 9, 1985, Contact: Anthony Morrell (503) 230–5136.

EIS No. 850488, Final, USAF, GA, Winnersville Air-to-Surface Weapons Range, Construction and Operation, near Moody AFB for Primary Use of the 347 Tactical Fighter Wing, Lanier and Lowndes Counties, Due: December 9, 1985, Contact: Alton Chavis (804) 764–4430.

EIS No. 850489, Draft, BLM, WY, Lander Resource Area, Resource Management Plan, Due: February 4, 1986, Contact: Jack Kelly (307) 352–7822.

Amended Notice

EIS No. 850459, Draft, BIA, NM, Ojo 345kV Transmission Line Extension and Substation Construction, Approval and Right-of-Way Grants, Due: January 2, 1986, Published FR 10–25–85—Filing date reestablished.

Dated: November 5, 1985.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 85–26819 Filed 11–7–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP—66106C; FRFL–2916–7]

Dibromochloropropane; Denial of Use of Existing Stocks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Decision on Use of Existing Stocks.

SUMMARY: The EPA has determined use of existing stocks of dibromochloropropane (DBCP) for Hawaiian pineaple culture will be prohibited.

FOR FURTHER INFORMATION CONTACT: By mail: Bettty Shackleford, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.c. 20460. Telephone number: (703–557–5488).

SUPPLEMENTARY INFORMATION:

I. Introduction

In a Notice of Intent to Cancel, published in the **Federal Register** of January 9, 1985 (50 FR 1122), EPA cancelled the remaining registration for the use of DBCP as a soil fumigant in Hawaiian pineapple culture. That Notice created a procedure for persons to apply to use existing stocks of DBCP in Hawaii. The Notice also established a DBCP Use Panel, consisting of a voting representative from EPA and a voting representative from the State of Hawaii, to review applications and to make a determination on the use of existing stocks of DBCP on Maui, Hawaii. Each member of the panel was given the power to veto use on any or all fields.

Notice of a public information-gathering meeting to be conducted by the Use Panel on Maui was published in the **Federal Register** of March 5, 1985 (50 FR 8782).

The public information-gathering meeting was convened on March 20, 1985, to hear comments on applications by Maui Pineapple Company to use DBCP on Maui. Additional written comment was invited through March 28, 1985. Following the close of the comment period the Panel members conferred.

II. Decision of the Use Panel

By letter dated April 25, 1985, Hawaii's voting member on the Use Panel informed the Agency of the decision to veto all use of existing stocks of DBCP on Maui, Hawaii. Therefore, in accordance with the procedures set out in the January 9, 1985 Notice of Intent to Cancel, the veto of the State of Hawaii representative on the DBCP Use Panel is accepted by the Agency. The effect of this decision is to prohibit use of any existing stocks of DBCP for Hawaiian pineapple culture.

III. Order

Use of existing stocks of DBCP for pineapple culture in Hawaii is prohibited. This action finalizes the January 9, 1985 prohibition against use of DBCP (50 FR 1122) pursuant to sec. 6 of FIFRA. Existing stocks which are not exported must be disposed of in a manner consistent with the labeling and prescribed by regulation pursuant to the Resource Conservation and Recovery Act. Persons responsible for disposal of exisitng stocks of DBCP may contact the EPA office in their region for specific disposal instructions or must notify the EPA prior to exporting existing DBCP stocks. The EPA will notify foreign governments and appropriate international agencies of this final determination on the use of existing stocks of DBCP through issuance of a FIFRA section 17(b) notice. Any stocks intended for export must comply with the provisions of FIFRA section 17(a).

Dated: October 23, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85–26817 Filed 11–7–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59739; TSH–FRL 2921–4]

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). 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 seven such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86–19—November 19, 1985;

Y 86–20, 86–21, 86–22, 86–23, 86–24 and 86–25—November 20, 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 86–19

Manufacturer. C. J. Osborn Chemicals, Inc.

Chemical. (G) Silicone modified alkyd.

Use/Production. (S) Clear and pigmented finishes. Prod. range. Confidential.

Toxicity Data. no data submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 1½ hrs/da, up to 6 da/yr.

Environmental Release/Disposal. No release.

Y 86-20

Importer. Urethane Concepts, Inc. Division of Velco Enterprises Ltd.

Chemical. (G) Ethylene oxide—propylene copolymer triol ether.

Use/Import. (S) Industrial polyol component in flexible polyurethane foam. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No data submitted.

Y 86-21

Importer. Urethane Concepts, Inc. Division of Velco Enterprises Ltd.

Chemical. (G) Propylene oxide—propylene copolymer triol ether.

Use/Import. (S) Industrial polyol component in flexible polyurethane foam and in the manfuacture of polyurethane elastomers. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No data submitted.

Y 86-22

Importer. Urethane Concepts, Inc. Division of Velco Enterprises Ltd.

Chemical. (G) Polyethylene—Polypropylene glycol.

Use/Import. (S) Industrial polyol component in the manufacturing of polyurethane elastomers, Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No data submitted.

Y 86-23

Importer. Urethane Concepts, Inc. Division of Velco Enterprises Ltd.

Chemical. (G) Polypropylene glycol with pentaerythritol.

Use/Import. (S) Industrial polyol component in rigid polyurethane foam. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No data submitted.

Y 86-24

Importer. Urethane Concepts, Inc. Division of Velco Enterprises Ltd.

Chemical. (G) Polypropylene oxide triol ether.

Use/Import. (S) Industrial polyol component for the manufacture of polyurethane elastomers. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No data submitted.

Y 86-25

Importer. Urethane Concepts, Inc. Division of Velco Enterprises Ltd.

Chemical. (G) Amine containing polyether polyol.

Use/Import. (S) Industrial polyol component in flexible polyurethane foam. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10–50 workers, up to 8 hrs/da, up to 240 da/yr.

Environmental Release/Disposal. No data submitted.

Dated: November 4, 1985.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 85-26710 Filed 11-7-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Logistics Forwarding Co., Inc., et al.; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Tariffs, Federal Maritime Commission, Washington, D.C. 20573.

Logistics Forwarding Company, Inc., 16643 Jacintoport Blvd., P.O. Box 96555, Houston, TX 77213; Officers: Richard J. Todd, President/Director, T. H. Kenney, Vice President, Willa Alquest, Vice President, George H. Grayson, Vice President;

Global Transportation Services, Inc., 185 So. Holgate Street, #2, Seattle, WA 98134; Officers: Keith S. Lake, President/Director, Solly J. Fingerman, Secretary/Treasurer/Director, Alan J. Verpy, Vice President/Director;

Leslie Enterprises, Inc., 1123 Wilso Drive, Baltimore, MD 21223; Officers: Maxine Russell, President, Genevieve Szczepanik, Vice President;

Benjamin Guerrero, 10912 Ceres Avenue, Whittier, CA 90604;

Surya P. Dhamija, 4512 Donalbain Circle, Fremont, CA 94536.

By the Federal Maritime Commission.

Dated: November 4, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-26672 Filed 11-7-85; 8:45 am]

BILLING CODE 6730-01-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 November 1, 1985.

Public Health Service

Centers for Disease Control

Subject: O-Dianisidine and O-Tolidine Dye Worker Exposure Study—Extension (0920-0159)

Respondents: Individuals or households, businesses or other for-profit institutions

Health Resources and Services Administration

Subject: Health Professions Student Loan and Nursing Student Programs-Administrative Requirements (forms)—Extension (0915-0044)

Respondents: Individuals or households, non-profit institutions

OMB Desk Officer: Fay S. Iudicello

Office of the Assistant Secretary for Health

Subject: Linked Telephone Survey Study—New

Respondents: Individuals or households

Food and Drug Administration

Subject: Reporting and Recordkeeping Requirements for Low-Acid and Acidified Canned Food Processors—Reinstatement (0910–0036)
Respondents: Businesses or other for-profit institutions
Subject: Reclassification Petitions for Medical Devices—Extension (0910–0138)
Respondents: Businesses or other for-profit institutions, small businesses or organizations
Subject: Labeling of Imitation Foods—Existing Collection
Respondents: Businesses or other for-profit institutions
Subject: Cholesterol, Fat and Fatty Acids Labeling—Existing Collection
Respondents: Businesses or other for-profit institutions
OMB Desk Officer: Bruce Artim

Social Security Administration

Subject: 1986 CPS Survey of Child Support and Alimony—Reinstatement (0960–0365)
Respondents: Individuals or households
Subject: State Agency Budget Request for SSA Disability Program-SSA-870—Existing Collection
Respondents: State/local governments
Subject: Federal Annual Magnetic Tape Reporting (Request for Authorization)-SSA-2478, SSA-2479, SSA-2480, SSA-2481, SSA-2482—Extension (0960–0307)
Respondents: State/local governments, businesses or other for-profit institutions
OMB Desk Officer: Judy A. McIntosh

Office of the Secretary

Subject: Awareness of and Attitudes About Selected Types of Health Products—New
Respondents: Individuals
Subject: 45 CFR 95.600 State Requests for HHS Approval of Federal Financial Participation in the Cost of ADP Systems, Equipment and Services—Extension (0990–0058)
Respondents: States
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, D.C. 20503. ATTN: (name of OMB Desk Officer).

Dated: November 4, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85–26768 Filed 11–07–85; 8:45 am]

BILLING CODE 4150–04–M

Statement of Organization, Functions and Delegations of Authority; Office of Assistant Secretary for Personnel Administration

Part A of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services covers the Office of the Secretary. Chapter AH of Part A, which was lastly published at 50 FR 20850 on May 20, 1985, is amended to reflect an organizational change in the Office of the Assistant Secretary for Personnel Administration. That change removes Personnel Operations Group B from the Division of Personnel and Payroll Operations and places it under the Office of Personnel Operations. Personnel Operations Group B provides personnel services exclusively for the Office of the Inspector General.

The following changes to Chapter AH effect this organizational change:

1. Under section AH.20, delete the functional statement for the Division of Personnel and Payroll Operations (at C1) and replace it with the following:

1. *Division of Personnel and Payroll Operations.* Provides secondary personnel policy for the Office of the Secretary, the Office of Human Development Services and the Offices of Community Services. Except for the Office of Inspector General, also provides headquarters managers in those organizations with advice and assistance in their personnel management activities including work force planning, recruitment, selection, position management, performance management, incentive awards, employee relations and labor management relations, and provides personnel administrative services for the Headquarters components of those organizations. Personnel administrative services include the excercise of appointing authority, position classifications, awards authorization, training authorization and personnel action processing and recordkeeping. Administers the Department's centralized payroll system, performs payroll accounting functions, and maintains records related to pay and leave.

2. Under section AH.20, add at C5 the following functional statement for Personnel Operations Group B:

5. *Personnel Operations Group B.* Provides managers in the Office of the Inspector General with advice and assistance in their personnel management activities including work force planning, recruitment, selection, position management, performance management, incentive awards, and employee relations. Also provides personnel administrative services for the Office of the Inspector General headquarters and professional staff in the field. These services include the exercise of appointing authority, position classification, awards authorization, and personnel action processing and recordkeeping.

Dated: October 30, 1985.

John J. O'Shanghnessy,

Assistant Secretary for Management and Budget.

[FR Doc. 85–26704 Filed 11–7–85; 8:45 am]

BILLING CODE 4150–04–M

Statement of Organization, Functions and Delegations of Authority; Social Security Administration

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) covers the Social Security Administration (SSA).

Notice is given that Chapter SU, as published in the **Federal Register** on January 4, 1983 and amended on August 15, 1983; May 18, 1984; October 17, 1984 and September 3, 1985, is amended to eliminate one division-level component and combine two other division-level components.

This consolidation of two divisions, which provides programmatic support for the Supplemental Security Income (SSI) program, will improve organizational effectiveness by merging all SSI programming and support functions into one new organization—The Division of SSI Systems, which reports to the Director of the Office of Programmatic Systems. The Division of Systems Management and Technical Support is abolished.

The new material and changes are as follows:

Section SU.10 The Office of Systems Integration—(Organization):

G. The Office of Programmatic Systems (SUF).

Delete:

4. The Division of SSI Claims and Postentitlement Systems (SUF4).

5. The Division of SSI Contact, Control and Accounting Systems (SUF5).

6. The Division of Systems Management and Technical Support (SUF6).

Add:

7. The Division of SSI Systems (SUF7).

Section SU.20 The Office of System Integration—(Functions):

G. The Office of Programmatic Systems (SUF).

Delete:

4. The Division of SSI Claims and Postentitlement Systems (SUF4).

5. The Division of SSI Contact, Control and Accounting Systems (SUF5).

6. The Division of Systems Management and Technical Support (SUF6).

Add:

7. The Division of SSI Systems (SUF7).

a. Provides the systems analysis, design, programming and testing necessary to develop and maintain current, new and redesigned systems in response to approved user system requirements for SSI claims and postentitlement transaction processing as well as a variety of supporting applications. These systems: edit incoming new records and transactions; maintain and revise the SSI master file to reflect changes; compute both Federal SSI benefit and State supplementary payments and produce payment information for the Treasury Department; account for disbursement of Federal and State funds; prepare recipient notices of claims decisions and changes in status and payment; identify and control overpayment activity; select and control cases requiring redetermination; exchange data with Government record systems to verify recipient income; generate data for State use in determining supplementation amounts and Medicaid eligibility; provide record query and response capability; control folder location and movement; produce statistical, management and actuarial data as needed and control exception processing and diary control mechanisms.

b. Translates user requirements, as approved by the Office of System Requirements (OSR), into detailed design, development and testing activities and system documentation for current, new or redesigned system.

c. Conducts liaison with other SSA components and Federal and State agencies to determine the feasibility, and to plan the development, of SSA claims, transaction and support systems.

d. Provides OSR, the Associate Commissioner for System Integration and other SSI offices, as appropriate, with a technical assessment of the effect of legislative, administrative and systems modernization proposals on existing SSI claims, transaction and support system applications.

Dated: November 4, 1985.

Arthur F. Simermeyer,

Acting Deputy Commissioner for Systems.

[FR Doc. 85-26685 Filed 11-7-85; 8:45 am]

BILLING CODE 4190-11-M

Statement of Organization, Functions and Delegations of Authority; Office of Child Support Enforcement

Part X of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) covers the Office of Child Support Enforcement (OCSE). The statement was last published in the **Federal Register** on April 17, 1980 (45 FR 26136). Notice is given that the statement is being amended to reflect changes in functional responsibilities for the Program Operations Division, Policy and Planning Division and the Information and Management Systems Division. In addition, notice is given that the Standard Administrative Codes (SAC) for the Program Operations Division is being corrected from XWO to XWH to reflect proper designation. The statement should be revised as follows to include these changes:

1. In subsection XW.10E, change (XWO) to (XWH).

2. In Section XW.20, replace subsections E, F and G with the following:

E. *Program Operations Division* (XWH):

Provides information and guidance to States and regional offices (ROs) on program operations and management; coordinates and conducts programmatic and management reviews of States; provides technical guidance to States and ROs on program operations; provides a variety of management consulting services to State Child Support Enforcement agencies; develops and publishes a variety of information and guides on effective program and management techniques; operates an information exchange service responding to State requests for service; directs contracts providing training and technical assistance in support of child support enforcement activities; coordinates the collection, analysis and maintenance of information on operational aspects of child support enforcement programs nationwide.

F. *Policy and Planning Division* (XWP):

Provides technical assistance and policy guidance to States in developing, managing and operating their programs effectively and according to the rules of Federal law and promotes initiatives for program improvement. Develops and evaluates long range plans and objectives for the program. Develops and monitors child support research and demonstration projects and evaluation studies and provides interstate grants management function. Develops and monitors regulations and policies, and provides interpretations and guidance. Develops, coordinates, and reviews all legislative proposals related to the CSE program and drafts legislative language. Develops procedures for review and approval of State plans and prepares State Plan Characteristics publication. Assists States in entering agreements with HHS to use the Federal Parent Locator Service in parental kidnapping and child custody cases. Prepares and publishes OCSE's Annual Report to Congress. Provides analyses of statistical, financial and trend data to evaluate the budgetary and programmatic impact of legislative and regulatory changes on State programs and provides data analyses in support of 5-year budget projections.

G. *Information and Management Systems Division* (XWS):

Operates the Federal Parent Locator Service as required by section 452(a)(9) of the Act to obtain address information from Federal agencies such as the Internal Revenue Service and the Social Security Administration for the purpose of locating absent parents to enforce child support obligations as described under section 453 of the Act, and in connection with the enforcement or determination of child custody and in cases of parental kidnapping of a child as described in section 463 of the Act. Develops and assists in the planning and installation of automated systems for program use by the States; provides consulting services and technical assistance to States on Advance Planning Documents (APD) for 90 percent Federal financial participation. Reviews, evaluates and approves requests for Federal matching funds for automated State/local Child Support Enforcement Systems; conducts periodic reviews of State ADP installations; establishes and maintains ADP standards for the States. Provides computer services, automated systems design, development and maintenance services to OCSE, operates the Federal Tax Refund Offset System, and in conjunction with other OCSE users, the OCSE Management Information System.

Dated: October 30, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85-26703 Filed 11-7-85; 8:45 am]

BILLING CODE 4190-11-M

Centers for Disease Control

Division of Immunization; Impediments to Measles Elimination From the United States; Open Meeting

The Division of Immunization, Centers for Prevention Services (CPS), Centers for Disease Control (CDC), Atlanta, Georgia, will sponsor a meeting to discuss impediments to measles elimination from the United States.

The meeting will be open to the public for observation and participation, limited only by the space available.

Date: November 13-14, 1985.

Time: 8:30 a.m.-5:00 p.m.

Place: Centers for Disease Control, Room 207, Building 1, 1600 Clifton Road, N.E., Atlanta, Georgia 30333.

Additional information may be obtained from: Walter A. Orenstein, M.D., Chief, Surveillance, Investigations, and Research Branch, Division of Immunization, CPS, CDC, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Telephones: FTS: 236-1860. Commercial: (404) 329-1860.

Dated: November 4, 1985.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 85-26686 Filed 11-7-85; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 80N-0012; DESI 10826]

Drugs for Human Use; Drug Efficacy Study Implementation; Certain Topical Anti-Infective Drug Product; Withdrawal of Approval of New Drug Application

Correction

In FR Doc. 85-26207 beginning on page 45873 in the issue of Monday, November 4, 1985, make the following correction:

On page 45874, first column, last line of the last paragraph, "lawful" should have read "unlawful."

BILLING CODE 1505-01-M

National Institutes of Health

Advisory Committee to the Director; NIH; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Advisory Committee to the Director, NIH, on December 16, 1985, at the National Institutes of Health, Bethesda, Maryland 20892. The meeting will take place from 9:00 a.m. to approximately 3:30 p.m. in Building 31, Conference Room 10, C Wing. The meeting will be open to the public.

The meeting will focus on a general discussion of biomedical research instrumentation. Specific topics to be addressed are: biomedical research instrumentation as an NIH concern, the current instrumentation deficit and future needs, maintaining current instrument capability, instrumentation support, and NIH initiatives for instrumentation support.

The Acting Executive Secretary, Kurt Habel, National Institutes of Health, Shannon Building, Room 137, Bethesda, Maryland 20892, (301) 496-3152, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information.

Dated: November 4, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-26691 Filed 11-7-85; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

New Mexico; El Paso Electric 345 kV, Springerville to Deming; Transmission Line Project

AGENCY: Bureau of Land Management (BLM), Department of the Interior.

ACTION: Reopening of the comment period on the Proposed Management Framework Plan Amendment/Final Environmental Impact Statement (MEPA/EIS) for 30 days from November 12 to December 12, 1985, and Notice of Intent to Prepare a Supplement Final.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, and provisions of the planning regulations the BLM released a Proposed MFPA/Final EIS for the proposed El Paso Electric 345 kV Right-of-Way, Springerville to Deming, Transmission Line Project on July 31, 1985. During the 30-day protest period for the plan, BLM received protests on the segment of the proposed transmission line route addressed in the Final EIS as the Monticello modification and the Horse Springs modification.

Based on protests to the proposed plan decision filed pursuant to 43 CFR 1610.5-2, the State Director has decided to reopen the comment period on the Final MFPA/EIS and reconsider the proposed plan decision pursuant to 43 CFR 1610.2. The purpose of the 30-day comment period is to provide the public with additional opportunity to respond to the Monticello and Horse Springs modifications evaluated in the FEIS. In addition, this 30-day comment period will allow the public to recommend potential mitigation measures to the BLM. Public comments will be addressed in a supplemental Proposed MFPA/Final EIS to be published following the 30-day comment period. Publication of the Notice of Availability of the Supplemental Final EIS by the Environmental Protection Agency (EPA) in the **Federal Register** will initiate a subsequent 30-day protest period before a final Record of Decision is prepared.

DATE: Comments must be mailed by December 12, 1985.

ADDRESS: Comments should be sent to: Bureau of Land Management, Juan Padilla, Team Leader, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Juan Padilla, Bureau of Land Management, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005, (505) 525-8228 or FTS 471-8312.

Dated: November 4, 1985.

Richard N. Wilson,

Acting State Director.

[FR Doc. 85-24746 Filed 11-7-85; 8:45 am]

BILLING CODE 4310-FB-M

[W-92140]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-92140 for lands in Fremont 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 amd $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-92140 effective February 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Fred O'Ferral,

Acting Chief, Leasing Section.

[FR Doc. 85-2665 Filed 11-7-85; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Exxon Co., U.S.A.

AGENCY: Minerals Management Service, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document.

SUMMARY: This Notice announces that Exxon Company, U.S.A. Unit Operator of the South Timbalier Block 54 Federal Unit Agreement No. 14-08-0001-3444, submitted on October 7, 1985, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the South Timbalier Block 54 Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Mineral's Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: October 28, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-26674 Filed 11-7-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

Evergreen International Aviation, Inc.—Incorporated in the state of Oregon

2. Wholly Owned Subsidiaries:

Evergreen International Airlines, Inc.—Incorporated in the state of Oregon

Evergreen Helicopters, Inc.—Incorporated in the state of Oregon

Evergreen Aircraft Sales & Leasing Co., Inc.—Incorporated in the state of Oregon

	States of incorporation
1. Parent corporation and address of principal office.	
George Weston Limited, 22 St. Clair Avenue E., Suite 202, Toronto, Ontario, Canada. M4T 2S3.	(Canada).
2. Wholly-owned subsidiaries which would participate in the operations and the address of their respective principal office.	
(a) Eddy Paper Company Limited, P.O. Box 3521, Station, Ottawa, Ontario. K1Y 4L5.	Ontario (Canada).
(b) E. B. Eddy Forest Products Ltd., P.O Box 3521, Station C, Ottawa, Ontario. K1Y 4L5.	Ontario (Canada).
(c) Sailrail Enterprises Limited, 317A Bradwick Drive, Concord, Ontario. L4K 1B1.	Ontario (Canada).
(d) Eastern Fine Paper, Inc., P.O. Box 129, 517 South Maine, Brewer, Maine, U.S.A. 04412.	(Maine).
(e) Diversified Research Laboratories Ltd., 1047 Yonge Street, Toronto, Ontario. M4W 2L3.	Ontario (Canada).
(f) George Weston Properties Ltd, 22 St. Clair Avenue East, Suite 1901, Toronto, Ontario. M4T 2S7.	Ontario (Canada).
(g) Weston Bakeries Limited, 22 St. Clair Avenue East, Suite 301, Toronto, Ontario. M4T 2S3.	Ontario (Canada).
(h) Ready-Bake Division, Weston Bakeries Limited, 560 Victoria Street North, Kitchener, Ontario. N2H 5G2.	Ontario (Canada).
(i) McCarthy Milling Limited, 1770 Barbertown Road, Mississauga, Ontario. L5M 2M5.	Ontario (Canada).
(j) Soo Line Mills Limited, 7 Higgins Avenue, Winnipeg, Manitoba. R3B 0A1.	Ontario (Canada).
(k) Stroehmann Bakeries Inc., P.O. Box 848, Williamsport, P.A., 17703-0848.	Ontario (Canada).
(l) InterBake Food Limited, 33 Connell Court, Toronto, Ontario. M8Z 1E9.	Ontario (Canada).
(m) InterBake Foods Inc., 900 Terminal Place, P.O. Box 27487, Richmond, Virginia 23261.	Ontario (Canada).
(n) Certi-Fresh Foods, Inc., 13055 E. Molette Street, Santa Fe Springs, California 90670.	Ontario (Canada).
(o) William Neilson Ltd., 277 Gladstone Avenue, Toronto, Ontario. M6J 3L9.	Ontario (Canada).
(p) Bowes Co. Ltd., 75 Vickers Road, Toronto, Ontario. M9B 6B8.	Ontario (Canada).
(q) Chocolate Products Co., Ltd, 335 Judson Street, Toronto, Ontario. M8Z 5P1.	Ontario (Canada).
(r) McNair Products Co., Ltd., 175 The West Mall, Etobicoke, Ontario. M9C 1C2.	Ontario (Canada).
(s) Rose & Laflamme Co. Ltd., 300 rue St. Jacques, La-Prairie, Quebec, L5R 1G6.	Ontario (Canada).
(t) Watt & Scott Inc., C.P. 63, St. Laurent, Quebec, H4L 4V4.	Ontario (Canada).
(u) Jonespac Limited, 1199 Sanford Street, Winnipeg, Manitoba. R3E 3A1.	Ontario (Canada).

James H. Bayne,

Secretary.

[FR Doc. 85-26694 Filed 11-7-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-12 (Sub-No. 98)]

Southern Pacific Transportation Co., Abandonment; Findings in Aransas County, TX

The Commission has issued a certificate authorizing the Southern Pacific Transportation Company to abandon its 7.55-mile rail line between Kosmos (milepost 13.80) and Rockport, TX (milepost 21.35) in Aransas County, TX. 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 notations hall 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. 85–26695 Filed 11–7–85; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–227 (Sub-No. IX), AB–10 (Sub–No. 35X)]

The Wheeling and Lake Erie Railway Co.; Norfolk and Western Railway Co., Abandonment and Discontinuance of Service in Wayne County, OH: Exemption

The wheeling and Lake Erie Railway Company (W&LE) and Norfolk and Western Railway Company (NW) have filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service and Trackage Rights*. The line involved is that portion of W&LE's track in Orrville, OH lying between milepost 0.88 (valuation station 46+93) and milepost 1.3869 (valuation station 73+23), a total of 0.5 miles, in Wayne County, OH.

Applicants have certified: (1) That no local or overhead traffic has moved over the line for at least 2 years, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to this filing of this notice.

As a condition to use this exemption, any employee affected by the abandonment or discontinuance of service shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective December 8, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by November 18, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by November 29, 1985 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicants' representative: Angelica D. Lloyd, 204 South Jefferson Street, Roanoke, VA 24042–2069.

If the notice of exemption contains false or misleading information, use of the exemption is void *ad initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: October 24, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–26696 Filed 11–7–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act; Printpack, Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Printpack, Inc.*, Civil Action No. 84 C 2146, has been lodged with the United States District Court for the Northern District of Illinois. The complaint filed in this action alleged that Printpack, Inc. operated its Elgin, Illinois flexible packaging plant in violation of the Clean Air Act and the Illinois State Implementation Plan ("SIP") promulgated thereunder. More specifically, the complaint alleged that Printpack, Inc. has regularly used adhesive paper coatings containig more than 2.9 pounds of volatile organic material ("VOM") per gallon of coating, excluding water, without controlling the resulting VOM emissions from its paper coating lines by means of an adequate afterburner or other acceptable VOM emissions control device. The complaint sought injunctive relief to compel Printpack, Inc. to comply with applicable requirements of the Illinois SIP as well as civil penalties pursuant to 42 U.S.C. 7413(b).

The proposed Consent Decree requires Printpack, Inc. to implement either of two alternate compliance programs. First, defendant may reduce the VOM content of adhesive coatings used at the Elgin plant, so that by December 15, 1985 no such coating contains more than 2.9 pounds of VOM per gallon of coating material, excluding water. Alternatively, if defendant continues to use adhesive coatings which exceed this VOM content limitation after December 15, 1985, the Consent Decree requires defendant to acquire, install and operate an afterburner system which conforms to the requirements of the Illinois SIP no later than August 1, 1986.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Printpack, Inc.*, D.J. Ref. 90–5–2–1–636.

The proposed Consent Decree may be examined at the office of the United States Attorney for the Northern District of Illinois, 219 South Dearborn Street, Chicago, Illinois 60604 and at the Region V Office of Regional Counsel, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.20 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85–26818 Filed 11–7–85; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Regal Pharmaceutical Co.; Denial of Application

On May 21, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an order to show cause to Regal Pharmaceutical Co., Inc., 363 Great Road, Bedford, Massachusetts 01730 (Regal). The order sought to deny Regal's applications for registeration as a distributor under 21 U.S.C. 823(d) executed by William Haddad, Regal's president, on April 28,

1983 and April 28, 1984, and any other pending applications for registration. Mr. Haddad responded to the order to show cause by letter dated June 21, 1985. The Administrator finds that Regal did not request a hearing on the issues raised by the order to show cause and therefore waived its opportunity for a hearing. The Administrator enters this final order on the record as it appears. 21 CFR 1301.54(d) and 21 CFR 1301.54(e).

This is not the first order to show cause DEA has directed to Regal Pharmaceutical Co. On July 14, 1983, DEA commenced administrative proceedings to deny the April 28, 1983 application. Like the May 21, 1985 order, that order to show cause alleged as a statutory ground that the registration of Regal Pharmaceutical Co. was inconsistent with the public interest. Both orders to show cause alleged numerous violations of the Controlled Substance Act and its regulations found by DEA Diversion Investigators during an in-depth regulatory inspection of Regal conducted in November, 1982. The specific violations were enumerated in the July 14, 1983 order and were incorporated by reference into the May 21, 1985 order. These violations included a nonfunctioning alarm system, in violation of 21 CFR 1301.72(b)(4)(v); controlled substances stored outside the cage area, in violation of 21 CFR 1301.72(b); 29 sales invoices without the customer's DEA registration number, in violation of 21 CFR 1304.04(a); no invoice available for a particular sale of acetaminophen tablets with codeine #3, in violation of 21 CFR 1304.04(a); records stored at the home of the president instead of at the firm where they would be readily retrievable, in violation of 21 CFR 1304.04(a); and no biennal inventory taken of Schedule III, IV and V controlled substance, in violation of 21 U.S.C. 827 and 21 CFR 1304.13.

The July 14, 1983, order to show cause also cited Regal's past history in the distribution of controlled substances and the establishment of effective controls against diversion. This past history also shows a pattern of violations of the Controlled Substances Act and its attendant regulations. The Special Agent in Charge of the DEA Boston District Office sent Regal a letter of admonition on May 12, 1980 detailing violations to that date. They included a failure to take a biennial inventory and a failure to inventory dextropropoxyphene which was newly controlled on March 14, 1977; a violation of 21 CFR 1304.14. In addition, Regal had made no reports of transactions of Schedule III narcotics to the DEA ARCOS system prior to the letter of admonition and no reports to ARCOS at all between the letter of admonition and the order to show cause in July, 1983, in violation of 21 CFR 1304.41.

In lieu of administrative litigation stemming from the July 14, 1983, order to show cause, Regal and the DEA agreed to a settlement which provided that the government would file a civil complaint against Regal for violations of the Act and its regulations, and that DEA would conduct a follow-up adult six months to one year later. Accordingly, the government filed an action in the United States District Court for the District of Massachusetts in *United States v. Regal Pharmaceutical Co., Inc.*, Civil No. 84-1419-T. In the stipulation of dismissal, the parties agreed that Regal would pay a civil penalty of $1,000 and post a performance bond of $5,000 to insure future compliance with the Act and its regulations. Regal never posted the performance bond.

DEA Diversion Investigators conducted the follow-up investigation called for in the stipulation on February 12, 1985. This adult uncovered violations similar to those found in 1982 and called to the attention of Regal in the July 14, 1983 order to show cause. Regal had not conducted a biennial inventory; Regal had not filed any ARCOS reports; Regal did not maintain an appropriate and adequate alarm system. These violations were enumerated in the May 21, 1985 order to show cause, as was Regal's failure to post the $5,000 performance bond.

The Administrator has considered the letter received from Mr. Haddad in response to the order to show cause. He finds it to be a remarkably inadequate response in a proceeding seeking to deny the application for DEA registration of a pharmaceutical wholesaler. Relevant responses are set forth below.

"Many insurance companies were contacted and not one knew what was meant by a performance bond". The Administrator is amazed by this response. Performance bonds are routinely filed in civil litigation. DEA records show that counsel for Regal was informed in October, 1984 of the necessity of filing either a bond through a bonding company or filing a cash bond. The Administrator must conclude that Regal failed to fulfill the terms of the stipulation by not filing a cash bond when it could not find an insurer willing to write a performance bond.

"[Counsel for DEA] stated that DEA would cooperate and come in to Regal and set up inventory and bring Regal into compliance" and "I said to [a DEA Diversion Investigator] 'I have been waiting for someone to come in and set up my inventory,' and he said, 'If you want us to, we will.' Nobody has come in yet." DEA does not provide inventory and recordkeeping services to any registrant. If a registrant wishes to maintain a DEA registration, then the registrant must be prepared to shoulder the responsibilities which go with registration. Regal, through the person of Mr. Haddad, appears to have no conception of the responsibilities of DEA registration. Even though Regal has been registered with DEA since at least 1977, Mr. Haddad is still trying in 1985 to have DEA personnel set up his inventory. The Administrator is certain that Mr. Haddad misunderstood the comments of counsel and the Investigator concerning the follow-up audit contemplated under the stipulation. The responsibility for compliance rests squarely with him.

"Alarm system is operating properly. Alarm system is also connected to central station as enclosed copy will show". Mr. Haddad enclosed a photostatic copy of a card showing his pass code with an alarm company. This is a serious breach of security. Nevertheless, the Administrator notes that Regal has not consistently kept its alarm system functional. Again, Regal appears to be peculiarly unwilling or unable to accept the responsibilities of DEA registration.

"I would like to also state that when I first started in business that DEA cost me several thousand dollars. They told me to erect a cage one way then made me take it down and put it up another way." DEA did direct Regal to reconstruct a cage that was improperly erected. It is not entirely clear that DEA personnel instructed Regal to erect the cage improperly in the first instance. Even if DEA incorrectly instructed Regal as to construction of the cage, the Administrator is hard put to understand how the dispute enables Regal to violate the Act and its regulations years later.

"[A DEA Diversion Investigator] granted permission to store records at home." The applicable regulations require that records be readily retrievable and that requests for off-site record storage be made in writing. 21 CFR 1304.04(a). Nevertheless, in the event that a DEA employee did grant such permission, the Administrator will not make any conclusions or findings on the basis of records not being readily retrievable.

Mr. Haddad did not mention the record of this firm in making the ARCOS submissions requred of it. ARCOS is a DEA record system to which wholesalers handling, among other

items, Schedule III narcotics are required to submit sales and shipping data on specially designed ARCOS forms. Regal handles Schedule III narcotics. The Administrator finds that Regal never properly filled out and submitted an ARCOS report. Regal received a reporting kit upon registration with DEA. On August 29, 1980, Regal was sent a delinquency notice informing the firm that it was delinquent for all 1979 monthly reports as well as the year end inventory. A second delinquency notice was sent on November 14, 1980, informing Regal that it was delinquent for all 1979 reports and those for January through June, 1980. On August 12, 1981, a Diversion Investigator with the Boston DEA Field Division contacted Regal about its ARCOS delinquency and although Mr. Haddad assured him that Regal would send in the reports, it did not do so. On January 19, 1982, the Boston Office informed Mr. Haddad by letter that if proper reports were not submitted Regal would be subject to a civil penalty. Letters were exchanged, and Regal attempted to submit a special inventory not on the ARCOS form used by every other drug distributor in the United States that handles Schedule III narcotics. Regal was sent another reporting kit and in June, 1982, Regal was sent another letter similar to the one sent in January, 1982. Mr. Haddad telephoned the ARCOS office in Washington, D.C. on February 9, 1984, and claimed he never received an ARCOS reporting kit, yet another one was sent him on February 10, 1984. No ARCOS report has ever been forthcoming from Regal.

Examining the record, the Administrator is drawn to the inescapable conclusion that these applications should be denied. This firm appears totally unable to safeguard against diversion and comport itself as a responsible registrant. After numerous telephone conversations outlining his firm's violations, a letter of admonition, a letter detailing ARCOS violations, two orders to show cause, and a complaint leading to a civil penaltly of $1,000, Mr. Haddad still expects DEA employees to set up his firm's inventory properly. The experience of DEA with this registrant has been dismal. Regal promises compliance and never complies. When called to task, Mr. Haddad has numerous excuses but no legitimate explanation for his firm's noncompliance. When it issued the July 14, 1983 order, DEA did not want to go to the final, most drastic step of denial of the applications. Therefore, it agreed to the civil penalty. Apparently, Regal and Mr. Haddad have learned nothing from this previous experience. The Administrator concludes that Regal cannot, or will not, comply with the requirements of the Act and the DEA regulations. The Administrator has no choice but to invoke the most severe sanction given him in the Controlled Substances Act against a registrant whose continued registration is not in the public interest: denial of application.

Accordingly, pursuant to 21 U.S.C. 823(e) and 28 CFR Part 0.100, the Administrator denies the applications for registration executed by William Haddad as president of Regal Pharmaceutical Co., Inc. on April 28, 1983 and April 28, 1984, and any other pending applications, for reason that the continued registration of Regal Pharmaceutical Co., Inc., is inconsistent with the public interest. This denial is effective December 9, 1985.

Dated: November 1, 1985.

John C. Lawn

Administrator.

[FR Doc. 85-26707 Filed 11-7-85; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 84-42]

Spoon's Pharmacy; Revocation of Registration and Denial of Application

On September 12, 1984, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Spoon's Pharmacy, Hickory Grove Drugs, 5729 Newell-Hickory Grove Road, Charlotte, North Carolina 28215 (Respondent), an Order to Show Cause proposing to revoke its DEA Certificate of Registration AS8660260, and to deny the application executed on February 21, 1984, for renewal of that registration. The proposed action was predicated upon the controlled substance-related felony conviction of Allen Hardy Fish, the owner and pharmacist of Respondent pharmacy. By letter dated September 24, 1984, Respondent's counsel requested a hearing on the issues raised by the Order to Show Cause.

The hearing in this matter was held in Winston-Salem, North Carolina on March 6, 1985. Administrative Law Judge Francis L. Young presided. On August 29, 1985, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law, ruling and decision. On September 18, 1985, Respondent's counsel filed exceptions to Judge Young's opinion and recommended decision pursuant to 21 CFR 1316.66. On September 24, 1985, the Administrative Law Judge transmitted the record of these proceedings, including Respondent's exceptions to the Administrator. The Administrator has considered this record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that the Mecklenburg County Police Department conducted an investigation of Allen Hardy Fish and Spoon's Pharmacy in 1981 and 1982. Allen Hardy Fish is the owner of one hundred percent of the stock of Respondent pharmacy. On numerous occasions during the course of the investigation, undercover investigators went to Respondent pharmacy and purchased controlled substances from Mr. Fish. These included Valium, Talwin and diethylpropion. The investigators never presented Mr. Fish with prescriptions for these drugs.

On March 2, 1982, an audit of Spoon's Pharmacy was conducted covering the period June 17, 1981 to March 2, 1982. The audit revealed large shortages of controlled substances for the audit period, including: Valium 10 mg., −54,496 tablets; Talwin 50 mg., −10,188 tablets; and diethylpropion 75 mg., −1,672 tablets. These shortages constituted 85% of the Valium 10 mg., 82% of the Talwin 50 mg., and 53% of the diethylpropion 75 mg. for which the pharmacy was accountable during the audit period. A review of the prescription files at the pharmacy revealed no prescriptions in the undercover names used by the investigators.

On June 6, 1983, Allen Hardy Fish was indicted by a grand jury in the United States District Court for the Western District of North Carolina on six counts of unlawful distribution of controlled substances in violation of 21 U.S.C. 841(a)(1) and four counts of intentionally omitting material information from records required to be kept in violation of 21 U.S.C. 843(a)(4)(A). On August 1, 1983, Allen Hardy Fish was sentenced, after entering a plea of guilty to one count of illegal distribution of a controlled substance, to one year imprisonment, which was suspended, a fine of $5,000 and one year's probation. This is a felony conviction relating to controlled substances. DEA has consistently held that the registration of a corporate registrant may be revoked upon a finding that a natural person who

is an owner, officer or key employee, or who has some responsibility for the operation of the registrant's controlled substance business, has been convicted of a felony offense relating to controlled substances. *K&B Successors, Inc.*, Docket No. 82–15, 49 FR 34588 (1984); *Big-T Pharmacy, Inc.*, Docket No. 80–34, 47 FR 51830 (1982); *Leonard S. Cohen, t/a Senate Drug Store*, Docket No. 72–5, 38 FR 9522 (1973). Therefore, there is lawful basis for revoking Respondent's registration and denying the renewal application. 21 U.S.C. 824(a)(2). See, *AG Pharmacy, Inc.*, Docket No. 79–12, 45 FR 6868 (1980); *Raphael C. Cilento, M.D.*, Docket No. 79–2, 44 FR 30466 (1979); *Norman Bridge Drug Co., Inc.*, Docket No. 74–22, 41 FR 3108 (1976).

On September 26, 1983, subsequent to Mr. Fish's conviction, a North Carolina State Board of Pharmacy inspector went to Respondent pharmacy on a routine inspection. It was discovered that two Schedule II prescriptions had been refilled several times. The date on one of these prescriptions had been altered from 1981 to 1983. Mr. Fish told the inspector that he knew that prescriptions for Schedule II substances were not to be refilled, but he (Fish) knew the patients and felt they had needed the drugs. During the same inspection, it was found that Schedule III, IV and V prescriptions had been refilled beyond the limits permitted by law or in excess of what the doctor's prescription had authorized. The inspector also found discrepancies in the Schedule V log book.

On November 15, 1983, the North Carolina State Board of Pharmacy revoked the pharmacist's license of Allen H. Fish for five years, stayed the revocation and placed his license on probation with one year active suspension. The Board also revoked the license of Spoon's Pharmacy for five years, stayed the revocation and placed the license on probation subject to certain specified conditions.

In June 1984, the Board of Pharmacy inspector returned to Respondent pharmacy and conducted an accountability audit of certain controlled substances utilizing records provided by Mr. Fish. The audit showed shortages and overages of various controlled substances audited, including a shortage of 4,336 tablets of Fiorinal, a Schedule III controlled substance. Thereafter, the period of Federal probation for Mr. Fish, set in his sentence of August 1, 1983, was extended for one additional year.

In November 1984, the Board of Pharmacy inspector conducted an audit of selected controlled substances covering the period June 17, 1984 through November 7, 1984. Included in the results of the audit was a shortage of 478 tablets of Fiorinal and 764 tablets of butalbital, the generic form of Fiorinal. The butalbital shortage was 42.37% of the quantity for which the pharmacy was accountable.

Judge Young concluded that the evidence presented in these proceedings amply demonstrates that Mr. Fish is not fit to operate a pharmacy registered to dispense controlled substances. The Administrative Law Judge recommended that the registration of Spoon's Pharmacy be revoked and the renewal application denied.

The Administrator adopts the recommended ruling, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. Mr. Fish was convicted of unlawfully distributing a controlled substance. This alone is sufficient to justify the revocation of the DEA registration of Spoon's Pharmacy. However, in this case, there is additional justification for such action. An audit in March 1982 revealed shortages of controlled substances. After his conviction, Mr. Fish apparently continued to divert controlled substances. Two successive audits in June 1984 and November 1984, revealed large shortages. In addition, an inspection in September 1983, disclosed prescriptions which had been refilled unlawfully. The Administrator does not believe that Mr. Fish has demonstrated that he can responsibly handle controlled substances.

Having concluded that there is a lawful basis for revoking Respondent's registration and denying its renewal application and having further concluded that under the facts and circumstances presented in this case that such action is warranted, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AS8660260, previously issued to Spoon's Pharmacy, be revoked effective December 9, 1985. The Administrator further orders that the application for renewal of that registration, executed on February 21, 1984, and any other pending applications for registration be denied.

Dated: November 4, 1985.

John C. Lawn,

Administrator.

[FR Doc. 85–26708 Filed 11–7–85; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Managment and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of of Recordkeeping/Reporting Requirements Under Review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer, will, upon request, be able to advise members of the public of the nature of the paticular submission they are interested in.

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N–1301, Washington, 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, Washington, D.C. 20503.

Any member of the Public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Bureau of Labor Statistics
Permanent Mass Layoff and Plant Closing Program
Reports 1–3 and Supplemental Employer Information Report
1220–0090; BLS 428
Quarterly
State or local governments; businesses or other for-profit organizations; Federal agencies or employees; non-profit institutions.
7,326 responses; 282,688 hours.

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 or worker dislocations.

Employment and Training Administration
ES 203, Characteristics of the Insured Unemployed
1205–0009; ES 203, 203T
Quarterly
State of local governments
53 respondents; 106 hours; 2 forms

This report is the only source of current, consistent, uniform, demographic information on the UI claimant population. The age, sex, race/ethnic, industry and occupation variables identify important claimant cohorts and legislative, economic, and social planning purposes and evaluation of the UI program on the Federal and State level.

Employment and Training Administration
Program Monitoring Report and Job Service Complaint Form
1205–0039; ETA 5148 and ETA 8429
Quarterly
State or local governments
208 responses; 5,608 hours; 2 forms

The forms are necessary as part of the Department's efforts to comply with NAACP vs. the Secretary of Labor, Civil Action No. 2010–72, U.S.D.C., in addition to Federal regulations at 20 CFR 651, 653 and 658 published as a result of the court action. The forms allow the public to file complaints. The reports allow us to track the services provided MSFWs by the State employment Service agencies.

Employment and Training Administration
Benefit Rights and Experience
1205–0177; ES 218
Quarterly
State or local governments
53 respondents; 107 hours; 1 form

Provides information for solvency studies, in budgeting projections and for evaluation of adequacy of benefit formulas to analyse effects of proposed changes in State law.

Employment and Training Administration
1205–0199; ETA RC 52
Monthly
State or local governments
8 respondents; 48 hours; no forms

When State Unemployment funds become insolvent funds needed to continue unemployment benefits without interruption can be borrowed from the Federal Unemployment account. To trigger a request for advances, or a voluntary repayment, the Governor, or the person so delegated by the Governor must forward a formal letter to the Secretary of Labor.

Revision

Bureau of Labor Statistics
Information for Industry Price Indexes
1220–0008; BLS 473P, BLS 181OA, BLS 181OB, BLS 181OC, BLS 181OE, BLS 181OAF
Monthly
Business or other for profit; Small business or organizations
5111 responses; 1,695 hours; 6 forms

The Producer Price Index (PPI) is one of the nation's leading economic indicators which is used as a: measure of price movements; indicator of inflationary trends in the economy; of purchasing power of the dollar at the primary market level; and basis for market research and for escalation in long term contracts. The PPI for Services covers approximately 70 percent of economic activity in the United States.

Employment and Training Administration
Business Confidential Data Request
1205–0197; ETA 8572, 8573–A,B,C,D,E,F,G,H,AA,BB,DD
On occasion
Business or other for profit; Small businesses or organizations
1,400 respondents; 2800 hours; 2 forms

Statutory requirements under the Trade Act of 1974 as amended require complete and accurate business confidential data in order to make determinations as to whether imports have contributed to worker separation. The Secretary of Labor's determinations decide if petitioning workers eligible to apply for worker adjustment assistance.

Signed at Washington, D.C., this 5th day of November 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85–26740 Filed 11–7–85; 8:45 am]

BILLING CODE 4510–30–M

Bureau of Labor Statistics

Business Research Advisory Council, Committee on Occupational Safety and Health Statistics; Meeting and Agenda

A meeting of the Occupational Safety and Health Statistics Committee of the Business Research Advisory Council has been tentatively scheduled for 1:30 p.m., November 21, 1985, in Room 2734 of the General Accounting Office Building, 441 G Street, NW., Washington, DC.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The agenda for the meeting is as follows:

1. Recordkeeping Guidelines.

This meeting is open to the public. It is suggested that persons planning to attend as observers contact Janice Murphey, Liaison, BRAC, on Area Code (202) 523–1347 to confirm that the meeting will be held.

Signed at Washington, DC this 5th day of November 1985.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 85–26892 Filed 11–7–85; 8:45 am]

BILLING CODE 4510–24–M

Employment and Training Administration

[TA–W–16,020]

Tube Lok Products, Mattoon, IL; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Tube Lok Products, Mattoon, Illinois. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–16,020; Tube Lok Products, Mattoon, Illinois (October 30, 1985)

Signed at Washington, D.C., this 31st day of October 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-26741 Filed 11-7-85; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341]

Detroit Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-43, issued to the Detroit Edison Company, for operation of the Fermi-2 facility located in Monroe County, Michigan.

The purpose of the proposed amendment is to make additions to the Fermi-2 Technical Specifications regarding the alternate shutdown systems which will be used in the event of a fire in the Fermi-2 facility affecting safety-related systems.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaulated; or (3) involve a significant reduction in a margin of safety.

The licensee's amendment application has been made in conjunction with the installation of the alternate independent shutdown system. Installation of this system at this time is being performed in compliance with Condition 2.C(9) of the Fermi-2 full power license, NPF-43.

While there are existing shutdown systems, they are dependent on equipment in the relay room and the control room. The shutdown system being installed is independent of equipment in both the control and relay rooms. This independent, alternate shutdown system has been evaulated in Supplements 5 and 6 of the staff's Safety Evaluation Report (SER).

Based on the three criteria in 10 CFR 50.92 for defining a significant hazards consideration, operation of the Fermi-2 facility in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probablility or consequences of an accident previously evaluated. Neither the probability nor the consequences of a fire will be changed since the proposed addition to the Fermi-2 Technical Specifications is being made in conjunction with the addition of design features to the facility which will further mitigate the consequences of certain postulated accidents (i.e., fires).

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. The capability of the Fermi-2 facility to be brought to a cold shutdown condition in the event of a fire using alternate shutdown systems has been previously evaluated in the staff's SER and in Supplements 1, 2, 3 and 4 to the SER. The additional design features being installed provides an independent, alternate means of cooling the reactor core in the event of a fire and does not involve a new or different kind of accident.

(3) Involve a significant reduction in a margin of safety since the proposed change enhances the capability of the plant personnel to respond to postulated large fires.

On the above mentioned bases, the staff proposes to determine that this amendment which makes additions to the Fermi-2 Technical Specifications, does not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By December 9, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. A request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

No later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the

hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very frequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000. The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to B.J. Youngblood: petitioner's name and telephone number; date petition was mailed; plant name; and publication data and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John Flynn, Esquire, 2000 Second Avenue, Detroit, Michigan 48826, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspecton at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48151.

Dated at Bethesda, Maryland, this 1st day of November 1985.

For the Nuclear Regulatory Commission.

B.J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 85-26772 Filed 11-7-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 70-2948]

Finding of No Significant Impact; Issuance of Special Nuclear Material License No. SNM-1895, Niagara Mohawk Power Corporation, et al.; Oswego County, New York

The U.S. Nuclear Regulatory Commission (the Commission) is considering the amendment of Special Nuclear Material License No. SNM-1895 to permit the receipt, possession, inspection, and storage of unirradiated nuclear fuel assemblies at the Nine Mile Point Nuclear Station in Oswego County, New York. The unirradiated fuel assemblies will be for eventual use in the Nine Mile Point Nuclear Station (NMP), Unit 2, once its operating license is issued.

Environmental Assessment

Identification of Proposed Action

The proposed action would authorize the applicants to receive, possess, inspect, and store special nuclear materials in the form of unirradiated fuel assemblies.

The Need for the Proposed Action

The proposed license will allow the applicants to receive and store fresh fuel prior to issuance of the Part 50 operating license in order to inspect the fuel and to finalize fuel preparation needed to load the fuel into the reactor vessel. Actual core loading, however, will not be authorized by the proposed license.

Environmental Impacts of the Proposed Action

A. Nuclear Criticality and Radiation Safety

Once at Nine Mile Point, Unit 2, the new fuel may be temporarily stored in shipping containers prior to placement in the designated storage locations: the new fuel storage vault and the spent fuel storage pool. Previous analysis of a shipping container array stacked three high and of infinite extent in the horizontal plane, with no separation between containers, and independent of the degree of water moderation and/or reflection has been determined to be critically safe. This analysis envelops the proposed NMP, Unit 2, shipping container array and thus assures nuclear criticality safety for such an array.

Upon removal of the fuel assemblies from the shipping containers, they are inspected and surveyed for any external contamination. Assuming no contamination is found, the assemblies are transferred to their designated storage location. Criticality safety in storage locations is assured by the use of engineered safeguards and administrative controls. This is accomplished by use of neutron poisons in the spent fuel pool and by eliminating sources of water moderation in the new fuel storage vault. Therefore, nuclear criticality safety of the storage racks is assured.

Since the fresh fuel assemblies are sealed sources, the principal exposure pathway is via external radiation. For low-enriched uranium fuel (< 4 percent U-235 enrichment), the exposure level to an individual standing 1 foot from the surface of the fuel would be less than 25 percent of the maximum permissible exposure specified in 10 CFR 20. In addition, the applicants are committed to establishing a program for maintaining general public exposure as low as reasonably achievable. Therefore, the staff has concluded that the applicants' requested operations can be carried out with adequate radiation protection of the public and environment.

Only a small amount, if any, of radioactive waste (e.g., smear papers and/or contaminated package materials) is expected to be generated as a result of fuel handling and storage operations.

Any waste that is produced will be properly stored onsite until it can be shipped to a licensed disposal facility.

B. Transportation

In the event the applicants must return the fuel to the fuel fabricator, all packaging and transport of fuel will be in accordance with 10 CFR Part 71. No significant external radiation hazards are associated with the unirradiated fuel because the radiation level from the clad fuel pellets is low and because the shipping packages must meet the external radiation standards in 10 CFR Part 20. Therefore, shipment of unirradiated fuel by the applicants is expected to have an insignificant impact upon the environment.

C. Accident Analysis

In the unlikely event that an assembly (either within or outside its shipping container) is dropped during transfer, the fuel cladding is not expected to rupture. Even if the fuel rod cladding were breached and the pellets were released, an insignificant environmental impact would result. The fuel pellets are composed of a ceramic UO_2 that has been pelletized and sintered to a very high density. In this form, release of UO_2 aerosal is unlikely except under conditions of deliberate grinding. Additionally, UO_2 is soluble only in an acid solution so dissolution and release to the environment are extremely unlikely.

D. Conclusion

The environmental impacts associated with the handling and storage of new fuel at NMP, Unit 2, are expected to be insignificant. Essentially no effluents, liquid or airborne, will be released, and acceptable controls will be implemented to prevent a radiological accident. Therefore, the staff concludes that there will be no significant impacts associated with the proposed action.

Alternative to the Proposed Action

The principal alternative would be to deny the requested license. Assuming the operating license will eventually be issued, denial of the storage only license would merely postpone new fuel receipt at NMP, Unit 2. Although denial of the Special Nuclear Materials License for NMP, Unit 2, is an alternative available to the Commission, it would be considered only if significant issues of public health and safety could not be resolved to the satisfaction of regulatory authorities involved.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Commission's Final Environmental Statement (NUREG–1085) dated May 1985, related to this facility.

Agencies and Persons Consulted

The Commission's staff reviewed the applicants' request of June 12, 1985, and its amended request dated September 27, 1985, and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission's Division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the issuance of Special Nuclear Materials License No. SNM–1895. On the basis of this assessment, the Commission has concluded that the environmental impact created by the proposed licensing action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate. The Environmental Assessment and the above documents are available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of the Environmental Assessment may be obtained by calling (301) 427–4510 or by writing to the Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, DC, 20555.

Dated at Silver Spring, Maryland, this 4th day of November 1985.

For the Nuclear Regulatory Commission.

W.T. Crow,

Acting Chief, Uranium Fuel Licensing Branch Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 85–26711 Filed 11–7–85; 8:45 am]

BILLING CODE 7590–01–M

Statement on NRC's Concurrence in the Department of Energy's General Guidelines for the Recommendation of Sites for Nuclear Waste Repositories

AGENCY: Nuclear Regulatory Commission.

ACTION: Statement on NRC Concurrence.

SUMMARY: The United States Department of Energy ("DOE") recently announced that it intends to make its preliminary determination on the suitability of potential nuclear waste repository sites before it conducts detailed site characterizations. This represents a change in the DOE's prior position. The NRC has reviewed its July 1984 concurrence in the DOE siting guidelines to determine whether, as a result of DOE's changed position, the Commission's concurrence decision requires modification. The Commission has determined that DOE's change in position does not affect the Commission's concurrence in the DOE guidelines and that NRC's concurrence remains valid.

FOR FURTHER INFORMATION CONTACT: Trip Rothschild, Office of the General Counsel, 1717 H Street, NW., Washington, DC 20555, (202) 634–1465.

SUPPLEMENTARY INFORMATION: The Nuclear Waste Policy Act of 1982 ("NWPA") directs the DOE to issue general guidelines for the recommendation of sites for high-level waste repositories. In carrying out this responsibility, DOE is required to obtain the concurrence of the Nuclear Regulatory Commission ("NRC" or "Commission"). On November 23, 1983, DOE submitted its proposed general guidelines to the NRC and requested the Commission's concurrence. The NRC issued a preliminary decision on March 14, 1984 (49 FR 9650) which set forth seven conditions for granting its concurrence. On July 3, 1984, the Commission concurred in the DOE guidelines after DOE had made changes addressing the Commission's concerns (49 FR 28130, July 10, 1984).

One of the issues addressed in NRC's concurrence decision was the timing of DOE's "preliminary determination" that three sites are suitable for development as repositories. Section 114(f) of the NWPA provides in pertinent part that:

> For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 1321 et seq.) and this section, the Secretary [of Energy] shall consider as alternative sites for the first repository to be developed under this subtitle 3 candidate sites with respect to which (1) site characterization has been completed under section 113; and (2) *the Secretary has made a preliminary determination, that such sites are suitable for development as repositories consistent with the guidelines promulgated under section 112(a).* (Emphasis added)

The NWPA does not provide specifically when this preliminary determination of suitability is to be made. However, the Commission in its concurrence decision asserted that:

> [T]he Commission and DOE agreed that the preliminary determination required by section 114(f) of the NWPA should be made after the completion of site characterization and not at the time of site nomination and recommendation. The Commission and DOE therefore agree that the last sentence of the first full paragraph in section 960.3–2–3 of

Subpart B [of the DOE Guildlines] should be deleted.[1]

It is now clear that DOE intends to make the preliminary determination on site suitablity at the time of nomination and recommendation of sites, before detailed site characterization has been conducted. *See DOE's June 1985 Mission Plan and DOE's July 1985 Draft Project Decision Schedule.* This raises the question whether NRC's concurrence statement of July 1984 requires modification.

The Commission has reviewed its July 1984 concurrence in the DOE guidelines and finds that it need not be modified. The Commission's agreement as expressed in its July 1984 statement was twofold. First, DOE and NRC agreed that the preliminary determination on site suitability would be made after site characterization, and second, the two agencies agreed to delete from the guidelines the only provision to the contrary in the guidelines. The two agencies did not decide, however, to insert into the guidelines any replacement language on the timing question, and therefore the guidelines do not address the issue. Thus, in changing its position on the timing of its preliminary determination, DOE did not modify or contravene the guidelines.

Moreover, the Commission's preliminary and final concurrence decisions expressly discuss various Commission preliminary and final "concurrence conditions." While the timing of the section 114(f) preliminary determination is discussed in the final concurrence decision, the agreement on timing is not listed as a "concurrence condition."

Under the circumstances, the Commission wishes to make clear that the DOE change in its position does not affect the Commission's concurrence in the DOE guidelines and that NRC's concurrence remains valid.

Dissenting Views of Commissioner Asselstine

I disagree with the Commission's position that there is no need to modify the Commission's July 10, 1984 decision concerning in DOE's site selection guidelines in light of the Department's change in position regarding the timing of the preliminary determination of site suitability under section 114(f) of the Nuclear Waste Policy Act. At a minimum, I believe that the Commission should have directed DOE either to conform to the 1984 agreement on the timing of the preliminary determination or to submit for Commission concurrence a formal request to modify the site selection guidelines to incorporate DOE's new position on the timing of the preliminary determination. There are four relevant questions regarding the timing of the preliminary determination. First, was there an agreement between the Commission and DOE on the timing of the preliminary determination at the time of the Commission's concurrence in DOE's site selection guidelines? Second, was this agreement a condition of the Commission's concurrence in the site selection guidelines? Third, is the DOE's change in position on the timing of the preliminary determination a matter exclusively within DOE's program management discretion, or does the NRC have a regulatory interest in this matter as well? And finally, should the preliminary determination of site suitability be made before or after site characterization?

The first question arises because during the Commission's July 29, 1985 meeting with DOE to discuss the Department's mission plan for the high-level waste disposal program, the Department took the position that there had not been an agreement between DOE and NRC on the timing of the preliminary determination at the time of the Commission's concurrence in the site selection guidelines. DOE expressed the view that it had been the Department's position all along that the timing ot the preliminary determination should be deferred until a later date. It is clear that there was an agreement in June 1984 between DOE and NRC that the preliminary determination should be made after rather than before site characterization. This agreement was stated in the Commission's July 10, 1984 decision which concurred in the DOE site selection guidelines. DOE did not object to the Commission's characterization of the agreement at that time. Moreover, the transcript of the Commission's discussions with DOE on the site selection guidelines on June 22, 1984 contains clear statements by DOE that the preliminary determination of site suitability should be made after completion of site characterization. During that meeting, DOE acknowledged the preliminary determination should be made after site characterization because that is the point in time when enough data about the site is available to make the preliminary determination a meaningful statement. The transcripts of the June 22, 1984 Commission meeting as well as the Commission's July 10, 1984 concurrence decision clearly show that there was an agreement between DOE and NRC on the timing of the preliminary determination, and that this agreement was based upon a judgment that site characterization was necessary to obtain the technical information needed to support the preliminary determination of site suitability.

On the second question, it is also clear that the agreement between DOE and NRC on the timing of the preliminary determination was a condition of the Commission's concurrence in the DOE site selection guidelines. The majority places great weight on the fact that the Commission failed to label the agreement as a "concurrence condition" in the July 10, 1984 Commission decision, and did not insist that the agreement be written into the guidelines themselves. The fact remains, however, that the Commission included the agreement in the concurrence decision and required the removal from the guidelines of a statement calling for the preliminary determination to be made before site characterization. The context in which the Commission's concurrence decision was made further supports the interpretation that the agreement was a condition of concurrence. Despite all of the Commission's other conditions of concurrence, which had been published for comment, the affected states remained unanimously opposed to the DOE site selection guidelines. They argued that despite NRC's other proposed concurrence conditions, the site selection guidelines were too vague and failed to specify the type and amount of information needed to determine whether the guidelines were met. As the transcript of the Commission's June 22, 1984 meeting demonstrates, the unanimous opposition by the states to the guidelines was a matter of great concern to the Commission, and the agreement on the timing of the preliminary determination was the means chosen by the Commission to address these state concerns and permit Commission concurrence in the guidelines.

On the third question, the Commission has a direct regulatory interest in the timing of the preliminary determination and this is not a matter within DOE's exclusive discretion. The Commission's regulatory interests in this issue are threefold. First, the Commission has the statutory responsibility under the Nuclear Waste Policy Act to concur in the DOE site selection guidelines. The purpose of this concurrence responsibility is to provide an independent check of DOE's site screening and site selection process. As described above, the Commission determined that the preliminary

[1] The deleted provision provided that the preliminary determination should be made when DOE recommends sites for characterization.

determination should be made after rather than before site characterization to ensure an effective site selection process. The states pointed out flaws in DOE's site slection guidelines, and the Commission's decision on the timing of the preliminary determination was an attempt to compensate for these flaws.

Second, the Commission has a direct stake in ensuring that DOE's site selection process works effectively to identify good sites that have a high potential as candidates for repository development, and to screen out poor or marginal sites or sites with features that may make it difficult to demonstrate their suitability for repository development. In a very real sense, the quality of DOE's license application and the prospects for an efficient and successful licensing proceeding depend upon how well DOE does its job in selecting sites for characterization. We simply cannot afford to allow DOE to proceed with a weak or flawed site selection process that permits the selection of poor, marginal or unduly complex sites.

Third, the Commission has an independent legal responsibility under the National Environmental Policy Act to consider alternate sites for the repository in its licensing review of the DOE application. While the Nuclear Waste Policy Act puts some bounds on NRC's NEPA review, it does not discharge the Commission from its legal responsibility to consider alternate sites in making its license decision on the DOE application for the repository. Given these three regulatory interests, the timing of the preliminary determination is, both as a legal and a technical matter, an integral part of the Commission's licensing and safety responsibilities under the NWPA and NEPA.

On the fourth question, there are four reasons why the preliminary determination of site suitability should be made after rather than before site characterization. First, DOE's current approach is legally impermissible under the Nuclear Waste Policy Act. While the statute is not entirely clear on the subject and while the legislative history is somewhat limited given the absence of a conference on the House and Senate bills, I believe that the better legal view is that DOE cannot make the preliminary determination before obtaining the detailed information about key site characteristics, including the geology, that will become available through site characterization.

Second, from a technical standpoint, it makes no sense to make the preliminary determination of site suitability before site characterization. As the states have pointed out to the Commission, there is very limited information on many of these sites at the present time, particularly concerning geology and hydrology. Our technical staff has advised us that there are significant uncertainties about the key characteristics of each of these sites given the limited information that is available now. As a practical matter, this information is not sufficient to support a determination of site suitability for repository development.

Third, making the preliminary determination before site characterization thwarts the purpose of the statutory provision, which was to ensure the consideration of reasonable alternatives. By permitting one or two of the sites selected for characterization to drop out perhaps early in the site characterization process and by eliminating the requirement in such circumstances to examine other sites in detail before selecting the site for the first repository, the DOE approach in effect makes the consideration of alternate sites under NEPA a meaningless exercise.

Finally, making the preliminary determination after site characterization, or at least after substantial site characterization work is done, strengthens the site selection process. It provides a strong incentive for DOE to select good potential sites and it assures that the site suitability determination considers the full range of relevant site characteristics, including geologic factors. Making the preliminary determination of site suitability before site characterization, as DOE proposes, will mean that some significant factors, such as the geology and hydrology of the site, will be given little weight due to the limited information available on these characteristics. This approach undermines the validity of the site selection process. For these four reasons, I believe that the preliminary determination of site suitability should be made after rather than before site characterization.

Statement of Commissioner Zech

I was not a Commissioner at the time of the June 22, 1984 meeting when some of the events which are discussed in the dissent occurred. Understandably, therefore, I am not in a position to comment on what transpired at the meeting. However, as I now see the situation, I am satisfied that the timing of the preliminary determination is largely a Department of Energy programmatic matter. I have not been advised of either a legal or a technical need for a concurrence in the adequacy of the siting guidelines to depend upon the timing of the preliminary determination. In my judgment the issues are separate and are not mutually dependent on each other.

Regardless of how one decides the issue of the timing of the preliminary determination, I am convinced that the Nuclear Regulatory Commission can and will carry out its independent licensing and regulatory responsibilities consistent with the responsibilities assigned to it under the Nuclear Waste Policy Act.

I therefore believe the Department of Energy's position on the timing of the preliminary determination is a programmatic and scheduling matter under that Department's cognizance. If this issue is to be resolved differently, then in my judgment this is the responsibility ultimately of Congress.

If the NRC has problems with the guidelines, these problems should be addressed directly and not indirectly by injecting itself in the Department's programmatic decisions. If there are significant problems in the guidelines they would remain no matter when the preliminary determination is made.

I am not aware of any significant problem which our technical staff has with the guidelines or of any valid reason why I should not concur in them. Accordingly, had I been a Commissioner when a majority concurred in the guidelines, I would have joined them, but would not have supported taking a position one way or the other on the timing of the Department's preliminary determination.

Dated at Washington, DC, this 5th day of November, 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

FR Doc. 85-26773 Filed 11-7-85; 8:45 am]

BILLING CODE 7592-21-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

Correction

In FR Doc. 85-25666 beginning on page 43820 in the issue of Tuesday, October 29, 1985, make the following correction:

On page 43820, third column, under the heading for *National Endowment for the Humanities*, insert the following below the seventh line:

"Schedule C".

BILLING CODE 1505-01-M

POSTAL SERVICE

International Surface Air Lift Service Postal Rates

AGENCY: Postal Service.

ACTION: Notice of Rescission of International Surface Air Lift Service Minimum-Per-Piece Rate and Sack Charge, and Reduction of International Surface Air Lift Pound Rates Based on Type and Weight of Mail.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service is rescinding the International Surface Air Lift (ISAL) minimum-per-piece rate and sack charge, and reducing ISAL pound rates for certain types and weights of mail. The purpose of these actions is to encourage ISAL mailings in higher weight brackets due to the positive effect such mailings have on operational efficiency of the service.

EFFECTIVE DATE: December 5, 1985.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268–2673.

SUPPLEMENTARY INFORMATION: On December 27, 1984 the Postal Service published in the **Federal Register** (49 FR 50326) a notice of new international postal rates and fees, effective February 17, 1985. Two of these rates, the ISAL minimum-per-piece rate and the ISAL sack charge, are being rescinded effective December 5, 1985.

The ISAL minimum-per-piece rate ($0.17) is being eliminated in light of unanticipated reductions in the volumes of the service which resulted from the adoption of the minimum-per-piece rate. In order to further reduce burdens on ISAL mailers, the ISAL charge ($1.00) now in effect is being eliminated. In order to more readily meet the Postal Service's operational requirements for this service, certain discounts limited to publications or heavier shipments are being adopted. Prior to December 2, 1985, the Postal Service will circulate additional information to customers of this service to assist them with the implementation of the new rate reductions.

The Postal Service would like to remind mailers that ISAL mail presented to the Postal Service must be of United States origin. This policy conforms with the Universal Postal Union rules providing that postal administrations shall not be bound to accept, forward or deliver to the addressee mail which senders post or cause to be posted in large quantities in a country other than the country where they reside.

Accordingly, the Postal Service hereby rescinds the minimum-per-piece rate and sack charge for the International Surface Air Lift service, and adopts the following rate reductions effective December 5, 1985. These changes will be reflected in the Postal Service's International Mail Manual, incorporated by reference at 39 CFR 10.1

(Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408.)

1. The ISAL minimum-per-piece rate and the sack charge are deleted.

2. The following table of discounts is adopted:

Total mailing weight range	Discount allowed (percent) [1]
11 pounds to 199 pounds	0
200 pounds to 749 pounds	5
750 pounds or greater	10

[1] Based on total weight of mailing.

In addition to the discounts provided for in the table above, a mailer may also apply a 5 percent discount to the pound rate for the total weight of publications and books in the mailing.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85–26743 Filed 11–7–85; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–22596; File No. SR–NASD–85–26]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") submitted on September 20, 1985, copies of a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to amend Appendix F to Article III, section 34 of its Rules of Fair Practice. Appendix F regulates compensation that NASD members, their affiliates, and associated persons receive in connection with the distribution of public participation programs. The amendment would establish a safe harbor provision. Under the amendment, compensation received by an affiliate of a member will not be deemed to be received in connection with or related to a public offering if the affiliate complies with new criteria specified in section 5(d)(1) of Appendix F.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22485, September 30, 1985) and by publication in the **Federal Register** (50 FR 40641, October 4, 1985). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of section 15A, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: November 5, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–26767 Filed 11–7–85; 8:45 am]

BILLING CODE 8010–01–M,

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0075]

Northwestern Capital Corp.; Filing of Application for Transfer of Ownership and Control

Notice is hereby given that an application has been filed with the Small Business Administration (SBA), pursuant to § 107.601 of the Regulations governing small business investment companies (13 CFR 107.601 (1985)) for transfer of ownership and control of Northwestern Capital Corporation (Northwestern), 924 B Street, North Wilkesboro, North Carolina 28674, a Federal Licensee under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 *et seq.*). The proposed transfer of ownership and control of Northwestern, which was licensed May 2, 1962, is subject to the prior written approval of SBA.

Northwestern is a subsidiary of The Northwestern Bank which is a wholly-owned subsidiary of Northwestern Financial Corporation. The Northwestern Bank owns 99.96 percent of Northwestern.

Northwestern Financial Corporation will merge with First Union Corporation which will result in a transfer of control

of Northwestern. Northwestern's officers and directors, subsequent to SBA approval of the transfer of control, will be as follows:

Name	Title
Theodore H. Brooks, Jr.	President.
Ronald S. Pearson	Vice President.
Dennis G. Winebarger	Secretary/Treasurer.
Charles M. Sheets	Director.
John A. Mitchell, III	Director.
Douglas A. Richardson	Director.

Northwestern expects to change its name to First Union Capital Corporation.

Notice is given that any person may, not later than 15 days from the date of publication of this Notice, submit written comments on the proposed transfer of ownership and control to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC 20416.

Copies of this Notice will be published in newspapers of general circulation in Charlotte, North Carolina and North Wilkesboro, North Carolina.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 31, 1985.

John L. Werner,

Director, Office of Investment.

[FR Doc. 85-26730 Filed 11-7-85; 8:45 am]

BILLING CODE 8025-01-M

West Virginia; Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Clarksburg, West Virginia, will hold a public meeting at 8:30 a.m., on Monday, November 25, 1985, at the Bavarian Inn, Shepherdstown, West Virginia, to discuss such matters as may be presented by members, the staff of the Small Business Administration and others attending.

For further information, write or call Marvin P. Shelton, District Director, U.S. Small Business Administration, P.O. Box 1608, Clarksburg, West Virginia 26302-1608 or phone (304) 622-6601.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 29, 1985.

[FR Doc. 85-26736 Filed 11-7-85; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2215]

Massachusetts; Declaration of Disaster Loan Area

The County of Norfolk and the adjacent Counties of Bristol, Plymouth, Middlesex, Suffolk and Worcester in the State of Massachusetts constitute a disaster area because of damage caused by Hurricane Gloria which occurred on September 27, 1985. Applications for loans for physical damage may be filed until the close of business on December 30, 1985, and for economic injury until the close of business on July 30, 1986, at the address listed below: Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, NJ 07410, or other locally announced locations.

The interest rates are:

	Percent
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (Non-profit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 221508 for physical damage and for economic injury the number is 635100.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: October 30, 1985.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 85-26729, Filed 11-7-85; 8:45 am]

BILLING CODE 8025-01-M

Iowa; Region VII Advisory Council; Meeting

The U.S. Small Business Administration Region VII Advisory Council, located in the geographical area of Des Moines, will hold a public meeting at 9:30 a.m., on Tuesday, December 10, 1985, at the Warren County Financial Center, 509 N. Jefferson, Indianola, Iowa, to discuss such matters as may be presented by members, the staff of the Small Business Administration and others attending.

For further information, write or call Conrad Lawlor, District Director, U.S. Small Business Administration, at the address above, 515-284-4567.

Jean M. Nowak,

Director, Office of Advisory Councils

October 29, 1985.

[FR Doc. 85-26731 Filed 11-7-85; 8:45 am]

BILLING CODE 8025-01-M

Florida; Region IV Advisory Council; Meeting

The Small Business Administration Region IV Advisory Council, located in the geographical area of Jacksonville, Florida, will hold a public meeting from 9:00 A.M. to 4:00 P.M., Friday, November 22, 1985, in the Holiday Inn South, 3233 Emerson Street, Jacksonville, Florida 32207, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending. For further information, contact Douglas E. McAllister, District Director, U.S. Small Business Administration, Box 35067, 400 West Bay Street, Jacksonville, Florida 32202; telephone (904) 791-3103.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 29, 1985.

[FR Doc. 85-26732 Filed 11-7-85; 8:45 am]

BILLING CODE 8025-01-M

Tennessee; Region IV Advisory Council; Meeting

The U.S. Small Business Administration Region IV Advisory Council, located in the geographical area of Nashville, will hold a public meeting at 9:00 a.m. on Thursday, November 20, 1985, in the Board Room of First American National Bank, First American Center, Nashville, Tennessee 37219, to discuss such matters as may be presented by members, the staff of the Small Business Administration and others attending.

For further information, write or call Robert M. Hartman, District Director, U.S. Small Business Administration, Suite 1012 Parkway Towers, 404 James Robertson Parkway, Nashville, Tennessee 37219, telephone (615) 251-5850.

Jean M. Nowak,

Director, Office of Advisory Councils.

October 29, 1985.

[FR Doc. 85-26734 Filed 11-7-85; 8:45 am]

BILLING CODE 8025-01-M

Vermont; Region I Advisory Council; Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting 10:00 A.M., Thursday, November 21, 1985, at the Holiday Inn, Waterbury, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director,U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229-0538

Jean M. Nowak,

Director, Office of Advisory Councils.

October 29, 1985.

[FR Doc. 85-26733 Filed 11-7-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Week Ended November 1, 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 tentative order, or in appropriate cases a final order without further procedings.

Date filed	Docket No.	Description
Oct. 29, 1985	43530	St. Lucia Airways Limited, c/o Glenn J. Sedam, Jr., 8300 Greensboro Drive, McLean, Virginia 22102. Application of St. Lucia Airways Limited pursuant to section 402 of the Act and Subpart Q of the Regulations requests authority to provide scheduled foreign air transportation of property between the terminal point St. Lucia, West Indies; the intermediate points Antigua, St. Martin and Jamaica; and the coterminal points Miami, Florida, Houston, Texas and San Juan, Puerto Rico. Answers may be filed by November 26, 1985.
Oct. 29, 1985	43532	People Express Airlines, Inc., c/o Robert E. Cohn, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036. Conforming Application of People Express Airlines, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests an amendment of its certificate of public convenience and necessity for Route 383 so as to authorize it to operate non-stop service between Denver, Colorado and London, England. Answers may be filed by December 2, 1985.
Oct. 30, 1985	43537	Comair, Inc., c/o Robert P. Silverberg, 1730 K Street, NW. Suite 700, Washington, DC 20006. Application of Comair, Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations requests issuance of a certificate of public convenience and necessity authorizing it to engage in scheduled air transportation of persons, property and mail as follows: 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 November 27, 1985.
Nov. 1, 1985	43550	Air BVI Limited, c/o Gary B. Garofalo, Boros & Garofalo, Suite 600, 1255—23rd Street, NW., Washington, DC 20037. Application of Air BVI Limited pursuant to section 402 of the Act and Subpart Q of the Regulations applies for modification of its foreign air carrier permit issued by CAB Order 78-6-145. Answers may be filed by November 29, 1985.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 85-26776 Filed 11-7-85; 8:45 am]

BILLING CODE 4910-62-M

Agreements Filed Under Sections 408, 409, 412, and 414 During the Week Ending November 1, 1985

Answers may be filed within 21 days from the date of filing.

Date filed	Docket No.	Parties	Subject	Proposed effective date
Nov. 1, 1985	43545	Members of International Air Transport Association	Expedited Composite Fare Resolutions	Nov. 1, 1985.
Do	43546	Members of International Air Transport Association	Papeete to Honolulu Specific Commodity Rates	Do.
Do	43547	Members of International Air Transport Association	Cargo Rates—Belgium-Lux to South East Asia	Dec. 1, 1985.
Do	43548	Members of International Air Transport Association	Cargo Rates from Lebanon	Nov. 1, 1985.
Nov. 1, 1985	43543	International Air Service Company, Ltd., c/o Thomas J. McGrew, Arnold & Porter, 1200 New Hampshire Avenue, NW., Washington, DC 20036. Application of International Air Service Company, Ltd. pursuant to section 408 of the Act, notifies the Department of its intention to acquire control of CAM Air International, Inc.		

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 85-26777 Filed 11-7-85; 8:45am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Douglas County, OR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway in Douglas County, Oregon.

FOR FURTHER INFORMATION CONTACT: Richard R. Arnold, Environmental Coordinator, Federal Highway Administration, Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301, Telephone: (503) 399–5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to reconstruct a 0.5 mile section of Interstate 5 in Douglas County, Oregon. The project would realign the freeway between the Myrtle Creek and Boomer Hill interchanges, upgrading the only substandard curve within 200 miles to the north and 100 miles to the south along the interstate. The existing alignment is primarily located in an area of steep, unimproved grazing land west and southwest of the City of Myrtle Creek. Some potential alternate locations would involve the urban and urbanizing areas of Myrtle Creek east of the South Umpqua River. The proposed improvements are considered necessary to provide a safer traveling speed, thereby decreasing the accident rate.

Alternatives under consideration include: (1) Realignment of the freeway to the west through an open cut; (2) building new structures across the South Umpqua River, thus altering the present Myrtle Creek Interchange; (3) building a tunnel to the west of I–5; (4) instituting short term remedial measures (such as signing and revision of the present roadway superelevation); and (5) taking no action.

Information describing the proposed action and a solicitation for comments will be sent to appropriate Federal, State and local agencies. Public meetings will be held during project development, and a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs" apply to this program)

Issued on: October 29, 1985.

Richard R. Arnold,

Environmental Coordinator/Safety Program Engineer.

[FR Doc. 85–26676 Filed 11–7–85; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Polk County, OR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent. .

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway in Polk County, Oregon.

FOR FURTHER INFORMATION CONTACT: Richard R. Arnold, Environmental Coordinator, Federal Highway Administration, Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301, Telephone: (503) 399–5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to reconstruct a 1.9 mile section of the Salem-Dayton Highway (State Highway No. 150/OR 221) in Polk County, Oregon. The project would upgrade the roadway from Orchard Heights Road to Salemtowne to a 4–lane curbed section with a continuous left-turn lane, with bike and pedestrian facilities. The project is located in northwest Salem, in an urbaniziang area with primarily residential activity along with existing roadway. The proposed improvement is considered necessary to provide for the existing and projected traffic demand and a safe and efficient highway meeting modern design standards.

Alternatives under consideration include (1) widening and realigning the road along the existing centerline; (2) widening and realigning the road approximately 22 feet-25 feat east of the existing centerline; and (3) taking no action.

Information describing the proposed action and soliciting comments will be sent to appropriate federal, state and local agencies. Public meetings will be held during project development, and a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program No. 20.205, Highway Research, Planning and Construction. The provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs" apply to this program.)

Issued On: October 29 1985.

Richard R. Arnold,

Environmental Coordinator/Safety Program Engineer.

[FR Doc. 85–26677 Filed 11–7–85; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[BS–Ap–No. 2476]

Union Pacific Railroad Co.; Public Hearing

Correction

In FR Doc. 85–24304 appearing on page 41437 in the issue of Thursday, October 10, 1985, make the following correction:

In the middle column, third paragraph, fifth line, "915 Harrison Street" should read "915 S.W. Harrison Street".

BILLING CODE: 4910–06–M

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

Final Date of Adjustment Demands and Close of Data Definitions

Correction

In FR Doc. 85–24663 beginning on page 41979 in the issue of Wednesday, October 16, 1985, make the following correction:

On page 41980, in the second column, in the first complete paragraph, in the sixth line, "country" should read "county".

BILLING CODE 1505–01–M

UNITED STATES INFORMATION AGENCY

Artistic Ambassador Advisory Committee; Renewal

The Artistic Ambassador Advisory Committee has been renewed for two more years, effective November 9, 1985.

Committee members choose musical talent for tours overseas, under the auspices of the United States Information Agency, to conduct concerts and to meet and mix with the musical community of the country of assignment.

Candidates chosen by the committee for overseas assignment have been highly successful. Continuation of this program and the committee is in the public interests.

Dated: November 5, 1985

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 85-26683 Filed 11-7-85; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a new collection and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if aplicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting document may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washingon, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: October 31, 1985.

By direction of the Administrator.

Everett Alvarez Jr.,

Deputy Administrator.

New

1. Department of Veterans Benefit
2. Declaration of Benefits Received and Waivers Instructions
3. VA Form 21-8951
4. On occasion
5. Federal agencies or employees
6. 16,000 responses
7. 800 hours
8. Not applicable

[FR Doc. 85-26745 Filed 11-7-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 217
Friday, November 8, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Thursday, November 14, 1985.

LOCATION: Third Floor Hearing Room 1111 18th Street, NW., Washington, DC.

STATUS: *Open to the Public*

MATTERS TO BE CONSIDERED:

1. Methylene Chloride: Remedial Options

The Commission will consider possible remedial options and the staff recommendations for Commission action concerning the potential risks to users of consumer products containing methylene chloride.

Closed to the Public

2. Enforcement Matter OS# 5541

The Commission will consider issues related to enforcement matter OS# 5541.

3. Enforcement Matter OS# 3677

The Commission will consider issues related to enforcement matter OS# 3677.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301—492–6800.

Sheldon D. Butts,

Deputy Secretary.

November 5, 1985.

[FR Doc. 85–26796 Filed 11–6–85; 11:06 am]

BILLING CODE 6355–01–M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, November 18, 1985, 2:00 p.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Closed

1. Litigation Authorization: General Counsel Recommendations
2. Proposed Commission Decisions
3. Proposed Amicus Curiae Participation

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, at, (202) 634–6748.

Dated: November 6, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued November 6, 1985.

[FR Doc. 85–26822 Filed 11–6–85; 1:40 pm]

BILLING CODE 6750–06–M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, November 19, 1985, 9:30 a.m., (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" NW., Street Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s)
2. A Report on General Counsel Operations
3. Proposed Compliance Manual section 83, Disclosure of Information in Open Title VII Case Files
4. Recission of Interim Rules Implementing section 4(g) of the ADEA: Notice of Commission Action for Publication in the **Federal Register**

Closed

1. Litigation Authorization: General Counsel Recommendations
2. Proposed Commission Decisions
3. Proposed Amicus Curiae Participation

Note.—Any matter not discussed or concluded may be carried over to a letter meeting. (In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6784 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6784.

Dated: November 6, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued November 6, 1985.

[FR Doc. 85–26823 Filed 11–6–85; 1:40 pm]

BILLING CODE 6750–06–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant of the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:05 p.m. on Friday, November 1, 1985, the Board of Drectors 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 Early Savings Bank, Early, Iowa, which was closed by the Superintendent of Banking for the State of Iowa on Friday, November 1, 1985; (2) accept the bid for the transaction submitted by The Citizens First National Bank of Storm Lake, Storm Lake, Iowa; and (3) 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;

(B)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Aurora Bank, Aurora, Colorado, which was closed by the State Banking Commissioner for the State of Colorado on Friday, November 1, 1985; (2) accept the bid for the transaction submitted by OMNIBANK Iliff, National Association, Aurora, Colorado, a newly-chartered National bank; and (3) 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

(C) adopt a resolution (1) making funds available for the payment of insured deposits in Yellowstone State Bank-Lander, Lander,

Wyoming, which was closed by the State Examiner for the State of Wyoming on Friday, November 1, 1985, and (2) making funds available for an advance payment to uninsured depositers and other general creditors of Yellowstone State Park-Lander equal to 45 percent of their uninsured claims.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, 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: Novmeber 5, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-26808 Filed 11-6-85; 1:39 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, November 12, 1985, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Memorandum regarding the processing of country exposure report data.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Memorandum and resolution re: Federal Financial Institutions Examination Council Supervisory Policy Statement entitled, "Repurchase Agreements of Depository Institutions with Securities Dealers and Others," which policy statement provides minimum guidelines that depository institutions should follow for managing credit risk exposure to counterparties under securities repurchase agreements and for controlling the underlying securities in those transactions.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 5, 1985.

Federal Deposit Insurance Corportion.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-26809 Filed 11-6-85; 1:39 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, November 12, 1985, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552 (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(2) and (c)(6) of the "Govenrment in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: November 5, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-26810 Filed 11-6-85; 1:39 pm]

BILLING CODE 6714-01-M

7

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., November 13, 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:

Portion open to the public:

1. Agreement No. 207-009498-005: Modification of the Atlantic Container Line Agreement to restate the agreement to conform with the Commission's rules, extend the geographic scope, and authorize the parties to operate up to fifteen vessels.

Portions closed to the public:

1. Agreement No. 202-010776-002: Modification of the Asia North America Eastbound Rate Agreement to permit the parties to prohibit, limit or set standards for the use of individual service contracts.

2. Docket No. 83-44: Stevens Shipping and Terminal Company v. South Carolina State Ports Authority—Consideration of the exceptions and the replies thereto filed relative to the presiding administrative law judge's Initial Decision issued in this proceeding.

3. Docket No. 85-18: Member Lines of the Transpacific Westbound Rate Agreement—

Possible Violations of the Shipping Act of 1984—Consideration of the appeal of the United States Department of Transportation, and the replies thereto, relative to the presiding administrative law judge's denial of its petition for leave to intervene in this proceeding.

CONTACT PERSON FOR MORE INFORMATION: Bruce A. Dombrowski, Acting Secretary, (202) 523–5725.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–26830 Filed 11–6–85; 2:05 pm]

BILLING CODE 6730–01–M

8

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 1–86]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and time	Subject matter
Mon., Nov. 18, 1985 at 10:30 a.m.	Consideration of Final Decisions issued on objections under the Vietnam Claims Program (Pub. L. 96–606).
	Oral Hearings on objections to decisions issued under the Vietnam Claims Program:
Mon., Nov. 18, 1985 at 2:00 p.m.	V–0330; V–0331—American International Group, Inc.; V–0332.
Tues., Nov. 19, 1985 at 10:00 a.m.	V–0133—Jack Streeter.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111—20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111—20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, D.C., on November 6, 1985.

Judith H. Lock,

Administrative Officer.

[FR Doc. 85–26841 Filed 11–6–85; 3:46 pm]

BILLING CODE 4410–01–M

9

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of November 11, 1985.

Open meetings will be held on Thursday, November 14, 1985, at 10:00 a.m., followed by a closed meeting, and at 2:30 p.m., in Room 1C30, followed by a closed meeting.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b (c)(4), (8), (9)(A) and (10) and 17 CFR 200.402 (a)(4), (8), (9)(i) and (10).

Commissioner Peters, as duty officer, voted to consider the items listed for the closed meetings in closed session.

The subject matter of the open meeting scheduled for Thursday, November 14, 1985, at 10:00 a.m., will be:

1. Consideration of whether to issue a release announcing the reinstatement of the threshold percentage tests in effect prior to January 1984 for Rule 14a–8(c)(12) under the Securities Exchange Act of 1934, pursuant to a district court order. The reinstated provisions state that a shareholder proposal is eligible for resubmission if it receives a three percent vote the first time it is included in a registrant's proxy material or a six percent vote the second time it is included. The 10 percent vote required for resubmission of proposals included three or more times remains unchanged. For further information, please contact Cecilia D. Blye at (202) 272–2573.

2. Consideration of whether to adopt new Form N–14 for the registration of securities issued by registered management investment companies and business development companies in business combination transactions, and a new rule and rule amendments for the filing and processing of the form. For further information, please contact Stephen C. Beach at (202) 272–3040.

3. Consideration of whether to adopt Rule 205–3 under the Investment Advisers Act of 1940 which would permit registered investment advisers to be compensated on the basis of a share of capital gains upon, or capital appreciation of, the funds or any portion of the funds of a client, provided certain conditions specified in the rule are met. For further information, please contact Forrest R. Foss at (202) 272–2107.

The subject matter of the closed meeting scheduled for Thursday, following the 10:00 a.m. open meeting, will be:

Modification of injunctive action.

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceeding of an enforcement nature.

Institution of injunctive action.

Opinion.

The subject matter of the open meeting scheduled for Thursday, November 14, 1985, at 2:30 p.m., will be:

Oral argument on appeals by Lester Kuznetz, formerly an assistant branch manager for a registered broker-dealer, and the Commission's Division of Enforcement from an administrative law judge's initial decision. For further information, please contact Herbert V. Efron at (202) 272–7400.

The subject matter of the closed meeting scheduled for Thursday, November 14, 1985, following the 2:30 p.m. open meeting, will be:

Post oral argument discussion.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Joan Stempel at (202) 272–2149.

Dated: November 5, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–26807 Filed 11–6–85; 1:39 pm]

BILLING CODE 8010–01–M

federal register

Friday
November 8, 1985

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 Orders 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.

Arizona:	
AZ83–5105	Mar. 4, 1983.
AZ83–5102	Mar. 4, 1983.
California:	
CA85–5036	Sept. 1985.
Idaho:	
ID85–5010	Feb. 15, 1985.
Iowa:	
IA84–4042	June 15, 1984.
IA84–4031	May 11, 1984.
Louisiana:	
LA84–4059	Oct. 5, 1984.
Michigan:	
MI85–5001	June 14, 1985.
MI85–5022	June 7, 1985.
MI85–5001	June 14, 1985.
New York:	
NY85–3044	Sept. 23, 1985.
NY84–3036	Sept. 14, 1984.
NY83–3027	July 22, 1983.
Rhode Island:	
RI84–3043	Nov. 30, 1984.

Signed at Washington, DC, this 31st day of October 1985.

James L. Valin,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AZ83-5105 - MODIFICATION NO. 8
(48 FR 9426 - March 4, 1983)
Pima County, Arizona

	Basic Hourly Rates	Fringe Benefits
OMIT:		
Asbestos Workers	$13.00	$3.33
ADD:		
Asbestos Workers:		
Commercial	14.00	3.33
Industrial	19.68	3.37

DECISION NO. AZ83-5102 - MODIFICATION NO. 12
(48 FR 9424-March 4, 1983)
Maricopa County Arizona

	Basic Hourly Rates	Fringe Benefits
OMIT:		
Asbestos Workers	$13.00	$3.33
ADD:		
Asbestos Workers:		
Commerical	14.00	3.33
Industrial	19.68	3.37

DECISION NO. ID85-5010 - Mod #5
(50 FR 6503 - Feb. 15, 1985)
Statewide Idaho

	Basic Hourly Rates	Fringe Benefits
ADD:		
LABORERS:		
Area 1:		
Flagmen	$10.98	$3.37

DECISION NO. CA85-5036 - Mod. #3
(50 FR 38411 - September 20, 1985)
Alameda, Alpine, etc., Counties, CA

	Basic Hourly Rates	Fringe Benefits
Change:		
Lane Construction:		
Area 1:		
Change Fringe Benefits only to read		$6.45 +3%
Sprinkler Fitters:		
Area 1	$29.595	7.44
Add:		
Truck Drivers:		
Add Area Descriptions to read as follows:		
Area 1: In El Dorado, Nevada and Placer Counties: Starting from Yuba County line southerly on Hwy. #65 to Lincoln, CA; thence easterly on Hwy. #193 to Newcastle; thence easterly on Indian Hill Road to Cool; thence southerly on Hwy. #49 to Lotus Road; thence southwesterly on Lotus Road to Shingle Springs, French Creek Road; thence southwesterly on French Creek Road to Latrobe; thence southerly to Amador County Line.		
Area 2: Remaining Counties, including the Remainder of El Dorado, Nevada and Placer Counties		

(2)

DECISION #IA84-4042-MOD.#6
(49 FR 24855-6/15/84)
WOODBURY COUNTY, IOWA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers & Stonemasons	$12.88	$1.02
Sheet Metal Workers	12.00	2.45
Power Equipment Operators:		
Group 1	12.55	2.25
Group 2	12.00	2.25
Group 3	10.45	2.25
Group 4	9.30	2.25

DECISION #IA84-4031-MOD.#2
(49 FR 20225-5/11/84)
POTTAWATTAMIE COUNTY, IOWA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Laborers:		
Common Laborers	$10.71	$1.80
Mason Tenders: Mortar Mixers: Buggymobile Operator	10.989	1.80
Pipelayers	11.05	1.80
Plasterer's Tenders	11.095	1.80
Sheet Metal Workers	17.11	2.13

DECISION NO. MI85-5001 - Mod. #2
(50 FR 24991 - June 14, 1985)
Allegan, Barry, Berrien, etc., Counties, MI

	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 3: In the Area Description, the word "Gratiot" should be replaced with the word, "Ingham."		

DECISION NO. LA84-4059 - MOD. #4
(49 FR 39431 - 10/5/84)
Jefferson, Orleans, St. Bernard, Bossier, Caddo, Calcasieu, Strategic Petroleum Reserve in Cameron Par., Beauregard (excluding Strategic Petroleum Reserve), Jefferson Davis, Allen, Plaquemines & St. Carles Parishes, Louisiana

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Painters:		
ZONES 1, 6 & 7:		
Painters	$13.235	2.115
Spray	13.61	2.115
Industrial	15.535	2.115

DECISION NO. MI85-5022 - Mod. #3
(50 FR 24116 - June 7, 1985)
Macomb, Monroe, Oakland, Washtenaw and Wayne Counties, MI

	Basic Hourly Rates	Fringe Benefits
Add:		
Painters:		
Area Description for Area 2: Oakland County		
Soft Floor Layers:		
Washtenaw County:		
Building work	$15.82	$2.15
Residential work	11.87	2.15

DECISION NO. MI85-5001 - Mod. #3
(50 FR 24991 - June 14, 1985)
Allegan, Barry, Berrien, etc., Counties, MI

	Basic Hourly Rates	Fringe Benefits
Add:		
Soft Floor Layers:		
Jackson & Lenawee Cos.	$12.99	$2.15
Remaining Counties	11.59	2.11

(3)

MODIFICATIONS P. 3

	Basic Hourly Rates	Fringe Benefits
DECISION NO. NY85-3044 - MOD. #1 (50 FR 34353 - September 23, 1985) CHEMUNG COUNTY		
CHANGE:		
LABORERS:		
Building	11.27	1.35
Heavy & Highway:		
Class A	13.79	1.70+d
Class B	13.99	1.70+d
Class C	14.19	1.70+d
Class D	14.39	1.70+d
DECISION NO. NY84-3035 - MOD. #7 (49 FR 36230 - Sept. 14, 1984) ONONDAGA COUNTY, NEW YORK		
CHANGE:		
LABORERS (HEAVY & HIGHWAY):		
Class A	12.79	3.05+a
Class B	12.99	3.05+a
Class C	13.19	3.05+a
Class D	13.39	3.05+a

	Basic Hourly Rates	Fringe Benefits
DECISION NO. RI84-3043 - MOD. #9 (49 FR 47171 November 30, 1984) Statewide Rhode Island		
CHANGE:		
BRICKLAYERS:		
Building Construction: Bricklayers, Stonemasons, Cement Masons, Plasterers	16.20	5.45
ELECTRICIANS:		
Westerly Township	18.20	5.44
IRONWORKERS:	16.53	5.70
TRUCK DRIVERS:		
Heavy Construction		
Class I	11.26	3.3225
Class II	11.41	3.3225
Class III	12.36	3.3225
Class IV	12.46	3.3225
Class V	12.56	3.3225
Class VI	12.81	3.3225
Class VII	13.06	3.3225

	Basic Hourly Rates	Fringe Benefits
DECISION NO. NY83-3027 - MOD. #13 (48 FR 33622 - July 22, 1983) NASSAU, SUFFOLK COUNTIES, NEW YORK		
CHANGE:		
ELECTRICIANS:		
Building	21.45	.37+ 42%
Wiring of single or multiple family dwellings and apartments up to and including 2 stories	15.00	35.7%
Installation of television receivers, radio receivers, record players and associated apparatus and antenna and home appliances and closed circuit TV and multiple outlet distribution systems, sound and intercommunication systems and commercial electromechanical devices and appliances where such is not part of an electrical contract	11.075	a

(4)

[FR Doc. 85-26500 Filed 11-7-85; 8:45 am]

BILLING CODE 4510-27-C

federal register

Friday
November 8, 1985

Part III

Federal Emergency Management Agency

Federal Radiological Emergency Response Plan, Concurrency by All Twelve Federal Agencies and Publication as an Operational Plan; Notice

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Radiological Emergency Response Plan (FRERP), Concurrence by All Twelve Federal Agencies and Publication as an Operational Plan

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

The Federal Radiological Emergency Response Plan (FRERP) is now fully operational for use in the Federal response to a radiological emergency. The Federal Radiological Emergency Response Plan, referred to interchangeably as the Federal Plan, has been developed by the Federal Emergency Management Agency (FEMA) and eleven other Federal agencies and was published on September 12, 1984 (**Federal Register**, Vol. 49, No. 178, pp. 35896–35925). It was developed in response to E.O. 12241 and provides for Federal agencies to discharge their responsibilities during a wide range of peacetime radiological emergencies. It was published in interim but operational form pending formal agency concurrences by each of the twelve agenices that cooperated in the developement of this Plan.

Since the September 12, 1984 publication, FEMA presented this plan to the management of the other eleven agencies for their concurrence. Each of these agencies has provided its written concurrence in the Plan. The Department of Transportation's concurrence has been provided subject to a revision of the summary of the Department of Transportation Response Plan as contained in the FRERP. The Department of Defense concurrence also has been provided subject to a revision of the summary of the Department of Defense Response Plan and to other minor changes.

FEMA and other members of the Federal Response Subcommittee have reviewed these changes and have determined that they are minor, clarify Federal agency roles and responsibilities and do not affect the basic organization or responsiveness of the Plan. The Federal Radiological Emergency Response Plan, including the changes provided by the Department of Transportation and the Department of Defense, is hereby published as the operational plan.

FOR FURTHER INFORMATION CONTACT: Mr. Vernon Adler, Chief, Response Planning & Exercise Branch, Disaster Assistance Programs, State and Local Programs and Support Directorate, Federal Emergency Management Agency, Washington, D.C. 20472, Telephone: (202) 646–2854.

Dated: October 30, 1985.

Samuel W. Speck,

Associate Director, State and Local Programs and Support Directorate.

Federal Radiological Emergency Response Plan

Part A

September 1985.

Prepared by the Federal Emergency Management Agency and the other Agencies on the Subcommittee on Federal Response of the Federal Radiological Preparedness Coordinating Committee.

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I. Introduction and Background

A. Purpose

The Federal Radiological Emergency Response Plan (FRERP) is to be used by Federal agencies in peacetime radiological emergencies. It primarily concerns the offsite Federal response in support of State and local governments with jurisdiction for the emergency. The FRERP: (1) Provides the Federal government's concept of operations based on specific authorities for responding to radiological emergencies; (2) outlines Federal policies and planning assumptions that underlie this concept of operations and on which Federal agency response plans (in addition to their agency-specific policies) were based; and (3) specifies authorities and responsibilities of each Federal agency that may have a significant role in such emergencies.[1] The FRERP includes the Federal Radiological Monitoring and Assessment Plan (FRMAP) for use by Federal agencies with radiological monitoring and assessment capabilities.

Part A of the FRERP also includes summaries of Federal agency response plans. Part B consists of individual agencies' response plans, which are maintained by the respective agencies. These response plans provide specific guidance to Federal agencies for implementing Part I of the FRERP.

Part A of the FRERP will be revised by FEMA, as necessary, in coordination with the Subcommittee on Federal Response of the Federal Radiological Preparedness Coordinating Committee (FRPCC). DoE will have primary responsibility for proposing changes to the FRMAP section of the FRERP to the Subcommittee. Agencies should provide updates of their offsite plans and procedures to the Director, FEMA.

FEMA will periodically exercise the FRERP in coordination with the Subcommittee on Federal Response and the Subcommittee on Training and Exercises of the FRPCC. The results of such exercises will be used to update the FRERP and individual agency offsite response plans and procedures as necessary. The FRERP will be published from time to time in the **Federal Register.**

B. Scope

The FRERP covers any peacetime radiological emergency occurring within the United States, its territories, possessions, and territorial waters that could require a significant response by several Federal agencies. Specifically, emergencies occurring at fixed nuclear facilities or during the transportation of radioactive materials, including nuclear weapons, may fall within the scope of the plan regardless of whether the facility or radioactive materials are publicly or privately owned, Federally regulated, or regulated by an Agreement

[1] The terms "Federal agency" and "Federal department" are used interchangeably throughout this document.

State.[2] The time period during which the FRERP is in effect encompasses the Federal response from initial notification of the Federal agencies through providing assistance to the State and local governments in recovering from the emergency and deactivation of the Federal response.

This plan applies to peacetime emergencies resulting from the following types of incidents:

- Fixed Nuclear Facility Incidents;
- Transportation Incidents; and
- Other Incidents, e.g., nuclear-powered satellite re-entry.

Each type of incident presents different types of response problems. Fixed nuclear facilities, including nuclear power reactors, have the advantages of known locations and existing site-specific emergency plans. Classifications of incident severity have been developed for many of these facilities, and the level of the Federal response may be guided by these classifications. The Nuclear Regulatory Commission (NRC) instituted a classification scheme for licensed nuclear power plants which has been in use for several years. This scheme is being expanded to include other NRC licensed facilities, and DoD and DoE are developing classification and reporting systems for their facilities which are similar to the NRC classification scheme.

Response to transportation accidents is more difficult to plan, as such accidents may occur anywhere, may involve a variety of radioactive materials, and may represent much less of a radiological hazard or serious threat to the public. In most cases, State resources or a limited Federal response will suffice.

Nuclear weapons accidents, weapon-significant incidents, and spent fuel incidents are not significantly different from accidents at fixed facilities or accidents during transportation of radioactive materials, and consequently are covered by these latter types of incidents.

The category of "other incidents" contains events that do not fit into the other two types of incidents. These incidents are more closely related to transportation incidents than to fixed nuclear facility incidents with regard to the nature of the Federal response that can be expected.

Sabotage and terrorism are not treated as separate types of incidents; rather, they are considered a complicating dimension of the incident types listed above. In general, responses to radiological emergencies do not depend on the initiating event. Thus, for example, a coordinated response to contain and mitigate a threatened or actual release of radioactive material from a power reactor would be essentially the same whether it resulted from an accidental or deliberate act. As a practical matter, the cause of the problem may not be known until post-accident investigations are completed.

The Atomic Energy Act directs the Federal Bureau of Investigation (FBI) to investigate all alleged or suspected criminal violations of the Act. The Attorney General, operating through the FBI and other appropriate personnel in the Department of Justice or in other Executive Departments, has the authority to investigate any alleged or suspected violations. The FBI is also legally responsible for locating any nuclear weapon, device, or material and for restoring nuclear facilities to their rightful custodians.

In view of the FBI's unique responsibilities under The Atomic Energy Act, as amended by the Energy Reorganization Act, it is realistic to expect that the DoD, DoE, or NRC will assist the FBI in locating and subsequently neutralizing any nuclear weapon or device of unauthorized origin. The FBI also will interface with these agencies as needed in responding to such acts.

Another aspect of the scope of the FRERP concerns the location of the response to the emergency. The FRERP is concerned primarily with Federal support to State and local governments beyond the immediate site of the emergency, i.e., "off site". For emergencies occurred at fixed nuclear facilities, "off site" generally refers to the area beyond the facility boundary. For a fixed nuclear facility owned, authorized, or regulated by a Federal agency, the onsite Federal support is the responsibility of that Federal agency, i.e., the CFA. For emergencies that do not occur at fixed nuclear facilities and for which no physical boundary exists, the offsite area is not defined. For example, in most transportation accidents not involving nuclear weapons the State or local government will define an area "on site" at the time of the accident and manage all actions within that area. In such accidents Federal agencies have no independent authority for defining the onsite area. For a transportation accident involving materials shipped by or for DoD, DoE, those agencies, as CFAs, will define and control the onsite area and take action on site depending on which of these agencies has custody of the material at the time of the accident. For certain spent fuel accidents DoE would be the CFA under Pub. L. 97-425 and have authority over the spent fuel material, but the State or local government would define and control the onsite area. In Agreement States, the State agency with regulatory authority will fulfill the onsite response role normally provided by the CFA for all activities that the State regulates.

The plan is designed to accommodate all types of peacetime radiological emergencies. However, the Federal response to different types of radiological emergencies under the FRERP will differ based on the type or amount of radioactive material involved, the potential for public impact, the size of the affected area, and the time available to respond.

C. Authorities

The following are the authorities for the response of the major Federal agencies participating in this plan:

- *The Atomic Energy Act of 1954, as amended, Pub. L. 83-703.* This Act declares that the use of nuclear materials must be regulated in the national interest in order to provide for the common defense and security, and to protect the health and safety of the public.
- *Executive Order 12148, July 20, 1979.* This Executive Order assigns the Director, FEMA, the responsibility for establishing Federal policies for, and coordinating, all civil defense and civil emergency planning, management, mitigation, and assistance functions of executive agencies.
- *Nuclear Regulatory Commission Appropriation Authorization, Pub. L. 96-295, June 30, 1980, section 304.* This authorization requires the President to prepare and publish a National Contingency Plan to provide for expeditious, efficient, and coordinated action by appropriate Federal agencies to protect the public health and safety in case of accidents at commercial nuclear power plants.
- *Executive Order 12241, September 29, 1980.* This Executive Order delegates to the Director, FEMA, the responsibility for publishing the National Contingency Plan for accidents at nuclear power facilities and requires that it be published from time to time in the Federal Register.
- *44 CFR Part 351, March 11, 1982.* This regulation establishes the Federal Radiological Preparedness Coordinating Committee, the parent of the Subcommittee on Federal Response that

[2] Under the *Atomic Energy Act of 1954* (subsection 274.b.), the NRC has relinquished to certain States its regulatory authority for licensing the use of source, byproduct, and small quantities of special nuclear material.

has developed this plan. It also assigns responsibility to the Department of Energy for the development of the Federal Radiological Monitoring and Assessment Plan.

Additional authorities for other Federal agencies are presented in Section IV.

D. Planning Assumptions

The following broad assumptions and policies have been used to prepare Part A of this plan and to develop the individual agency response plans and procedures contained in Part B.

1. Public and Private Sector Response

The owner or operator of an affected nuclear facility has primary responsibility for actions within the boundaries of that facility for minimizing the radiological hazard to the public. State or local governments have primary responsibility for determining and implementing any measures to protect life, property, and the environment in any areas not within the boundaries of a fixed nuclear facility or otherwise not within the control of a Federal agency. For example, in a transportation accident (other than one involving nuclear weapons) the State or local government has the responsibility for taking emergency actions both on site and off site. During an emergency, appropriate Federal resources may be used to support State and local governments' response measures, if requested. Federal agency response plans recognize the primacy of the response roles of owners or operators and State and local governments.

If the owner or operator of a radiological activity is licensed or regulated by a State agency in an "Agreement State", that State agency would provide onsite monitoring, evaluation, and advice. However, the Federal government will provide any appropriate support requested by that State agency or other State or local agencies with jurisdiction.

Certain Federal agencies have onsite response roles in a radiological emergency when a Federal agency owns, authorizes, or regulates a facility or radiological activity and has the authority to take action on site. That Federal agency is primarily responsible for monitoring the owner or operator's activities and for providing needed assistance. For example, in the case of an emergency at a licensed commercial nuclear power plant, the Nuclear Regulatory Commission monitors the situation, evaluates licensee actions, and advises the licensee, as appropriate, on the licensee's efforts to bring the reactor into a stable condition and minimize the offsite radiological consequences.

2. Federal Agency Authorities

Notwithstanding the primacy of the State for protecting public health and safety off site, some Federal agencies have statutory or other authorities for responding to certain situations affecting public health and safety without a State request. Section IV of this plan cites those relevant legislative and executive authorities. This plan provides a framework for coordinating Federal actions within those authorities; it does not create any new authorities.

3. Basis for a Federal Response

The Federal government will respond when: (1) A state, other governmental entity with jurisdiction, or regulated entity requests Federal support; or, (2) Federal agencies must respond to meet their statutory responsibilities, e.g., when an emergency significantly affects Federal missions, property, or resources. Any Federal response will be closely coordinated with the State or local governments concerned.

Responses to incidents on or affecting Federal lands are to be coordinated with Federal land management agencies to ensure that response activities are consistent with Federal statutes governing the use and occupancy of these lands. In addition, Federally recognized Indian tribes have a special relationship with the United States of America, and State and local governments may have limited or no authority on their reservations. The Bureau of Indian Affairs of the Department of the Interior (DoI) is available to assist other agencies in consulting with these tribes about radiological emergency preparedness and responses to incidents.

4. Federal Agency Resource Commitments

The resources of the Federal agencies will be made available during radiological assistance operations, subject to prior commitments to fulfill other operational requirements considered essential based on statutory responsibilities. Agencies committing resources under this plan do so with the understanding that the duration of the commitment of those resources will depend on the nature and extent of the emergency. It is further understood that subsequent emergencies that are more serious or of higher priority (such as those that may jeopardize national security) may require Federal agencies to reassess resources previously committed under this plan.

5. Protocol for Federal Assistance Requests by Owners or Operators

The owner or operator of a facility or radiological activity, either private or authorized or regulated by the Federal government, can ask for assistance directly from the appropriate Federal agency with which they have preexisting arrangements or relationships. The State or local governments, as well as the CFA and FEMA, should be informed by the Federal agency first contacted when such assistance is requested.

6. Coordination of State and Local Assistance Requests

After notification of a radiological emergency that could significantly impact the public health and safety, and after discussions with the CFA, or upon a direct State request for assistance, FEMA will designate and deploy a Senior FEMA Official (SFO) to provide a single point of contact, as required, for State and local assistance requests. Where possible, the SFO will co-locate with the State representative at an offsite location. State and local government requests for assistance can also be made directly to individual Federal agencies with which they have preexisting arrangements or relationships. Federal agencies contacted directly will inform the SFO. When State and local authorities are unable to obtain the required assistance, they should direct requests for offsite Federal assistance to the SFO, or, in the absence of such a designated official, to the appropriate FEMA regional office.

The Governor of the affected State will be advised of the designation of the SFO and will be asked to designate a State representative as the State Coordinating Officer (SCO) to provide a principal point of State contact. The SFO will promote effective operating relationships among Federal, State, local, volunteer, and private agencies.

7. Federal and State Communications

Emergency response requires a continuous flow of information among Federal and State agencies thoughout an emergency. This plan does not restrict this flow. However, for the SFO to coordinate response actions and maintain the most current information, Federal agencies need to keep the SFO informed of their major response efforts and activities that might impinge on the actions of other agencies.

8. Federal Referrals of State and Local Assistance Requests

State and local authorities will be encouraged to coordinate their actions

with the SCO. Nevertheless, some state and local authorities may contact Federal agencies directly in accordance with established plans and procedures or preexisting relationships. Federal agencies have response plans and procedures that describe their responsibilities in support of the State. Through the use of the FRERP and these plans/procedures, the State can determine the most appropriate Federal agency to contact for the required assistance. Whenever a question arises as to the appropriate agency to contact, the State should contact the FEMA/SFO.

9. Coordination Among Federal Agencies

Federal agencies should coordinate their actions with the SFO. In addition, Federal agencies will communicate freely and interact directly with other Federal agencies as required during emergencies.

10. Public Information Coordination

Public information on the consequences of an emergency must be accurate, timely, and easily understood. Public information must be closely coordinated with State and local officials and disseminated to the public from official government sources. State officials are responsible for keeping their populace adequately informed. Since the Federal government's role is to help the State, the public information officers of the responding Federal agenices will, if requested, help State information officials prepare news releases and hold press conferences concerning the health and safety of the public.

When a multi-agency Federal response to an emergency occurs, all Federal public information releases will be coordinated through the interagency public information organizations described in Section II.

Close working relationships among the public information officials of Federal agencies, their State and local counterparts, and the owner or operator are essential. To foster close working relationships efforts will be made to co-locate Federal, State, local, and owner or operator public information officials at a Joint Information Center. The Federal government will coordinate with, and obtain concurrence as necessary from, the appropriate State or local officials on any statements to the public that bear on the responsibility of the State.

II. Concept of Operations

A. Response Overview and Summary

The CFA, FEMA, and DoE or EPA each has a specific coordination function in relation to the State and the owner or operator of the radiological activity as summarized in Table II-1. Other Federal officials may arrive on the scene prior to the arrival of the CFA, FEMA, and DoE/EPA and act under their own authorities to fulfill their responsibilities. During that brief period, those agencies will coordinate their activities among themselves and with the CFA, FRMA, and DoE as soon as they arrive concerning the status of ongoing response efforts. The CFA, FEMA, and DoE or EPA personnel on the scene will provide their regional or headquarters offices with all relevant information available.

TABLE II-1.—RESPONSE OVERVIEW

Response action	Lead Federal agency
(1) Conduct and manage Federal onsite actions to support the owner or operator. —Monitor; Evaluate; Advise—Assistance, if required	CFA.
(2) Coordinate Federal offsite radiological monitoring and assessment	
—Initial Response	DoE.
—Intermediate and Long-Term Response	EPA.
(3) Develop or evaluate recommendations for public protective action measures off site.	CFA.
(4) Present recommendations for offsite protective action measures to the appropriate State and/or local officials.	CFA, in coordination with FEMA whenever possible.
(5) Promote coordination of Federal assistance. This includes assistance to State and local governments and logistic support to Federal agencies.	FEMA.
(6) Coordinate release of information to the public and to Congress.	CFA initially; FEMA after mutual agreement.
(7) Coordinate release of information to the White House.	CFA initially; FEMA thereafter.

The Department of Energy, during the initial phases of the emergency, and the EPA thereafter, will work with the appropriate State and local agencies to coordinate offsite radiological monitoring and assessment activities. DoE or EPA will assess monitoring data and present them to the CFA and appropriate State agencies. The CFA will use this information, together with its assessment of the current condition and prognosis of the emergency on site, to develop or evaluate public protective action recommendations.

Federal departments and agencies that have day-to-day contacts with State counterparts will continue to use these contacts during an emergency. FEMA will be informed of contacts that may impinge on the actions of other Federal agencies. The Department of Health and Human Services (HHS), EPA, DoE, and the U.S. Department of Agriculture (USDA), in coordination with the appropriate State agencies, will provide advice to the CFA, if requested, concerning possible public health impacts and associated protective measures for mitigating them. The CFA will use this advice, as required, to develop a coordinated Federal position on recommendations for public protective action.

FEMA will remain informed of onsite conditions that could have an offsite impact, through the CFA. FEMA's overall coordination function is not intended to replace or supplant existing liaison and communication between Federal agencies and their State counterparts. If Federal agencies need assistance in exchanging information, or in acquiring or releasing public information, FEMA will help the agencies accomplish these tasks.

A CFA role will be assumed by a Federal agency in accordance with the scheme presented in Table II-2 when a significant Federal response is appropriate. Lesser events which do not warrant such a response are not covered by the FRERP. Specifically, a CFA role will be assumed for major radiological emergencies at fixed nuclear facilities which are owned, authorized, or regulated by a Federal agency, and for major transportation accidents involving shipments by or for DoD or DoE. For major transportation accidents involving nuclear materials other than DoD or DoE material, no Federal agency has the authority to become the CFA. In these instances, and in all other emergencies not cited above which require implementation of the FRERP, FEMA will consult with other appropriate Federal agencies regarding the CFA role. The result of such consultation will be either that a Federal agency assumes the CFA role, or that a decision is made that the CFA role is not appropriate. Whenever it is determined that a CFA is not appropriate, FEMA will coordinate the Federal response, relying on agencies with the technical expertise to evaluate the situation and develop advice for State and local governments.

TABLE II-2.—IDENTIFICATION OF COGNIZANT FEDERAL AGENCIES FOR RADIOLOGICAL EMERGENCIES

Type of emergency	Owner or operator	Cognizant Federal agency
Fixed nuclear facility	NRC-licensed	NRC.
Do	DoD or DoE-owned or authorized	DoD or DoE, respectively.

TABLE II-2.—IDENTIFICATION OF COGNIZANT FEDERAL AGENCIES FOR RADIOLOGICAL EMERGENCIES—Continued

Type of emergency	Owner or operator	Cognizant Federal agency
Do	Not federally owned, authorized, or licensed.	None.
Transportation (shipments by or for DoD or DoE).	DoD or DoE	DoD or DoE, respectively.
Transportation (all other).	Private, State, local, or Federal.	None.
All other emergencies.	do	NRC, DoD, or DoE; or None.

The CFA, in conjunction with FEMA whenever possible, will present any Federal recommendations to the State or other appropriate offsite authority with jurisdiction for implementing or relaxing protective actions. In the case of a fixed nuclear facility licensed by the NRC, the licensee is responsible for developing appropriate protective action recommendations and promptly providing those recommendations to State and local authorities without awaiting NRC's concurrence. NRC, in the role of CFA, will evaluate the licensee's protective action recommendations as time permits, and will either concur in them or suggest modifications, as appropriate. FEMA is then responsible for promoting coordination among Federal agencies providing assistance to the State in implementing those recommendations if such assistance is requested by the State, and for communicating those recommendations to the responding Federal agencies.

B. Notificaton, Activation, Recovery, and Deactivation

The headquarters officials of FEMA and each CFA will follow a pre-established system for notifying all appropriate Federal agencies.

1. Notification

The owner or operator of the facility or radiological activity is generally the first to become aware of a radiological emergency, and is responsible for notifying the appropriate State and Federal authorities.

Subsequent to its receipt of a notification of an incident, the CFA will notify FEMA headquarters in Washington, D.C. by contacting the FEMA Emergency Information and Coordination Center (EICC). CFAs maintain similar emergency operation centers at their headquarters, regional, or field offices.

A notification should include a description of the emergency situation so that FEMA can carry out its further notification and response duties. The CFA will provide FEMA with a general assessment of the emergency including location and nature of the accident, an assessment of the severity of the problem as known, a description of the CFA's response, and any follow-on actions anticipated by the CFA.

FEMA will verify that the State has been notified of the emergency by contacting the State. FEMA and the CFA will notify other appropriate Federal agencies of the emergency in accordance with their notification procedures, pre-established interagency agreements, or interagency operational response procedures. If no Federal agency has the authority to assume the CFA role, FEMA will make all notifications. In those cases where Federal lands could be affected, FEMA will notify the Federal agency with jurisdiction. The notifications will incorporate relevant information exchanged between the CFA, if any, and FEMA. Individual agencies should determine their specific requirements for subsequent information, whenever those requirements have not been predefined with the CFA or FEMA.

DoE will notify Federal agencies with FRMAP responsibilities in accordance with agreed-upon procedures. Federal agencies that can provide radiological assistance may respond upon receiving a request for assistance from the State or owner or operator. Federal agencies so contacted will inform the DoE as soon as their response team arrives at the scene.

2. Activation

Upon receipt of notification, each agency will assess the need to initiate its response. The response decision will be based on the situation reported and may consist of several steps:

- Alerting or activating appropriate Federal agency response components;
- Determining whether State or local government requests for assistance have been received (where appropriate);
- Activation of agency emergency response teams and their deployment to the scene; and
- Establishment of bases of operation at the scene of the emergency from which to carry out a coordinated Federal response.

A full-scale Federal response begins with the execution of the notification scheme and includes all the above four steps. Since many emergencies will not require a full-scale response, the Federal response might reach only the first or second step. When the Federal response reaches the third step, FEMA will so notify the affected State. When the third or fourth step is reached, an SFO may be deployed to establish an offsite base of operation for coordinating the Federal response, i.e., a Federal Response Center (FRC). The FRC will be established at a location that has been pre-selected together with the State, or otherwise will be established at the time of the emergency at a location identified in conjunction with the State. A Federal Radiological Monitoring and Assessment Center (FRMAC) will be established by DoE, usually at a nearby airport, in a similar manner. The CFA, if any, will establish a local base of operations. FEMA, the CFA, and DoE will exchange liaison representatives to ensure that activities at the various centers are coordinated.

As a result of notification of a radiological emergency, and after discussions with the CFA, FEMA may activate its headquarters Emergency Support Team. As soon as an Emergency Support Team is activated, FEMA will begin its coordinating activities. Prior to the arrival of the SFO or Deputy SFO (DSFO) at the scene, FEMA will rely on the Cognizant Federal Agency Official (CFAO), if at the scene, as the point of contact concerning Federal activities at the scene.

If an agency decides to initiate its response, that decision will be communicated to FEMA and will include: (1) The name and location of the lead agency official if one is designated; (2) the telephone number at which he/she can be contacted at headquarters or at the scene; (3) if appropriate, the primary official to deploy to the scene and his/her estimated time of arrival at the emergency site; and (4) intended location at the scene. Similarly, FEMA will provide each Federal agency with the same information when FEMA designates its SFO. FEMA will keep Federal agencies informed of the status of Federal agencies' response actions.

Because of its singular responsibility for Federal support on site, the CFA will determine and implement an efficient means for coordinating Federal support on site with Federal response activities off site.

a. *Deployment of Emergency Response Teams.* Agency plans and procedures describe response team deployment and establishment of bases of operations at the scene. Ideally, the SFO and staff, other Federal agency response teams, and State agency respresentatives would be co-located at the scene. Accordingly, FEMA and CFA site-specific emergency plans and procedures should be developed

individually to accommodate State operations.

Some Federal agencies may immediately deploy their teams to the scene of the emergency to fulfill statutory responsibilities. This plan is not intended to restrict such activities; however, when the SFO arrives at the scene, the agencies that have already responded will inform the SFO of the offsite actions they have taken.

b. *SFO Designation and Deployment.* Upon activation, FEMA may deploy an Emergency Response Team (ERT) headed by an SFO. The SFO, once at the scene, will be supported by an Emergency Support Team at FEMA headquarters and the ERT. Prior to this deployment, FEMA will inform the affected State and the CFA of the planned FEMA response. FEMA will also notify the other agencies of its ERT deployment and activities.

Upon arrival at the scene, the SFO, or the DSFO if the SFO so authorizes, will establish an offsite base of operations, i.e., the Federal Response Center, for promoting coordination of the Federal response. The Deputy SFO, who leads the regional component, is likely to arrive at the scene prior to the arrival of the headquarters component and may have initial responsibility for establishing and operating the FRC until the SFO arrives.

The SFO will inform other Federal agencies at the emergency scene of the establishment of the FRC and request that they provide representation to it. The SFO will establish contact with the CFA or responsible State agency to determine the status of onsite response efforts. As soon as the SFO or DSFO arrives at the scene and contacts the CFA, the SFO (or DSFO) will serve as the focal point for promoting the coordination of the offsite Federal response with the onsite response. The SFO and the CFAO will work together directly and through their representatives at the scene to ensure that each has an accurate understanding of the situation throughout the emergency.

3. Recovery and Response Deactivation

Prior to the deactivation of the Federal response, the Federal government may assist the State in developing its offsite recovery plan. Recovery planning will be initiated at the request of the State but generally after the cause of the emergency has been brought under control and immediate public health and safety and property protective actions have been accomplished. The SFO will coordinate Federal assistance to the State in recovery planning.

After the conditions on site have stabilized and the offsite contamination has been characterized and its extent determined, a CFA may or may not be needed. The agency that performed the CFA role may decide to deactivate its position as a CFA and focus primarily on the recovery effort on site. The CFA will discuss this deactivation with the SFO and determine a mutually agreeable time to implement the deactivation. However, the agency that served as CFA will continue to be available to provide required assistance to the State, in coordination with FEMA.

Each agency will discontinue response operations when advised by the State that assistance is no longer required or when its statutory responsibilities or response roles have been fulfilled. Prior to discontinuing its response operation, each agency will discuss its intent to do so with the CFA, FEMA, and with DoE or EPA if that agency is providing radiological support under the FRMAP.

C. General Response Roles of Principal Agencies and Officials

General Response roles are those that are independent of the cause, type, or location of the radiological emergency.

1. Role of the Cognizant Federal Agency

The CFA is the Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the facility or radiological activity causing the emergency, and that has authority to take action on site. When it is necessary for a Federal agency to assume the CFA role, and to deploy to the site, the CFA will manage all Federal actions onsite, develop or evaluate offsite protective action and reentry recommendations, and help to implement those actions if requested by the State and if the CFA's resources permit.

Consistent with this role, the CFA has four general responsibilities:

- Receive notification of the emergency, initiate the CFA response, and notify appropriate Federal, State, and local agencies;
- Manage Federal response actions on site and coordinate these actions, as necessary, with the SFO and monitoring activities off site;
- Assess owner or operator, State, or locally recommended protective action measures and/or develop Federal recommendations for protective action and re-entry; help State and local authorities as resources permit; and
- Serve as the primary Federal source for information of a technical nature regarding the onsite emergency conditions and the potential or actual offsite radiological effects.

Each of these responsibilities is outlined in more detail below:

a. *Receive Notification of the Emergency, Initiate the CFA Response, and Notify Appropriate Federal Agencies.* (1) Receive notification of the emergency from the owner or operator of the facility or radiological activity causing the emergency, or from State or local authorities, and determine the significance of the emergency and the appropriate CFA response to it.

(2) Notify FEMA and DoE of the emergency; include in the notification the CFA's activation mode and actions, a general assessment of the emergency, and any necessary background information. Discuss with FEMA the need to deploy a SFO and Emergency Response Team.

(3) Deploy a CFA team to the site, when appropriate.

b. *Manage Federal Response Actions Onsite and Coordinate these Actions, as Necessary, With the SFO and Monitoring Activities Offsite.* (1) Designate a lead CFAO at the site of the emergency who will coordinate with the SFO, as necessary, on any onsite Federal actions that may have significant impacts off site.

(2) Establish appropriate bases of operation to oversee the onsite response, monitor owner or operator activities, provide technical support to the owner or operator if requested, and serve as the principal source of information about onsite conditions for the Federal government.

(3) Manage the onsite Federal response to the emergency, including an assessment of the conditions on site and the means for mitigating their consequences off site.

(4) Keep other agencies informed of conditions and Federal actions on site.

(5) Serve as a point of contact concerning Federal activities at the scene when the CFAO arrives at the scene prior to the SFO or his designee. During this interim period, the CFA will keep FEMA informed of Federal activities at the scene.

(6) Prepare the section of the White House Executive Summary dealing with onsite related conditions and their actual or potential offsite radiological impacts and provide this section to FEMA.

c. *Assess Owner or Operator, State or Locally Recommended Protective Action Measures and/or Develop Federal Recommendations for Protective Action and Re-entry; Help State and Local Authorities as Resources Permit.* One of the primary areas where the Federal government may be able to assist State and local

governments is in advising them on initial protective action recommendations (PARs),[1] and other protective measures and reentry recommendations (RERs)[2] for the public that may be developed by the owner or operator, or State or local authorities. In providing such advice, the CFA will use, to the extent applicable, appropriate advice and input from other Federal agencies with technical expertise on those matters. FEMA, upon request, will assist the CFA as required in developing such advice.

Whenever possible, the CFA will coordinate its presentation of the Federal evaluation of PARs with FEMA either prior to, or at the time of, their presentation to the State or other offsite authorities. When imminent peril threatens the public health and safety, the CFA will present the evaluation of PARs directly to the State or other offsite authorities without having to coordinate with any other Federal agency. With regard to developing or evaluating RERs, the CFA will keep FEMA informed of their development or evaluation and coordinate presentation of such advice to the State with FEMA. More specifically, the CFA's responsibilities related to PAR and RER development or evaluation, and presentation are:

(1) Serve, as a point of contact for State and local government technical information and, as required, for technical assistance requests.

(2) Provide staff liaison representatives to State authorities and the SFO, to help interpret the technical aspects of the emergency on site and its potential or real offsite radiological consequences.

(3) Work with DoE in its efforts to provide offsite monitoring data and assessments to appropriate State and Federal agencies.

(4) Prepare a coordinated Federal position on PARs whenever possible. Consult with HHS, DoE, EPA, USDA, and other Federal agencies as required.

(5) When appropriate, present the Federal assessment of PARs, in conjunction with FEMA, to the State or other offsite authorities.

(6) Develop or evaluate RERs to protect the public and present such advice, in conjunction with the SFO, to the State.

(7) Help State and local government agencies implement protective actions, as required, when the CFA has available resources to help provide the needed assistance.

d. *Serve as the Primary Source for Technical Information Regarding the Emergency Conditions Onsite and the Potential or Real Offsite Radiological Effects.* (1) Make an initial report to the White House Situation Room covering, if possible, the condition of the radiological activity causing the emergency and the actual or potential offsite radiological impact. After the initial report, prepare the section of FEMA's report dealing with onsite conditions and their actual or potential impact off site.

(2) Review and concur in the release of all Federally generated information related to the onsite conditions and remain informed of all information related to offsite radiological effects. Where possible, the CFA should review Federally provided offsite radiological data before release.

(3) Assist the State Public Information Officer in developing coordinated public information releases.

(4) Protect national security by classifying sensitive technical information in a nuclear weapon accident or weapon-significant incident.

2. Role of the Federal Emergency Management Agency

FEMA's primary responsibilities in the Federal response are to immediately notify participating Federal agencies[3] of the emergency and to serve as a focal point for promoting the coordination of the Federal response activities at the national level and at the scene of the emergency. The Director of FEMA will designate and deploy the SFO for coordinating Federal response activities at the scene of the emergency.

a. *Emergency Support Team Role.* Through its Emergency Support Team at headquarters, FEMA will:

(1) Notify participating agencies of the emergency situation and supply information they need to take appropriate actions.

(2) Coordinate Federal response activities at the national level.

(3) Receive information at the Emergency Information and Coordination Center (EICC) from the CFA headquarters or from other public and private organizations about the impact of the emergency and the organizations' response.

(4) Prepare periodic reports on the Federal response for the White House.

(5) Provide staff support and other resources to the SFO as required.

b. *Emergency Response Team Role.* At the scene of the Emergency, the FEMA response is carried out through its Emergency Response Team, headed by the SFO. The SFO coordinates Federal activities with State offsite activities and promotes the coordination of Federal actions, information, and recommendations. Free interaction among Federal, State, and local agencies is encouraged. The SFO can facilitate information flow among all response elements and help direct Federal resources to the appropriate State and local government agencies. The SFO will not intervene in the relationships and communication channels that already exist between Federal and State agencies; rather, the SFO provides an additional means for facilitating Federal-State interactions.

Through the SFO, FEMA carries out three major responsibilities:

- Promote coordination among Federal agencies and their interactions with the State, including, in conjunction with the CFA, the provision of Federally developed or evaluated PARs and RERs to the State or other appropriate offsite authorities responsible for implementing those recommendations;
- Coordinate offsite activities with onsite response activities of Federal or State agencies; and
- Serve as an information source on the status of the overall Federal response effort. (The public information function is described in Section II.D.)

Each of these responsibilities is outlined below:

(a) *Promote Coordination Among Federal Agencies and Their Interactions With the State.* (1) Promote coordination of the provision of offsite assistance to appropriate State and local government agencies by the Federal agencies, including medical care, food, potable water, shelter, clothing, transportation, security, and any other assistance needed to protect the public health and safety. This coordination function is to be performed in addition to, and does not supplant, the specific coordination functions assigned to other Federal agencies as part of their normal responsibility to provide these specialized forms of assistance.

(2) Maintain a continuous overview of the total Federal response effort to ensure that no necessary actions are omitted and no unnecessary duplication occurs; any omissions or duplications will be brought to the attention of the agencies concerned.

(3) Establish the Federal Response Center as a base of operations at an

[1] The development or evaluation of protective action recommendations will take into consideration Protective Action Guides (PAGs) issued by appropriate Federal and State agencies. See Appendix B for definitions of protective action recommendations and protective action guides.

[2] See Appendix B for definition.

[3] Except the CFA (which is notified directly by the owner or operator) and DoE (which is notified by the CFA or the owner or operator or the State).

offsite location identified in conjunction with the State. The Federal Response Center serves as a focal point for Federal response team interactions with the State.

(4) Provide a principal point of contact for requests for Federal assistance by State or local governments.

(5) Refer all State and local requests to the most appropriate Federal agency.

(6) Refer all Federal agencies to appropriate points of contact in State or local governments.

(7) Provide information to the State or local governments concerning the status of their assistance requests.

(8) Maintain contact with DoE or EPA to ensure that the offsite Federal radiological monitoring and assessment effort is coordinated with other offsite Federal assistance to the State.

(9) Facilitate the exchange of all other information among Federal agencies.

(10) Make requests for additional Federal resources that cannot be acquired by Federal agencies at the scene.

(11) Refer all interagency policy issues and interagency operational problems that cannot be resolved at the scene to FEMA headquarters for resolution with Federal agencies at the national level.

(12) Promote the provision of information from Federal agencies to the State regarding actions taken or anticipated by them.

(13) Promote the coordination of all formal recommendations and guidance from Federal agencies before they are presented to the State.

(b) *Coordinate the Federal Offsite Response With the Federal or State Onsite Response.* (1) Promote the coordination of the Federal offsite response with the Federal or State onsite response so that any Federal actions off site are taken with knowledge of current or anticipated actions on site.

(2) Assist and support the CFA, if any, with obtaining needed logistical support through other Federal agencies as required.

(3) Assist the CFA, as required, in its development or evaluation of PARs and RERs including the provision of needed information to or from other Federal agencies having the required expertise.

(4) Ensure that the CFA is informed of the capabilities and resources of offsite Federal agencies for assisting with the implementation of Federal developed or evaluated PARs and RERs by the State or other offsite authorities.

(5) Assist the CFA, and DoE or EPA in their roles as FRMAP coordinators, in disseminating information to, and obtaining information from, other Federal agencies. Facilitate the exchange of all other information among Federal agencies.

(6) Participate in the presentation of a Federally coordinated assessment of PARs amd RERs to the State or other responsible offsite authorities in conjunction with the CFAO. When the public health and safety are in imminent peril, the CFAO will present PARs without consultation with the SFO or other Federal agencies.

(c) *Serve as an Information Source for the Total Federal Response.* (1) The SFO, in coordination with the CFA, will maintain an executive level summary of the total Federal response and will provide the FEMA Director with information, on a regular basis, on the status of the response that is appropriate for the FEMA Director's overall executive summary to the President. Similarly, the FEMA Director will keep the White House Situation Room advised daily of continuing response activities. This FEMA activity does not preclude the White House from contacting any agency for information, nor does it restrict an agency from responding to White House request. The CFA will remain the source for technical information on the emergency, i.e., the onsite conditions and the potential or real offsite radiological impacts, and will provide this technical information to FEMA for inclusion in its summary.

(2) Provide pertinent information to the Members of Congress and their staffs making inquiries at the scene, coordinating as necessary with the CFA and other Federal agencies. FEMA and the CFA will each be responsible for keeping their respective Congressional Committees informed and will coordinate this with each other.

3. Role of DoE and EPA

The Department of Energy * and the Environmental Protection Agency have a major role in the Federal response by coordinating Federal radiological monitoring and assessment activities. There are three responsibilities involved, which initially fall to DoE. They are:

- Coordinate the offsite radiological monitoring, assessment, evaluation, and reporting of all Federal agencies during the initial phases of the emergency, including notification of Federal agencies in accordance with the provisions of the FRMAP;
- Maintain liaison and a common set of offsite radiological monitoring data with the facility owner or operator and State and local agencies with similar responsibilities; and
- Provide all monitoring data, assessments, and related evaluations to the CFA and State and assist the CFA in development of protective action recommendations and other measures to protect the public, as required. Where possible, the CFA should review the FRMAC monitoring data before release.

After the initial phases of the emergency, DoE will transfer these offsite coordination responsibilities to EPA at a mutually agreeable time. EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiation monitoring activities after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effort.

D. Public Information and Congressional Relations

This section describes the responsibilities for Federal agency public information and Congressional relations that will be implemented under this plan. Provision of accurate, consistent, well coordinated information to the public and to the Congress is recognized to be of utmost importance.

1. General Public Information Responsibilities

The major roles and responsibilities for public information release during a radiological emergency are as follows:

a. *Facility or Radiological Activity Owners or Operators* are responsible for information concerning onsite status and conditions.

b. *The State* is responsible for releasing information relating to the impact of the emergency on the health and safety of its citizens and relating to its emergency response operations.

c. *The CFA*, if any, through the CFAO's Public Information Officer (PIO), and in close coordination with the owner or operator, and the State, is responsible for information related to (a) the onsite conditions of the radiological activity and (b) the offsite radiological effects. The CFA is responsible for the security classification of all onsite information in accidents or significant incidents involving nuclear weapons.

d. *Each Federal agency* is responsible for the preparation of public information released related to its own response activities. Prior to release, information will be coordinated through the public

*DoE would also serve as the CFA if the emergency involved DoE owned or authorized nuclear facilities, or radioactive materials (including nuclear weapons and spent nuclear fuel in DoE custody).

information organizations described in the remainder of this section.

e. *FEMA*, through the SFO's PIO, will work with the CFAO's PIO to promote coordination among all Federal agencies regarding public information generated by them and to promote the coordination of press release with the State. Coordination does not mean that the language of all releases must be approved by the SFO and CFAO PIOs, but rather that the information content is to be reviewed by them prior to release to ensure its consistency with the total information available. In cases when the public health and safety are in imminent peril, the CFAO's PIO may review and release public information independently. The SFO's PIO will assume responsibility from the CFAO's PIO at a mutually agreeable time when recovery efforts are initiated by the State or other appropriate offsite authority. When no Federal agency assumes the CFA role, the SFO's PIO will coordinate Federally generated public information.

2. Coordinated Release of Public Information at the Scene of the Emergency

Upon arrival at the emergency scene, the CFAO's PIO or, if none, the SFO's PIO, will ensure the establishment of Federal public information operations at the Joint Information Center (JIC) in cooperation with the owner or operator's pre-established information center, or separately, if necessary. Most nuclear power plant owners or operators have designated JIC locations and have made arrangements to establish and operate these centers in an emergency. The JIC at the scene of the emergency will provide the public and the media with adequate, accurate, and timely public information regarding a radiological emergency. Efforts will be made to colocate all Federal, State, local and owner or operator public information officials in the JIC. However, if space limitations at a nuclear power plant's designated information center preclude its use as a JIC and/or if the State designates another location for its public information activities, special efforts will be necessary to maintain close coordination between the Federal JIC and these other press centers. If the Federal PIOs and the State PIOs cannot co-locate at the JIC, FEMA will notify the State when and where the Federal JIC has been established.

Whenever practical, the establishment of Federal operations at the JIC will be undertaken by the CFA in coordination with FEMA, other appropriate Federal agencies, and State and local authorities. If FEMA's PIO or any other participating agency's PIO arrives at the scene of the emergency before the CFAO, the FEMA PIO or another agency's PIO may establish and manage Federal operations at the JIC until the CFAO arrives. Upon arrival, the CFAO or his/her PIO shall assume primary responsibility for Federal operations at the JIC. If there is no CFAO for the emergency, the SFO's PIO shall assume primary responsibility for Federal operations at the JIC. When there is a CFAO, the SFO's PIO will assume responsibility for coordinating Federal public information at the JIC from the CFAO's PIO at a mutually agreeable time. FEMA PIOs at the scene will provide support to the CFA during the period that the CFA has Federal operational responsibility for the JIC. FEMA's support will include coordinating public information activities of other Federal, State, or volunteer agencies at the scene but not located at the JIC with which FEMA has a pre-established relationship.

3. Coordinated Release of Public Information at the Headquarters Level

For some emergency situations it may be necessary to release public information prior to the establishment of Federal operations at the JIC. When this is the case, Federal agencies must coordinate the release of public information through their headquarters with the CFA headquarters PIO. The CFA headquarters PIO serves as the single point of contact at the national headquarters level for all Federal agency PIOs as well as for the media. The CFA headquarters PIO, in conjunction with FEMA headquarters, will establish procedures for coordinating the release of Federal public information with the State prior to release to the media. If no Federal agency assumes the CFA role for the emergency, then the FEMA headquarters PIO will coordinate Federal public information as described above.

Prior to the establishment of Federal operations at the JIC, Federal agencies will coordinate releases of public information both at the regional level and near the site of the emergency through their Washington, D.C. headquarters offices.

The agency headquarters points of contact for public information will continue to operate throughout the emergency, but once the JIC is established all Washington-based information must be coordinated through the JIC prior to release. The Washington centers may, however, handle overflow news media inquiries and serve as a platform for carefully selected, Washington-based specialists to supply background information, as required.

4. Coordinated Release of Information to Congress

Responses to Congressional requests for information will be coordinated among the Federal agencies whenever possible. The CFA Congressional Liaison Officer (CLO) at the headquarters Congressional Affairs Office will provide a single point of contact for all Federal agency headquarters CLOs and Congressional staffs seeking site-specific emergency information. As time and circumstances permit, all agency CLOs will either channel Congressional requests to this single point of contact, or coordinate their intended responses with it.

If no Federal agency assumes the CFA role for the emergency, the FEMA headquarters CLO will coordinate Congressional information as described above.

A FEMA CLO will be the point of contact at the scene of the emergency for all Federal agency CLOs and Congressional staff seeking information regarding the emergency and actions being taken to assist offsite authorities. The FEMA CLO will keep in frequent contact with the CFA CLO, if any, who will continue to be the primary point of contact in the Washington, D.C. area. The FEMA CLO will provide appropriate information to Members of Congress and/or their field staffs with assistance as necessary from the CFA and other Federal agencies. This formal procedure does not preclude communication and information exchange between Congressional representatives and Federal agencies. However, Federal responses will be coordinated among Federal agencies in the manner described above. The CFA CLO and the FEMA CLO will coordinate with each other on the information provided to the Congress as well as on information being provided to the public through operations at the JIC.

E. International Response Coordination

Although the geographic scope of the FRERP is limited to the United States, its territories, possessions, and territorial waters, it is recognized that radiological emergencies occurring near international borders (i.e., near Canada and Mexico) could require international cooperative response efforts.

Therefore, the CFA and FEMA, in consultation with the Department of State and other Federal agencies as appropriate, should coordinate and

cooperate at the time of the emergency with affected countries in accordance with already established protocols (e.g., treaties, bilateral agreements). If any contacts are made between Federal agencies and foreign governments during an emergency, this should be reported to the Department of State and FEMA. It is also desirable that requests for assistance from United States border countries as a result of domestic radiological emergencies should be coordinated with the Department of State and FEMA.

III. Federal Radiological Monitoring and Assessment Plan (FRMAP)

A. Foreword

The Federal Radiological Monitoring and Assessment Plan was developed to coordinate Federal radiological assistance. Although the FRMAP is part of the FRERP, it may be implemented separately. The FRMAP, originally required under a FEMA regulation issued on March 11, 1982, is a revised and update version of the planning and response concepts of the Interagency Radiological Assistance Plan (IRAP) and supersedes that plan. FRMAP and IRAP are very similar in concept, with the most notable changes occurring in the designation of participating Federal agencies and, in some cases, their expanded or revised responsibilities, e.g., FEMA. The FRMAP deals with the initiation and coordination of Federal radiological monitoring and assessment assistance, not each Federal agency's individual response.

The FRMAP establishes: (a) A means of requesting and providing Federal radiological assistance from existing Federal resources and (b) an operational framework for coordinating the radiological monitoring and assessment activities of Federal agencies during radiological emergencies occurring within the United States and its territories. The operational guidelines presented here apply to all radiological emergencies in which Federal assistance is requested.

At one end of the range of radiological emergencies, the FRMAP may be implemented without the FRERP. At the other end of the range, the radiological assistance aprovided through FRMAP may be only a small portion of the total Federal response to a major emergency. FRMAP applies primarily to offsite Federal radiological monitoring and assessment assistance and the technical support for these activities.

B. Purpose

The purposes of the FRMAP are as follows:

- To make needed radiological monitoring and assessment assistance available to Federal agencies, State and local governments with jurisdiction, and the general public through appropriate State and local agencies;
- To provide a framework through which Federal agencies will coordinate their emergency radiological monitoring and assessment activities in support of Federal, State, and local governments' radiological monitoring and assessment activities; and
- To assist State and local governments with jurisdiction in preparing for radiological emergencies by describing Federal assistance responsibilities.

C. Authority and Jurisdiction

DoE is assigned the responsibility for developing the FRMAP under authority of 44 CFR Part 351. The FRMAP is included in the FRERP to provide a single, comprehensive document that describes all Federal offsite assistance responsibilities. The agencies participating in the FRMAP, including agencies that joined FRMAP subsequent to 44 CFR Part 351, are: FEMA, the Nuclear Regulatory Commission (NRC), the Environmental Protection Agency (EPA), the Department of Health and Human Services (HHS); the Department of Energy (DoE); the Department of Agriculture (USDA); the Department of Defense (DoD); the Department of Commerce (DoC); and the Department of the Interior (DoI).

The FRMAP recognizes that the above agencies may have other radiological planning and emergency responsibilities as part of their statutory authority, as well as established working relationships with State counterpart agencies. The provisions of the FRMAP do not limit those responsibilities, but complement them by providing for a coordinated Federal response when emergency radiological assistance is requested. All FRMAP activities will support the monitoring and assessment programs of the State, the owner of the radioactive material involved or the operator of the nuclear facility, the assessment needs of the CFA, or be carried out to meet statutory responsibilities.

D. Policy

1. Federal agency plans and procedures for implementing the FRMAP will be consistent with any Federal radiological emergency planning requirements for State and local governments and specific facilities.

2. The participating Federal agencies will maintain facilities, equipment, and personnel to carry out their statutory responsibilities. Existing radiological monitoring and assessment capabilities developed to carry out those responsibilities will be made available to State and local authorities with jurisdiction, and to other Federal agencies in an emergency if other resources are not available.

3. The Federal agencies will make their resources available on request. An agency may decline to provide any needed resources only if doing so would prevent that agency from carrying out its essential mission and emergency functions.

4. During the emergency phase of the Federal response, the DoE will coordinate all Federal offsite radiological monitoring and assessment operations and integrate the data derived from those activities. EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiation monitoring activities after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effort. The full FRMAP response will be terminated when the EPA Administrator determines, after consultation with the CFA and State and local officials, that: (a) There is no longer a threat to the public health and safety or to the environment, or (b) State and local resources are adequate for the situation, or (c) the Federal agencies are carrying out only non-emergency statutory responsibilities, or (d) there is mutual agreement of the agencies involved to terminate their response.

5. An agency that makes its resources available, although under the general direction of DoE (or later, EPA), does not place itself under the authority of the coordinating agency.

6. DoE (or later, EPA) will maintain a common and consistent set of all offsite radiological monitoring data and provide it, with interpretation, to the CFA, to the States, and to groups that these agencies designate, as well as to other Federal agencies involved in the emergency response. The principal description of the combined offsite and onsite radiological conditions will come from the CFA and the State.

7. The Federal radiological monitoring and assessment response will be in support of, and coordinated with, that of the State and local governments with jurisdiction. The resources of DoE and the participating agencies will be used only when State and local resources are not adequate. All offsite activities will be coordinated with those of the State.

8. Federal assistance will be initiated when the Federal Radiological Emergency Response Plan is in effect, or through a request from a State or local government, another Federal agency or private entity, or (in rare cases) when DoE, after notification of an incident, but in the absence of implementation of the FRERP or formal State request, believes it must respond to meet statutory requirements to protect public safety. Whenever DoE responds without a State request, the State will be notified by DoE. Requests from private entities will be referred to the State before any decision on response is made to ensure there will not be a duplication of effort.

9. Agencies carrying out statutory responsibilities related to radiological monitoring and assessment during a Federal response will also coordinate their activities through DoE (or later, EPA). This coordination will not limit the normal working relationship between a Federal agency and its State counterpart nor restrict the flow of information from that agency to the State.

10. Federal agencies, as their resources permit, will assist other Federal agencies and State and local governments with planning and training activities designed to improve local response capabilities, and will cooperate in drills, tests, and exercises.

11. Appropriate independent emergency actions may be taken by the participating Federal agencies on their own authority to save lives, minimize immediate hazards, and gather information about the emergency that might be lost by delay. Such action will not preempt later implementation of the FRMAP.

12. Funding for each agency's participation in support of the FRMAP is the responsibility of that agency unless provided for by other agreements.

E. Organization

1. General Principles

The FRMAP addresses the coordination of the participating agencies' support of offsite monitoring and assessment efforts. The organization of the FRMAP emergency response and the roles of some agencies under FRMAP will depend on the specific emergency, but will follow the principles outlined in the Federal Radiological Emergency Response Plan. Information generated from the FRMAP response is provided to the CFA and to the appropriate State authorities.

2. Involvement of Non-Participating Agencies

In some cases, other Federal agencies may become involved with FRMAP activities. The State Department would be involved if an incident occurring within the United States or its territories affected areas outside United States territory or if monitoring efforts needed to be coordinated across an international border. The Federal Bureau of Investigation (FBI) would have the principal role in the investigation of all emergencies where terrorism or deliberate release of radioactive materials is suspected, or in cases of threats against nuclear facilities or materials. The major FBI interfaces, however, are expected to be with the CFA and FEMA. Even when the FBI is involved, DoE/EPA will coordinate monitoring functions with their State counterparts.

3. Coordination of a Limited Response

The FRMAP recognizes that the appropriate response to a request for Federal radiological assistance may take many forms, ranging from advice given by telephone to a large Federal monitoring and assessment operation at the scene of a serious emergency. Most of the following guidelines for participating agencies are designed for the latter situation, but the FRMAP is also applicable to lesser incidents where a limited response, possibly by DoE alone, is sufficient.

F. Responsibilities of Participating Agencies

1. Responsibilities During Emergencies

Cognizant Federal Agency. The CFA's primary emergency response responsibilities are stated in the previous chapter at C.1. The CFA will also contribute to the FRMAP as follows:

a. Ensure that DoE, Federal, State, and local officials are notified quickly of a radiological emergency;

b. Provide pertinent onsite technical and radiological data to the DoE or EPA Offsite Technical Director (OSTD) and State and local officials; and

c. Utilize FRMAP data, as appropriate, to develop the Federal technical recommendations on protective measures and evaluate the facility or radiological activity owner or operator's recommendations. The presentation of these recommendations to the State or other offsite authority will be coordinated with FEMA.

Department of Energy. DoE's offsite responsibilities are:

a. Coordinate the offsite radiological monitoring, assessment, evaluation, and reporting activities of all Federal agencies during the initial phases of an emergency while maintaining technical liaison with State and local agencies with similar responsibilities.

b. Maintain a common set of all offsite radiological monitoring data and provide these data and interpretation, including any Federal dose projections, to the CFA and the State on an expedited basis to assist in developing other protective measures and re-entry recommendations for the public. The CFA will provide these data to other appropriate Federal agencies requiring direct knowledge of radiological conditions.

c. With other appropriate agencies, including those agencies with responsibilities for the ingestion pathway (e.g., EPA, HHS, and USDA), help the CFA to assess the accident potential and to develop technical recommendations on protective actions, and assist the State in preparing re-entry recommendations and in recovery planning.

d. Provide the personnel and equipment required to coordinate and, in cooperation with other Federal components, to perform the offsite radiological monitoring and evaluation activities.

e. Request supplemental radiological monitoring assistance from other Federal agencies when needed, when requested to do so by the State, or if considered necessary to maintain the credibility of the offsite assessment.

f. Request meteorological, hydrological, geographical, etc., data needed for monitoring and assessment efforts.

g. Provide consultation and support services to all other entities (e.g., private contractors) with radiological monitoring functions and capabilities.

h. Assist HHS and other Federal, State, and local agencies by providing technical and medical advice on the methods of handling radiological contamination.

i. Assist the other Federal, State, and local agencies in early planning for decontamination and recovery of the offsite area and make recommendations to avoid the spread of contamination by improper emergency operations.

j. Provide telecommunications support to Federal agencies assisting in offsite radiological monitoring, if necessary.

k. Ensure the orderly transfer of responsibility for coordinating the intermediate and long-term radiological monitoring function to EPA at a mutually agreeable time after the initial phases of the emergency if the need for

Federal radiological assistance continues.

Environmental Protection Agency. EPA will assume the lead agency responsibility for coordinating the intermediate and long-term offsite radiation monitoring activities after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the requested resources, personnel, and funds for the duration of the Federal response effort. Once the coordination responsibilities are transferred from DoE and EPA, EPA will assume the DoE role described above. Prior to assuming coordination responsibility, EPA will function as one of the other participating agencies.

Federal Emergency Management Agency. FEMA has a major role in all situations involving a multi-agency response. In addition to coordinating the offsite (non-technical) response under the FRERP, FEMA may contribute to FRMAP by obtaining telecommunications and logistical support for agencies participating in radiological monitoring and assessment as requested by DoE or EPA as FRMAP coordinators.

Other Participating Agencies. Each participating agency will carry out its statutory responsibilities and any other responsibilities under the FRERP, if the FRERP is implemented, during the course of the radiological emergency. All radiological monitoring and assessment activities conducted as part of the statutory responsibilities will be coordinated with the other participating agencies through DoE and later, EPA. Each agency will make its radiological resources and capabilities available to the Federal assistance operations as resources permit.

2. Responsibilities for Training and Exercises

To improve the response capability of the participating agencies and the State and local personnel with whom they interact, the FRMAP encourages the development of training materials and presentation of training sessions by all agencies and at all levels. Radiological emergency response training should be oriented toward ensuring proper emergency actions at the scene of a radiological emergency, informing the public, and effecting a prompt return to normalcy. In addition to agency personnel, personnel who may be trained include those likely to be at the scene of the accident, such as personnel of a fixed nuclear facility, personnel providing emergency services, those experts responding to calls for radiological assistance, and local authorities who need to work with State and Federal emergency radiological assistance personnel. Federal assistance in training State and local government personnel is available through FEMA (under 44 CFR Part 351), using the technical expertise and resources of other FRMAP agencies.

Exercises of the FRMAP aspect of the FRERP are encouraged among Federal, State, and local agencies. Exercises may occur independently or in conjunction with other exercises, such as State/facility emergency plan exercises or exercises of the FRERP. Each agency should coordinate its training programs and exercises through the Federal Radiological Preparedness Coordinating Committee (FRPCC) Subcommittee on Training and Exercises to avoid duplication and to make its training available to other agencies. Each agency is encouraged to furnish training materials and training assistance, as its resources permit, when requested to do so by other agencies.

G. Types of Emergencies

Three types of emergencies have been previously described in the FRERP. Each type of emergency may present different types of response problems.

Fixed nuclear facilities, including nuclear power reactors, have the advantages of known locations and existing site-specific emergency plans. Classifications of incident severity have been development for many of these facilities, and the level of FRMAP response may be guided by these classifications. The NRC has adopted four classifications for incidents at commercial nuclear power plants: Notification of Unusual Event; Alert; Site Area Emergency; and General Emergency. DoD and DoE have chosen the same four classifications for their nuclear facilities, although the type of possible incident would depend on the type of facility. In general, for facilities using these classifications, offsite monitoring and assessment activities would be expected only during a Site Area Emergency or a General Emergency. Substantial offsite radiological problems would be expected only during or following a General Emergency condition. Mobilization and activation could occur under an Alert if degradation of the level of safety at the facility or other conditions (public concern, unfavorable weather, lack of resources) warrant such action.

Response to transportation accidents is more difficult to plan, as such accidents may occur anywhere, may involve a variety of radioactive materials, and may represent much less of a radiological hazard or serious threat to the public. In most cases, State resources or a limited Federal response will suffice.

H. Operating Procedures

1. Notification and Activation

Notification of DoE and other participating agencies may occur through an alert to a possible problem or a request for radiological assistance. DoE will maintain national and regional coordination offices as points of access to Federal radiological emergency assistance and response. Requests for Federal radiological assistance will generally be directed to the appropriate DoE Radiological Assistance Regional Coordinating Office. An exception to this is a request from the DoD, which will be made through the DoD-DoE Joint Nuclear Accident Coordinating Center (JNACC) at Kirtland AFB in Albuquerque, New Mexico. Requests might also go directly to DoE's Emergency Operating Center (EOC) in Germantown, Maryland.

Requests for radiological assistance may come from other Federal agencies, State or local governments, licensees for radioactive materials, industries, or the general public. Requests from the general public will be referred to the State before any decision on response is made to ensure there will not be a duplication of effort. Although activation of a response under the FRMAP can occur at the request of other agencies, authorities, and coordinating centers, a State request for assistance will be obtained before major offsite operations begin.

The DoE regional office may respond by dispatching a Radiological Assistance Program (RAP) team, by requesting assistance from a regional office of another participating agency, or by referring the request to an appropriate State agency that can provide prompt assistance. The State will be notified when a RAP team is being sent. In addition, the DoE regional office will notify the Director of DoE's Emergency Action and Coordination Team (EACT) through the Emergency Operating Center (EOC) when the DoE regional office needs assistance or has responded to a request for assistance. EACT may choose to alert or activate major DoE response resources. If the initial request comes directly to the EOC, its staff will alert or dispatch a RAP team from the appropriate regional office.

The DoE EOC will notify, as necessary, DoC/NOAA, DoD, DoI, EPA, FEMA, HHS, NRC, and USDA in

accordance with agreed-upon FRMAP notification procedures, to request their assistance if significant Federal involvement may be required. DoE, in its role as coordinator, may choose to contact, or may be contacted by, any of the participating agencies, but unless DoE is also the CFA, DoE will not be the primary source of general information about the incident.

Notification of FRMAP agencies may be delayed or omitted if necessary to avoid interfering with investigations of threats against nuclear facilities or materials. In some cases, notification may be made, but information not critical to the monitoring and assessment activities can be restricted by an ongoing criminal investigation. Restrictions on classified information may also prevent total disclosure to other participating agencies.

Agencies responding under FRMAP will usually arrive in stages, with advance teams preceding more fully equipped teams. Agencies will anticipate State needs to the maximum extent possible and respond as quickly as practical. However, it should be recognized that the logistics of any major response operation make the expectation of an immediate response to all State requests unrealistic.

2. Coordination at the Emergency Scene

DoE's Emergency Action and Coordination Team (EACT) at headquarters will designate an initial Off Site Technical Director (OSTD) for any emergency requiring more than a limited Federal response. The OSTD ensures that the DoE responsibility for coordinating offsite monitoring and assessment is met. Upon arrival at the scene of the emergency, the OSTD will contact the State or local agency responsible for radiological monitoring, and the senior officials of the CFA, FEMA, and EPA present at the emergency scene.

The person designated as OSTD may vary as the nature and degree of response change. For example, the OSTD will generally be the RAP team captain during the early response. As additional resources or additional RAP teams arrive, EACT may designate a higher-level official from a regional office of an official from DoE headquarters as OSTD. DoE will notify the appropriate participating agencies when these designations are made. In emergencies where DoE is also the CFA or has onsite responsibilities by agreement, the OSTD will coordinate the FRMAP activities, reporting to the CFAO through the designated DoE Team Leader. (The DoE Team Leader is the DoE official who coordinates the total DoE response.)

The OSTD is responsible for establishing a Federal Radiological Monitoring and Assessment Center (FRMAC) to be used as a coordination center for Federal monitoring efforts. This center need not be located near the emergency site or the Federal Response Center (FRC) as long as its actions can be coordinated with those centers. In some instances, the FRMAC location may have already been determined and included as part of a Federal agency, State, or local emergency plan. When the FRMAC location has not been previously determined, a location will be selected after conferring with the State. The location of the FRMAC will be reported to the CFA, FEMA, and State officials at the scene, and DoE headquarters will inform the headquarters of other appropriate participating agencies. When the FRC and FEMA and not located together, the OSTD will designate a liaison to the FRC and FEMA will designate a liaison to the FRMAC to facilitate coordination between centers. Representatives of all agencies participating in the FRMAP response should be present in the FRMAC, if possible.

The DoE OSTD will work closely with the EPA Radiological Response Coordinator to facilitate a smooth transition of the coordination responsibility to EPA at a mutually agreeable time and after consultation with the State. It is difficult to specify in advance when this transfer could occur, but it would generally be expected to take place after the immediate emergency situation is stabilized, offsite releases of radioactive material have ceased, and the offsite radiological conditions have been documented and their consequences have been assessed. In the case of an accident at a nuclear power plant, for instance, the transfer of responsibility might take place at a mutually agreeable time after NRC has determined the plant to be in stable condition.

After this transfer, a person designated by EPA's Office of Radiation Programs will serve as the OSTD and will assume the coordination responsibilities of the DoE OSTD. Other participating agencies will be responsible for coordinating their monitoring activities through the EPA OSTD as long as the FRMAP response continues.

3. Public Information

Public information activities relative to FRMAP operations will be coordinated in accordance with the FRERP. Each particiating agency is responsible for preparation of press releases about its own response activities in support of FRMAP. However, information for the public about the results of the Federal radiological monitoring should be coordinated through the CFA and FEMA. The participating agencies may supply public information personnel or technical experts to assist the CFA, FEMA, or State in their public information efforts.

Security considerations may restrict available information when classified nuclear material or facilities are involved. Information may also be temporarily withheld from the public in emergencies involving terrorism or sabotage to avoid interfering with an ongoing criminal investigation.

When the Federal response is limited, public information may be handled locally by appropriate Federal or local officials.

4. Congressional Information

Responses to Congressional requests for information will be coordinated among the Federal agencies as provided for in the FRERP.

5. Reimbursement

As stated in Section D, funding for each agency's participation in support of FRMAP is the responsibility of that agency, unless other agreements are in effect. This will be the case regardless of whether the activities were initiated by statutory responsibilities or by the request of another agency.

I. Supporting Agreements

Several interagency agreements have been signed that pertain to the offsite monitoring and assessment activities covered by FRMAP. Authority for each agency's role during a radiological emergency is contained within the authorities cited in each agency's response plan summary in the following chapter.

IV. Federal Agency Interfaces and Response Plan Summaries

To facilitate the coordination of Federal agency response actions, this section defines and summarizes Federal agency interfaces—those activities for which two or more agencies have related responsibilities. The interfaces among Federal agencies are determined in large part by the nature and severity of given emergencies. This section also contains summaries of the response plans of the participating Federal agencies, which provide agency mission statements, contact points for

notification, Federal interfaces, plan references, and sources of authority.

A. Federal Agency Interfaces

Federal agency interfaces are necessary for a coordinated Federal response. These interfaces, describing how various Federal agencies will work together, are the planning elements that promote coordination in the Federal response. Some of these interfaces were described explicitly in the preceding sections; others are in the individual agency response plans and procedures. The interfaces are summarized and catalogued alphabetically in this section to provide a comprehensive reference list for participating agencies and other offsite authorities. This catalogue also serves as a glossary, since only the titles of these interfaces are used in the agency response plan summaries that follow.

Activation and Deployment (Procedures)

FEMA will execute operational response procedures as agreed to with each potential CFA to ensure that notification, activation, and deployment of Federal agencies take place in a timely, efficient, and mutually agreeable manner and in accordance with procedures in their agency plans.

Advise on Transportation of and to Emergency Housing

HUD may consult with DoT for advice on the best means for transporting dislocated persons to emergency housing or on transporting emergency housing to dislocated persons.

Congressional Information

Agency Congressional Liaison Officers (CLOs) will coordinate Congressional requests with the CFA Congressional Liaison Officer at headquarters or the FEMA CLO who will be the Congressional point of contact at the scene of the emergency. The CFA Headquarters CLO and FEMA CLO will keep in frequent contact.

Coordination (Liaison)

Agencies will provide or exchange liaison representatives, as necessary, to assist in the exchange of information among agencies.

Coordination (Offsite)

Federal agencies providing offsite assistance to State and local government agencies will coordinate this assistance through the SFO whenever Federal agencies share the implementation of certain responsibilities or when their activities may impinge on the actions of other agencies.

Coordination (Onsite/Offsite)

The SFO and the CFAO will work together directly and through their representatives at the scene, whether co-located or located at separate response centers, to coordinate the response efforts of the Federal agencies offsite with the response efforts of the CFA and owner or operator onsite.

Designation of Agency Lead Official

Each agency will exchange with FEMA appropriate information about its designated lead official and personnel at the scene, if any.

Emergency Shelter Availability

HUD and HHS will coordinate their assistance to State and local government officials in providing emergency shelter for relocated persons.

Federal Lands

The CFA and FEMA will coordinate with any affected Federal land management agencies (DoI, USDA, DoD, TVA) about response activities to ensure that they are consistent with governing Federal statutes.

Federal Response Center

Upon notification by FEMA of the location and establishment of the Federal Response Center, each Federal agency with representatives at the scene of the emergency will provide representation to the Center if possible.

FRMAP (Coordination With FRERP)

DoE or EPA will coordinate FRMAP monitoring and assessment activities with other Federal offsite assistance being provided to the State through the SFO.

FRMAP (Liaison)

Upon arrival at the scene, the DoE Offsite Technical Director (OSTD) will establish liaison with State and local officials, the CFA, FEMA, and EPA.

FRMAP (Monitoring Results)

DoE will coordinate Federal monitoring activities for the CFA and in support of the State during the initial stages of the emergency. The CFA, other Federal agencies, and the State will work with DoE to develop a comprehensive assessment of the offsite radiological monitoring data. The results of the assessment will be provided to the CFA and the State for further evaluation and distribution.

FRMAP (Notification)

DoE will notify Federal agencies that have FRMAP responsibilities in accordance with agreed-upon notification procedures.

FRMAP (Resources)

In making their resources available to support the FRMAP, all participating Federal agencies will coordinate their activities with DoE. When EPA has assumed the coordination responsbilities from DoE, participating Federal agencies will coordinate their activities with EPA.

FRMAP (Transition)

After the emergency phase of the response, DoE will transfer FRMAP coordination responsibilities to EPA at a mutually agreeable time.

Food/Feed Availability

USDA and HHS will coordinate their assistance to State and local government officials to ensure the availability of food and feed during emergencies.

Food/Feed Safety Recommendations

HHS and USDA, in coordination with the CFA, will jointly develop recommendations concerning the safety of food and animal feed.

Impact Assessment (Agriculture)

USDA will coordinate with HHS and EPA to assist State and local officials, as requested, in the disposition of contaminated livestock and poultry.

Impact Assessment (Health)

HHS will assist the CFA, FEMA, EPA, DoE as FRMAP coordinator, and, if requested, the State in assessing the impact of the radiological emergency on the health of persons in the affected area.

Indian Tribes

DoI (tribal government and trust resources issues) and HHS (health and safety issues) are available to assist the CFA and FEMA in consulting and coordinating with Federally recognized Indian tribes about incidents, responses, and protective measures affecting them.

Information Exchange

FEMA will establish a mechanism to facilitate the timely exchange of information among responding Federal agencies.

Information Requirements

CFA, DoE/EPA, and FEMA will satisfy the mutually agreed-upon information requirements specified by

each participating Federal agency during the planning process.

International Cooperation (CFA)

The CFA, in consultation with FEMA, the Department of State, and other Federal agencies as appropriate, will cooperate with government counterparts in Canada and Mexico as agreed to in already established protocols in responding to radiological emergencies occurring near U.S. borders. The CFA will also provide appropriate and timely information directly to its counterparts in Mexico and Canada at the time of emergency.

International Cooperation (FEMA)

FEMA will work with the Department of State and other Federal agencies at the time of an emergency to ensure that affected or potentially affected countries are kept fully informed.

Logistical Support for Federal Agencies

FEMA will assist in obtaining resources needed by the CFA and other Federal agencies at the emergency scene.

Marine Fishery Product Safety

The Department of Commerce will provide support to HHS/FDA at its request on matters of fishery product safety (marine areas only).

Monitoring Resources (EPA)

EPA will provide resources to assist DoE in monitoring radioactivity levels in the environment during the emergency phase of the incident and, during the intermediate and long-term phase, will coordinate Federal radiological monitoring and the evaluation of actual environmental impact.

Notification (CFA)

The CFA, after receiving notification of the emergency, will notify FEMA and other Federal agencies in accordance with the CFA's notification procedures. This notification will include a description of the CFA's response status and current activities, a general assessment of the emergency, and any other information available.

Notification (FEMA)

FEMA will notify Federal agencies of the emergency situation and supply them with all relevant information available.

Other Protective Measures and Re-entry Recommendations (RERs) (Development)

The CFA will consult as appropriate with FEMA, DoE, EPA, HHS, USDA, and other Federal agencies in developing advice for the State regarding other protective measures and re-entry recommendations for the public.

Other Protective Measures and Re-entry Recommendations (RERs) (Presentation)

The CFA, in conjunction with FEMA and other appropriate Federal agencies, will present a coordinated Federal position on other protective measures and re-entry recommendations for the public to the State or other appropriate offsite authorities.

Protective Action Recommendations (Development)

Unless the public health and safety are in imminent peril, the CFA will consult as appropriate with FEMA, HHS, EPA, USDA, DoE, and other Federal agencies in preparing a coordinated Federal position on protective action recommendations, taking into consideration appropriate Federal and State Protective Action Guides when such recommendations are necessary.

Protective Action Recommendations (Presentation)

Unless the public health and safety are in imminent peril, the CFA, in conjunction with FEMA, will present an evaluation of protective action recommendations (PARs) to the State or other appropriate offsite authority, as requested.

Protective Action and Re-entry Recommendations Dissemination (CFA)

The CFA will inform DoE or EPA, as coordinators of Federal offsite radiological monitoring, of protective action and re-entry and other protective measures recommendations made to the State, and of any decisions or actions taken by the State based on those recommendations.

Protective Action and Re-entry Recommendations Dissemination (FEMA)

FEMA shall inform Federal agencies at the national level and at the Federal Response Center of protective action and re-entry recommendations made to the State and of any decisions or actions taken by the State based on those recommendations.

Protective Action Implementation (Food)

USDA, in coordination with HHS, will assist State and local officials in the implementation of protective measure to minimize radiation exposure to the public through food ingestion, and will inform FEMA of such assistance.

Public Information Releases from Headquarters

Federal agencies' headquarters PIOs will either channel media information requests to the CFA's PIO at the CFA headquarters or coordinate their intended public information releases through him/her prior to release.

Public Information Releases from the JIC

Federal agencies' PIOs will work together to promote the coordinated release of public information through the JIC.

Radiation Victim Care advice

DoE will provide HHS and other Federal, State, and local agencies with advice and medical resources to the extent available to assist in the handling and care of radiation accident victims if requested.

Recovery Planning

Prior to the Deactivation of the Federal response, FEMA will coordinate Federal assistance to the State, as requested, in planning for offsite recovery.

Status Updates

Agencies at the scene of the emergency prior to the arrival of the CFA, FEMA, and DoE will provide a status update on their activities when each of these agencies arrives at the scene of the emergency. Subsequent agency status updates will be provided to the CFA, FEMA, and DoE on a recurring basis as requested and to EPA upon transfer of the FRMAP coordination responsibility from DoE.

Water Projects

Federal water resources project managers (DoD, DoI, TVA) will coordinate the operation of their projects with the appropriate agencies to ensure protection of municipal (EPA) and agricultural (USDA) water supplies and fish and wildlife (DoC, DoI) during radiological emergencies.

DoC and DoD will provide weather support capabilities for radiological emergencies, backing up one another when required, and may call on additional support from other agencies, as necessary.

White House Information

The CFA will notify the White House of the incident. After the initial report, the CFA will prepare the section of FEMA's White House reports dealing with onsite conditions and their actual or potential offsite impacts. Based on information provided by the SFO and the other Federal agencies, FEMA will

provide periodic executive summaries to the President and advise the White House daily of the overall Federal response.

White House Responses

All responses to the White House will be coordinated with FEMA. The agency receiving the inquiry will have lead responsibility for preparing and transmitting the response.

B. Summaries of Federal Agency Response Plans

This section provides summaries of the response plans prepared by participating Federal agencies:

Department of Commerce (DoC)
Department of Defense (DoD)
Department of Energy (DoE), CFA and FRMAP
Department of Health and Human Services (HHS)
Department of Housing and Urban Development (HUD)
Department of the Interior (DoI)
Department of Transportation (DoT)
Environmental Protection Agency (EPA)
Federal Emergency Management Agency (FEMA)
National Communications System (NCS)
Nuclear Regulatory Commission (NRC)
U.S. Department of Agriculture (USDA)

Each summary provides a mission statement, the agency contact point for notification, Federal agency interfaces, assistance responsibilities to Federal, State, and local governments, agency response plan and procedure references, and sources of agency authority. For ease of updating, emergency telephone and facsimile numbers are provided in Appendix C.

Department of Commerce Response Plan Summary

1. Summary of Response Mission

The National Oceanic and Atmospheric Administration (NOAA) is the primary agent within the Department of Commerce responsible for providing assistance to the Federal, State, and local organizations responding to a radiological emergency. NOAA's responsibilities include: Acquiring weather data and providing weather forecasts in connection with the emergency; disseminating weather and emergency information; and ensuring that marine fishery products available to the public are not contaminated.

2. Point of Notification at DoC Headquarters

Contact Person's Title: Chief, Applied Services Branch.

Contact Person's Organization: National Weather Service Headquarters.

Alternate Emergency Point of Contact: NOAA/NWS Communications Branch.

3. Federal Department or Agency Interfaces

Listed below are DoC's interfaces with other Federal departments and agencies in responding to a radiological emergency.

DEPARTMENT OF COMMERCE FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible DoC organization
Status updates, information requirements, and public information releases from Joint Information Center (JIC).	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	NOAA.
Federal response center	FEMA	NOAA.
Recovery planning	FEMA	NOAA/National Marine Fisheries Service (NMFS).
Public information from headquarters, and congressional information.	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	NOAA.
Notification	FEMA, NRC	NOAA/National Weather Service (NWS).
Fishery Product Safety	HHS/FDA	NMFS.
Information exchange, logistical support for other Federal agencies, coordination (offsite), and designation of agency lead official.	FEMA	NOAA.
Water projects	DoD (Army Corps of Engineers), DoI, USDA	NOAA/NMFS.
Weather support	DoD	NWS.
FRMAP (notification)	DoE	NWS.
FRMAP (resources)	DoE, EPA	NWS.
White House responses	FEMA	NOAA.

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Prepare and disseminate forecasts and warnings for sever weather such as hurricanes, tornadoes, severe thunderstorms, floods, extreme winter weather, and tsunamis to local officials and the general public.
- Broadcast, watches and warnings of natural disasters prepared by NOAA, and radiological emergency warnings approved by the States, over NOAA Weather Radio and other NOAA dissemination systems.
- Provide to the CFA, DoE, and the State, current and forecast meteorological information about wind speed and direction, low level stability, precipitation, and other meteorological and hydrological factors affecting the transport or dispersion of radioactive materials (gaseous, liquid, particulate).
- Provide support to HHS/FDA at its request, through the National Marine Fisheries Service (NMFS), in order to avoid human consumption of contaminated commercial fishery products. (Marine areas only.)

5. DoC Response Plan and Procedure References

Agency Response Plan

1. *National Plan for Radiological Emergencies at Commercial Nuclear Power Plants.* Federal Coordinator for Meteorological Services and Supporting Research, National Oceanic and Atmospheric Administration, November 1982.

6. DoC Specific Authorities

- *Department of Commerce Organization Order 25–5B,* as amended August 18, 1980.

Department of Defense Response Plan Summary

1. Summary of Response Mission

a. The Department of Defense is charged with the safe handling, storage, maintenance, assembly, and transportation of nuclear weapons, nuclear weapon components, and other radioactive material in DoD custody, and with the safe operation of DoD nuclear facilities. Inherent in this responsibility is the requirement to protect life and property from any health or safety hazards that could ensue from an accident or significant incident associated with these materials or activities. To fulfill these responsibilities, the DoD has issued plans and policy guidance requiring the development of a well-trained and equipped nuclear accident response organization. It should be noted that in

order to protect national security information, policy guidance prohibits public release of information that identifies storage locations of nuclear materials, schedules of transportation of nuclear materials, or the schedules of nuclear-powered vessels. For a non-DoD radiological emergency, the DoD will support the CFA and FEMA within the constraints of national security, as approved by DoD policy or OSD.

b. For DoD radiological emergencies, the responsibility for onsite Command and Control at the scene of a nuclear accident or significant incident is assigned to:

(1) The Service or Agency in charge of a DoD installation, DoE facility, naval ship, or assigned geographic area where the accident or incident occurs.

(2) The Service or Agency having custody of the material at the time of the accident or significant incident if the accident occurs beyond the boundaries of a DoD installation, DoE facility, naval ship, or geographic area.

c. The National Military Command Center (NMCC) is responsible for initial national-level command and control and response of DoD resources and personnel until conditions have stabilized. Command and Control will be transferred to the responsible Service Operations Center, as Directed by the Secretary of Defense or his authorized representative. The NMCC will continue to provide information and support as required.

2. Point of Notification at DoD

Contact Person's Title: Deputy Director of Operations (DDO).

Contact Person's Organization: National Military Command Center, Organization of the Joint Chiefs of Staff.

3. Federal Department or Agency Interfaces

Listed below are DoD's interfaces with other Federal departments and agencies in responding to a radiological emergency.

DEPARTMENT OF DEFENSE FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible DoD organization
Notification (CFA)	DoE, FEMA	NMCC.
Activation and deployment (procedures)	FEMA	NMCC.
Status updates	White House situation room, EPA, FEMA, USDA, HHS, DoE, NRC, DoJ.	NMCC.
Federal lands	DoE, DoI, USDA	NMCC.
FRMAP (notification)	EPA, HHS, USDA, DoC, DoE	NMCC.
FRMAP (coordination with FRERP)	DoE	NMCC.
FRMAP (liaison)	FEMA, DoE	NMCC.
Indian tribes	DoI, HHS	NMCC.
Recovery planning	FEMA	Service Operations Center, OSC.
Information exchange, public information releases from the JIC, public information releases from headquarters.	DoE (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	NMCC, OSD or service public affairs.
PAR (development)	FEMA, EPA, HHS, USDA, DoE (FRMAP), EPA (FRMAP)	NMCC.
PAR (presentation)	FEMA	NMCC.
RER (development)	FEMA, EPA, HHS, USDA	Service Operations Center, OSC.
RER (presentation)	FEMA	Service Operations Center, OSC.
PAR and RER dissemination (CFA)	DoE (FRMAP), EPA (FRMAP)	Service Operations Center, OSC.
Congressional information	FEMA, DoE (CFA), NRC	OSD or service public affairs, congressional liaison offices.
Logistical support for the CFA	FEMA	NMCC or Service Operations Center.
Logistical support for Federal agencies	FEMA	Service Operations Center, OSC.
Coordination (onsite/offsite)	FEMA	Service Operations Center, OSC.
Designation of agency lead official	FEMA	NMCC (initially), Service Operations Center (subsequent).
Federal response center	FEMA	NMCC.
Water projects	DoI	Army Corps of Engineers.
White House information, White House responses	FEMA	OSD.

4. Responsibilities for Assistance to Federal, State, and Local Governments

a. The DoD has the responsibility to assist Federal, State and local authorities in the event of a DoD radiological emergency. An on-scene commander will be assigned and will assist the offsite response, in coordination with FEMA, to ensure the public is protected.

The State Governor is responsible for the health, safety and welfare of individuals within the territorial limits of the State during periods of emergency or crisis and may be expected to direct measures that must be taken to satisfy that responsibility. The DoD shall assess the nature and extent of the radiological emergency and the potential offsite effects on the public health and safety and, in coordination with FEMA, advise the State and local agencies of appropriate response measures.

Offsite authority and responsibility at a nuclear accident rest with State and local officials. It is important to recognize that for nuclear weapons or weapon component accidents, land may be temporarily placed under effective Federal control by the establishment of a National Defense Area (NDA) or National Security Area (NSA) to protect U.S. government classified materials. These lands will revert back to State control upon disestablishment of the NDA or NSA

b. The DoD will provide assistance to Federal, State and local governments in the event of a non-DoD radiological emergency in accordance with DoD policy or as approved by OSD subject to essential operational requirements. Assistance in the form of manpower, logistics and telecommunications, including airlift services may be provided, when available, upon the request of the CFA or FEMA. Requests for assistance must be directed to the NMCC or through channels established by prior agreements.

5. DoD Response Plan and Procedures References

Agency Response Plan

1. *Nuclear Weapon Accident Response Procedures (NARP) Manual*—January 1984.

2. DoD Instruction 5100.52 *Radiological Assistance in the Event of Accident Involving Radiological Materials*—10 March 1981.

3. DoD Directive 5230.16 *Nuclear Accident and Incident Public Affairs Guidance*—7 February 1983.

4. DoD Directive 3025.1 *Use of Military Resources During Peacetime Civil Emergencies Within the United States, its Territories and Possessions*—23 May 1980.

6. DoD Specific Authorities

- The Atomic Energy Act of 1954, as amended.
- Pub. L. 97-351 "Convention on the Physical Protection of Nuclear Material Implementation Act of 1982".

Department of Energy Response Plan Summary (CFA)

1. Summary of Response Mission

The Department of Energy owns and operates a variety of fixed nuclear facilities and activities throughout the United States. Most of these facilities are located on large, government-owned reservations, and are operated by extensive technical staffs under the direction of DoE. Subject to review and concurrence by DoE headquarters, DoE officials at these field facilities are responsible for the preparation of emergency plans and procedures for all nuclear activities under their jurisdiction. DoE field officials have the authority to initiate immediate emergency response procedures, direct emergency shutdown operations, or place in safe condition the nuclear facilities and activities under their cognizance. DoE is the Cognizant Federal Agency (CFA) for nuclear activities under its jurisdiction. All field emergency activities are coordinated with appropriate headquarters officials, including the Director, Emergency Action and Coordination Team (EACT).

DoE field officials are also required to assist State and local authorities, within the constraints of national security and in coordination with FEMA, in the preparation of those portions of their radiological emergency plans related to DoE nuclear facilities.

As part of its preparedness activities, DoE maintains extensive, field-based radiological emergency response resources for deployment under the FRMAP.

2. Point of Notification at DoE Headquarters

Contact Person's Title: Emergency Coordinator.

Contact Person's Office: DoE Emergency Operations Center (EOC).

Contact Person's Emergency Location: DOE EOC.

3. Federal Department or Agency Interfaces

Listed below are the DoE's interfaces with other Federal departments or agencies in responding to a radiological emergency at a DoE facility:

DEPARTMENT OF ENERGY FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible DoE organization
Notification (CFA)	FEMA, NRC, EPA, HHS	EACT, field.
Activation and deployment (Procedures)	FEMA	EACT.
Status updates	DoC, DoD, NRC, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	Emergency action and coordination team (EACT), field.
Federal lands	DoD, DoI, USDA	EACT, field.
FRMAP (resources)	NRC, EPA, DoC, DoD, DoI	EACT, field.
Impact assessment (health)	HHS, EPA	Field, EACT.
Indian tribes	DoI, HHS	Field, EACT.
Information exchange	DoC, DoD, NRC, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	EACT, field.
Public information releases from headquarters, public information releases from JIC.	DoD (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	EACT, Assistant Secretary for Congressional, intergovernmental and public affairs (ASCP) or field.
Congressional information	DoC, DoD, NRC, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	ASCP.
PAR (development)	FEMA, NRC, EPA, HHS, USDA	
PAR and RER dissemination (CFA)	DoE (FRMAP), EPA (FRMAP)	Field, EACT.
PAR (presentation), logistical support for Federal agencies, coordination (onsite/offsite), information exchange, White House information, designation of agency lead official, international cooperation (CFA), Federal response center.	FEMA	Field, EACT.
RER (development)	FEMA, EPA, HHS, USDA	Field.
RER (presentation)	FEMA	
Recovery planning	FEMA	As designated.
White House information, White House responses	FEMA	EACT.

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety. Advise the State and local agencies based on this assessment.
- Develop Federal recommendations on protective actions for State and local governments that consider, as appropriate, all substantive views of other Federal agencies. Whenever possible, coordinate presentation of protective action recommendations with FEMA prior to or during their presentation to appropriate State and local officials (the State Governor or designee), except in situations of imminent peril to the public health and safety where the DoE may be required to make independent contact with State and local officials.
- Provide for the release of public information concerning the radiological emergency, except for the release of information classified for national security purposes. Coordinate such releases to the extent possible with the Senior FEMA Official, other Federal agencies, and the State to provide consistent and accurate information to the public by the most expeditious means.

5. DoE Response Plan and Procedure References

- *Emergency Planning, Preparedness, and Response for Operations*, Order DoE 5500.2, August 1981.
- *Reactor and Nonreactor Facility Emergency Planning, Preparedness, and Response Program for Department of Energy Operations*, Order DoE 5500.3, August 1981.
- *Public Affairs Policy and Planning Requirements for Emergencies*, Order DoE 5500.4, August 1981.
- *Response to Accidents and Significant Incidents Involving Nuclear Weapons*, Order DoE 5530.1, January 1983.

6. DoE Specific Authorities

- *Atomic Energy Act of 1954* as amended.
- *Energy Reorganization Act of 1974.*
- *Department of Energy Organization Act of 1977.*
- *Nuclear Waste Policy Act of 1982 (Public Law 97–425).*

Department of Energy Response Plan Summary (FRMAP)

1. Summary of Response Mission

Independent of its responsibilities as a CFA, the Department of Energy (DoE) maintains and implements, during the initial phase of a radiological emergency, the Federal Radiological Monitoring and Assessment Plan (FRMAP). Under FRMAP DoE provides

and coordinates Federal offsite radiological monitoring and assessment support to the CFA and to the State and local governments. DoE's support is augmented by several other Federal agencies including FEMA, NRC, EPA, HHS, USDA, DoC, DoD, and DoI. The FRMAP establishes the framework for coordinating the monitoring and assessment activities of the Federal agencies.

2. Point of Notification at DoE Headquarters

Contact Person's Title: Duty Officer.

Contact Person's Organization: Emergency Action and Coordination Team.

Contact Person's Emergency Location: Emergency Operations Center.

3. Federal Department or Agency Interfaces

Listed below are the DoE's interfaces with other Federal agencies and departments in responding to a radiological emergency. DoE's Radiological Control Division is largely responsible for coordinating DoE's reponse effort within DoE and among the Federal agencies.

DEPARTMENT OF ENERGY FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible DoE organization
Status updates	NRC (CFA), EPA, FEMA, DoC, USDA, HHS, DoI, DoD (CFA), DoE (CFA).	Radiological assistance program (RAP) team.
FRMAP (notification)	EPA, HHS, USDA, DoC, DoT, DoI, DoD (CFA), NRC (CFA), DoE (CFA).	Emergency action and coordination team (EACT).
FRMAP (coordination with FRERP)	EPA, HHS, USDA, DoC, DoI, DoD (CFA), NRC (CFA), DoE (CFA), FEMA.	RAP team/offsite technical director (OSTD).
FRMAP (liaison)	EPA, FEMA, NRC, DoD, DoE (CFA), EPA	RAP team/OSTD.
FRMAP (monitoring results)	NRC (CFA), DoD (CFA), DoE (CFA), EPA	RAP team/OSTD.
FRMAP (transition)	EPA	EACT, RAP team/OSTD.
Recovery planning	FEMA	As designated.
Information exchange, public information releases from the JIC	DoD (CFA), NRC (CFA) during emergency phase	RAP team/OSTD.
Public information releases from headquarters	FEMA during recovery phase	EACT.
Congressional information	FEMA, NRC (CFA), DoD (CFA), DoE (CFA), EPA	Assistant Secretary for congressional, intergovernmental, and public affairs.
PAR (development)	NRC (CFA), DoD (CFA), DoE (CFA)	RAP team/OSTD.
Radiation victim care advice	HHS	Radiological emergency assistance center/training site (REAC/TS).
Logistical support for Federal agencies	FEMA	RAP team/OSTD.
Coordination (offsite)	FEMA	RAP team/OSTD, EACT.
Designation of agency lead official	FEMA	EACT.
Federal response center	FEMA	RAP team/OSTD.
White House responses	FEMA	EACT.

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Coordinate the offsite radiological monitoring, assessment, evaluation, and reporting of all Federal agencies during the initial phases of an incident, and maintain liaison with State and local agencies with similar responsibilities.
- Maintain a common set of offsite radiological monitoring data, and provide it with interpretation to the CFA and to appropriate State and local agencies requiring direct knowledge of radiological conditions.
- Provide HHS and other Federal, State, and local agencies with technical and medical advice concerning treatment of radiological contamination, if requested.

5. DoE Response Plan and Procedure References

Agency Response Plan

1. The Federal Radiological Monitoring and Assessment Plan Chapter III of the FRERP Interagency Procedures

1. *Agreement between ERDA and NRC for Planning, Preparedness, and Response to Emergencies* March 8, 1977

2. *Operational Response Procedures (ORPs) Developed Between HHS, DoE, EPA, and the NRC* 1983

3. *DoE-EPA Letter of Agreement on Notification of Incidents at DoE Facilities* January 18, 1978

4. *National Plan for Radiological Emergencies at Commercial Nuclear Power Plants*, DoC–NOAA, November 1982.

6. DoE Specific Authorities

- *The Energy Reorganization Act of 1974* (Pub. L. 93–438).
- *The Department of Energy Organization Act of 1977* (Pub. L. 95–91).

Department of Health and Human Services Response Plan Summary

1. Summary of Response Mission

In a radiological emergency, the Department of Health and Human Services (HHS) assists with the assessment, preservation, and protection of human health and helps ensure the availability of essential human services. HHS provides technical and nontechnical assistance in the form of advice, guidance, and resources to Federal, State, and local governments.

2. Point of Notification at HHS Headquarters

Contact Person's Title: Emergency Coordinator.

Contact Person's Division: Division of Emergency Coordination.[1]

Contact Person's Emergency Location: Emergency Operating Center, Room 3B–10, Hubert H. Humphrey Building, Washington, D.C. 20201.

3. Federal Department or Agency Interfaces

Listed below are HHS's interfaces with other Federal departments and agencies in responding to a radiological emergency.

[1]The Emergency and Epidemiological Operations Branch (EEOB) and the Office of Health Physics (OHP), Food and Drug Administration (FDA), Public Health Service, have made special arrangements with the Cognizant Federal Agencies (CFAs) for direct notification in a radiological emergency.

DEPARTMENT OF HEALTH AND HUMAN SERVICES FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible HHS organization
Notification (FEMA)	FEMA	Emergency coordinator, regional emergency coordinator.
Status updates	FEMA, DoD (CFA), DoE (Not as (CFA)), DoE (CFA), NRC (CFA).	Emergency coordinator, regional emergency coordinator.
Information exchange logistical support for Federal agencies	FEMA	Emergency coordinator, regional emergency coordinator, operating division(s).
Coordination (offsite)	FEMA	Regional emergency coordinator (OS), Public Health Service (FDA).
Coordination (liaison)	USDA	Public Health Service.
Information requirements	DoD (CFA), DoE (CFA), NRC, FEMA	Public Health Service, Office of the Secretary.
Designation of agency lead official	FEMA	Office of the Secretary (OS).
Public information releases from headquarters, public information releases from the JIC.	DoD (CFA), DoE (CFA), NRC (CFA), during emergency phase; FEMA during recovery phase.	Office of public affairs/OS.
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Office of legislative liaison/OS.
Recovery planning	FEMA	Public Health Service (CDC/FDA/HRSA), SSA.
Federal response center	FEMA	Regional emergency coordinator.
PAR (development), RER (development)	DoD (CFA), DoE (CFA), NRC (CFA), EPA, USDA	Public Health Service (CDC/FDA/HRSA).
Impact assessment (health)	DoD (CFA), DoE (CFA), NRC (CFA), EPA	Public Health Service (CDC/FDA/HRSA).
Impact assessment (agriculture)	USDA, EPA	Public Health Service (FDA).
Indian tribes	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Public Health Service (CDC/FDA/HRSA).
FRMAP (resources)	DoE, EPA	Public Health Service (FDA).
Radiation victim care advice	DoE	Public Health Service (HRSA, CDC).
Fishery product safety	DoC	Public Health Service (FDA).
Food availability	USDA	Public Health Service (FDA), Social Security Administration (OFA), Human Development Services (OPCR).
Food/feed safety recommendations, protective action implementation (food).	USDA, DoD (CFA), DoE (CFA), NRC (CFA)	Public Health Service (FDA).
Emergency shelter availability	HUD	Human Development Services.
White House responses	FEMA	Office of the Secretary (OS).

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Assist State and local government officials with jurisdiction in evacuating and relocating persons from the affected area as requested. Ensure the availability of health and medical care, food, emergency shelter, clothing, and other human services, especially for the aged, the poor, the infirm, the blind, and others most in need;
- Provide grants for crisis counseling to victims in affected geographic areas;
- Provide guidance to State and local officials with jurisdiction on the use of radio-protective substances (e.g., thyroid blocking agents), including doasage and also projected radiation doses that warrant the use of such drugs;
- Based on information from DoE's REACS/TS personnel, advice medical care personnel regarding proper medical treatment of people exposed to or contaminated by radioactive materials;
- Provide advice and guidance to State and local officials with jurisdiction and the CFA, if requested, in assessing the impact of the effects of radiological incidents on the health of persons in the affected area;
- Provide advice and guidance to State and local officials with jurisdiction and the CFA, if requested, in assessing the impact of the effects of radiological incidents on the health of persons in the affected area;
- Provide resources, in coordination with the U.S. Department of Agriculture, to ensure that food and animal feeds are safe for consumption;
- Assist, in coordination with the U.S. Department of Agriculture, in developing technical recommendations for State and local officials with jurisdiction regarding protective measures related to food and animal feed;
- Provide guidance to State and local governments on protective action guides for food and animal feeds; and
- Provide guidance to State and local health officials with jurisdiction when requested on disease control measures and epidemiological surveillance of exposed populations.

5. HHS Response Plan and Procedure References

Agency Response Plan

1. *The Department of Health and Human Services Response Plan for Radiological Emergencies (Draft)* Division of Emergency Coordination March 14, 1983.

Interagency Procedures

1. *Delegation of Authority—Emergency Preparedness Functions* Division of Emergency Coordination December 21, 1981.

2. *Emergency Planning and Operations Manual* Division of Emergency Coordination July 1, 1983.

3. *Disaster Response guides* Operating Divisions Various Dates.

6. HHS Specific Authorities

- *Older Americans Act.*
- *Public Health Service Act.*
- *Food, Drug, and Cosmetic Act of 1938.*
- *Snyder Act,* 25 U.S.C. 13 (1921).
- *Transfer Act,* Pub. L. 83–568.
- *Indian Health Care and Improvement Act,* (Pub. L. 14–437).
- *Federal Civil Defense Act of 1950.*
- *Disaster Relief Act of 1974,* (Pub. L. 93–288)—Section 413, Crisis Counseling, Administration, Training.

Department of Housing and Urban Development Response Plan Summary

1. Summary of Response Mission

The Department of Housing and Urban Development (HUD) provides information on available housing for disaster victims or displaced persons. HUD assists in planning for and placing homeless victims by providing emergency housing and technical and support staff within available resources.

2. Point of Notification at HUD Headquarters

Contact Person's Title: Emergency Coordinator.

Contact Person's Office: Emergency Preparedness Staff (EPS).

Contact Person's Emergency Location: Emergency Preparedness Staff.

3. Federal Department or Agency Interfaces

Listed below are HUD's interfaces with other Federal departments or agencies in responding to a radiological emergency.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible HUD organization
Notification (FEMA, coordination (offsite), designation of agency lead official, logistical support to Federal agencies, information exchange, Federal response center.	FEMA	Emergency preparedness staff.
Information requirements	FEMA, NRC (CFA), DoD (CFA), DoE (CFA)	Emergency preparedness staff.
Public information releases from headquarters, public information releases from the JIC.	DOD (CFA), DoE (CFA), NRC (CFA), during emergency phase; FEMA during recovery phase.	Office of Public Affairs.
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Office of Legislation and Congressional Relations.
Emergency shelter availability	HHS	Emergency preparedness staff.
Advice on transportation of and to emergency housing	DoT	Emergency preparedness staff.
Recovery planning, White House responses	FEMA	Emergency preparedness staff.

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Review and report on available housing for disaster victims and displaced persons.
- Assist in planning for and placing homeless victims in available housing.
- Provide emergency housing support staff within available resources.
- Provide technical housing assistance and advisory personnel to State and local authorities with jurisdiction.

5. HUD Response Plan and Procedure References

Agency Response Plan

1. HUD *FRERP*, Office of Emergency Preparedness, September 30, 1983.

6. HUD Specific Authorities

None.

Department of the Interior Reponse Plan Summary

1. Summary of Reponse Mission

The Department of the Interior manages over 500 million acres of Federal lands and thousands of Federal natural resources facilities, and is responsible for these lands and facilities when they are threatened by a radiological emergency. In addition, the Department coordinates emergency response plans for Interior-managed park and recreation areas with State and local authorities, and operates Interior water resources projects to protect municipal and agricultural water supplies in cases of radiological emergencies. The Department provides advice and assistance concerning hydrologic and natural resouces, including fish and wildlife, to Federal, State, and local governments upon request. The Department also administers the Federal government's trust responsibility for 488 Federally recognized Indian tribes and villages and about 50 million acres of Indian lands. It also has certain responsibilities for the island territories of the United States.

2. Headquarters Point of Notification

Contact Person's Title: Director, Office of Environmental Project Review (OEPR).

Contact Person's Office: Office of the Secretary, Department of the Interior, Room 4256, Interior Building, Washington, D.C. 20240.

3. Federal Department or Agency Interfaces

DEPARTMENT OF INTERIOR FEDERAL AGENCY INTERFACES

Description	FRERP agency	Responsible DoI organization
Notification (FEMA), coordination (offsite), information exchange, logistical support to federal agencies.	FEMA	OEPR
Designation of agency lead official, status updates, and information requirements.	DoD (CFA), DoE (CFA), NRC (CFA)	OEPR
Federal lands, Indian tribes	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	OEPR (initially).
Public information releases from headquarters, public information releases from JIC.	DoD (CFA), DoE (CFA), NRC (CFA)	Office of public affairs.
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	Office of congressional liaison.
FRMAP (resources)	DoE, EPA	U.S. Geological Survey.
Water projects	DoD (Army Corps Engineers), EPA, USDA	OEPR (initially).
White House Reponses	FEMA	OEPR

4. Reponsibilities for Assistance to Federal, State, and Local Governments

- Provide hydrologic advice and assistance, including monitoring personnel, equipment, and laboratory support.
- Provide advice and assistance in assessing and minimizing offsite consequences on natural resources, including fish and wildlife.
- Provide economic, social, and political advice and assistance to the Territories of Guam, American Samoa, and the Virgin Islands and the Trust Territory of the Pacific Islands (interim).
- Provide coordination and liaison between Federal, State, and local agencies and Federally recognized Indian tribal governments.

5. DoI Response Plan and Procedure References

Agency Response Plan

1. 910 DM 5 (Draft)—Interior Emergency Operations, Federal Radiological Emergency Response Plan.

2. 296 DM 3 (Draft)—Interior Emergency Delegations, Radiological Emergencies.

6. DoI Specific Authorities

- *Act of 1894* providing for gauging streams and determining the water supplies of the U.S. (28 Stat. 398).
- *The Reclamation Act of 1902*, as amended (43 U.S.C. 391), and project authorization acts.
- *National Park Service Act of 1919* (16 U.S.C. 1), and park enabling acts.
- *The Snyder Act of 1921*, as amended (25 U.S.C. 13), including assistance to Indian tribes.
- *National Wildlife Refuge System Administration Act of 1966*, as amended (16 U.S.C. 668), and refuge enabling acts.

• *Federal Land Policy and Management Act of 1976* (43 U.S.C. 1701).

Department of Transportation Response Plan Summary

1. Summary of Response Mission

The Department of Transportation Radiological Emergency Response Plan for Non-Defense Emergencies (the plan) provides for assistance to State and local governments when a non-defense radiological emergency occurs that has adversely affected any one or more of the several transportation modes. The assistance will be in response to a request from a state or local jurisdiction when a determination has been made that their civil transportation technical or logistical resources are insufficient to adequately handle the requirements created by a radiological emergency.

2. Point of Notification at DoT Headquarters

Contact Person's Title: Director of Emergency Transportation.

Contact Person's Office: Office of Emergency Transportation.

Contact Person's Emergency Location: Headquarters, U.S. Department of Transportation, Washington, D.C. 20590.

3. Federal Department or Agency Interfaces

Listed below are DoT's interfaces with other Federal agencies and departments in responding to a non-defense radiological emergency.

DEPARTMENT OF TRANSPORTATION FEDERAL AGENCY INTERFACES

Interface Description	Agencies	Responsible DoT organization
Status Updates	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Director of emergency transportation crisis coordinator (when designated).
Notification (FEMA), information exchange, logistical support for Federal agencies, coordination (offsite), and designation of agency lead official.	FEMA	Office of emergency transportation.
Information requirements	FEMA, DoD (CFA), DoE (CFA), NRC	Office of emergency transportation.
Public information release from the JIC, public information release from headquarters.	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase; FEMA during recovery phase.	Office of public affairs.
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Office of congressional affairs.
Federal response center	FEMA	Crisis coordinator, regional emergency transportation coordinator (RETCO)
Advice on transportation of and to emergency housing	HUD	Office of emergency transportation (RETCO).
White House responses	FEMA	Crisis coordinator.

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Provide civil transportation assistance and support as appropriate and consistent with statutory responsibilities to State and local governments on request.

• Coordinate the Federal civil transportation response in support of emergency transportation plans and actions to State and local governments.

• Provide, through Regional Emergency Transportation Coordinators (RETCO), representation and assistance to State and local authorities.

5. DoT Response Plan and Procedure References

Agency Response Plan

• Department of Transportation Radiological Emergency Response Plan for Non-Defense Emergencies, August 1985.

Authorities

• Section 301, Title 49, U.S. Code.

• Code of Federal Regulations, 44 Part 351, Radiological Emergency Planning and Preparedness Final Regulations, § 351.25, the Department of Transportation.

• Public Law 93–288, the Disaster Relief Act of 1974, as amended.

• Executive Order 12241, Development and Promulgation of a National Contingency Plan for Radiological Emergencies.

7. Pertinent DOT Orders

• DOT Order 1900.8, Department of Transportation Civil Emergency Preparedness Policies and Program(s).

• DOT Order 1900.7C, Crisis Action Plan.

• DOT Order 1950.1A, Reports on Non-Defense Transportation Emergencies.

Environmental Protection Agency Response Plan Summary

1. Summary of Response Mission

The Environmental Protection Agency (EPA) assists State and local governments during radiological emergencies in environmental and water supply monitoring, consequence assessment, and protective action decisions. These services may be provided at the request of the Federal or State government through FRMAP, or EPA may respond unilaterally to an emergency in order to fulfill its statutory responsibilities.

2. Point of Notification at EPA Headquarters

Contact Person's Title: Radiological Response Coordinator.

Contact Person's Office: Office of Radiation Programs (ORP).

Contact Person's Emergency Location: Emergency Operations Center.

3. Federal Department or Agency Interfaces

Listed below are EPA's interfaces with other Federal departments or agencies in responding to a radiological emergency.

ENVIRONMENTAL PROTECTION AGENCY FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible EPA organization
Status updates	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	Office of radiation programs (ORP).
FRMAP (notification), FRMAP (resources), FRMAP (monitoring results), FRMAP (coordination with FRERP), FRMAP (transition), FRMAP (liaison).	HHS, DoC, DoD, DoE, DoI, NRC, USDA	ORP.
Water projects	DoD (Army Corps of Engineers), DoI, USDA	ORP.
Impact assessment (Agriculture)	USDA	ORP.
PAR (development), RER (development)	DoD (CFA), DoE (CFA), NRC (CFA), HHS, USDA	ORP.

ENVIRONMENTAL PROTECTION AGENCY FEDERAL AGENCY INTERFACES—Continued

Interface description	Agencies	Responsible EPA organization
Information requirements	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	ORP.
Public information releases from headquarters, public information releases from JIC, congressional information.	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase, FEMA during recovery phase.	Office of Press Services.
Information exchange, logistical support for Federal agencies, coordination (offsite), designation of agency lead official, Federal response center.	FEMA	ORP.
Recovery planning, White House responses	FEMA	ORP.

4. Responsibilities For Assistance to Federal, State, and Local Governments

- Provide resources including personnel, equipment, and laboratory support to assist DoE in monitoring radioactivity levels in the environment during the emergency phase of the incident.
- Assume responsibility from DoE for coordinating Federal intermediate and long-term radiological monitoring after the initial phase of the emergency after receiving adequate assurance from the Department of Energy and other Federal agencies that they will commit the required resources, personnel, and funds for the duration of the Federal response effort.
- Assess the nature and extent of the environmental radiation hazard.
- Provide guidance to Federal agencies and State and local governments with jurisdiction on acceptable emergency levels of radioactivity and radiation in the environment.
- Assist the Cognizant Federal Agency (CFA), as requested, in developing recommended measures to protect the public health and safety.

5. EPA Response Plan and Procedure References

Agency Response Plan

1. *U.S. Environmental Protection Agency Radiological Emergency Response Plan*, Office of Radiation Programs, January 30, 1981.

2. *Letter Agreement between DoE and EPA for Notification of Accidental Radioactivity Releases into the Environment from DoE Facilities;* January 8, 1978.

3. *Operational Response Procedures*—Developed among the Nuclear Regulatory Commission, Environmental Protection Agency, Department of Health and Human Services, and the Department of Energy, November 30, 1982.

Interagency Procedures

1. *Manual of Protective Action Guides and Protective Actions for Nuclear Incidents*, Office of Radiation Programs, September 1975.

2. *Standard Operating Procedures for Radiological Emergency Response*, Appendix 3 to the *EPA Radiological Emergency Response Plan*, Office of Air, Noise, and Radiation, January 1981.

3. *Memorandum of Understanding Between the Federal Emergency Management Agency and the Environmental Protection Agency Concerning the Use of High Frequency Radio for Radiological Emergency Response* (under development), Office of Radiation Programs, Environmental Protection Agency.

6. EPA Specific Authorities

- *President's Reorganization Plan No. 3*, December 2, 1970.
- *Public Health Service Act*, as amended, 42 U.S.C. 241, Section 301, and 42 U.S.C. 243, section 311.
- *Safe Drinking Water Act* (Pub. L. 93-523).

Federal Emergency Management Agency Response Plan Summary

1. Summary of Response Mission

FEMA is responsible for coordinating the Federal response to all radiological emergencies that require a significant, multi-agency Federal presence. FEMA's coordination role promotes an effective and efficient response by Federal agencies at both the national level and at the scene of the emergency. Coordination is achieved at the national level by FEMA through use of FEMA's Emergency Support Team (EST) and at the scene of the emergency between Federal, State, and local agencies by FEMA's Emergency Response Team (ERT). FEMA's ERT includes a FEMA Regional Communications Manager, who is responsible for providing communications management support to the Senior FEMA Official.

2. Point of Notification at FEMA Headquarters

Contact Person's Title: Emergency Action Officer.

Contact Person's Office: Emergency Operations Directorate.

Contact Person's Emergency Location: Emergency Information and Coordination Center (EICC).

3. Federal Department or Agency Interfaces

Listed below are FEMA's interfaces with other Federal departments or agencies in responding to a radiological emergency.

FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible FEMA Organization(s)
Notification (FEMA)	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC (CFA), USDA, DoE.	EICC (emergency support team (EST), when activated).
Activation and deployment (procedures)	DoD (CFA), DoE (CFA), NRC (CFA)	EICC (EST, when activated).
Status updates	DoC, DoI, DoT, EPA, HHS, HUD, NCS, USDA, DoE	Emergency response team (ERT), EST.
Federal lands	DoD, DoE, DoI, USDA	ERT, EST.
Federal Response Center	DoC, DoI, DoT, DoD (CFA), DoE (CFA), NRC, EPA, HHS, HUD, NCS, USDA.	ERT, EST.
Information exchange	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	ERT, EST.
Logistical support for Federal agencies	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC (CFA), USDA.	ERT, EST.
PAR (development), PAR (presentation)	DoD (CFA), DoE (CFA), NRC	ERT.
PAR and RER dissemination (FEMA)	DoC, DoD, DoE, DoI, DoT, EPA, HHS, HUD, NCS, NRC, USDA.	ERT, EST.
FRMAP (coordination with FRERP)	DoE, EPA	ERT.
FRMAP (liaison)	DoE, EPA	ERT.
Coordination (onsite/offsite)	DoD (CFA), DoE (CFA), NRC	ERT.

FEDERAL EMERGENCY MANAGEMENT AGENCY FEDERAL AGENCY INTERFACES—Continued

Interface description	Agencies	Responsible FEMA Organization(s)
Coordination (offsite)	DoC, DoI, DoT, EPA, HHS, HUD, NCS, USDA	ERT, EST.
Information requirements	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	EICC and EST.
Indian tribes	DoI, HHS	ERT.
Designation of agency lead official	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC (CFA), USDA.	EST.
Public information releases from headquarters, public information releases from JIC.	DoD (CFA), DoE (CFA), NRC (CFA) during emergency phase	EST, ERT, (respectively).
Congressional information	DoC, DoI, DoT, DoD (CFA), DoE (CFA), EPA, HHS, HUD, NCS, NRC, USDA.	EST, ERT.
White House responses	DoC, DoD, DoE, DoI, EPA, HHS, HUD, NCS, NRC, USDA	EST, ERT.
White House information	DoD (CFA), DoE (CFA), NRC (CFA) initially	EST.
RER (development), RER (presentation)	DoD (CFA), DoE (CFA), NRC (CFA)	ERT.
Recovery planning	DoD (CFA), DoE (CFA), NRC, DoC, DoE (non-CFA), DoI, DoT, EPA, HHS, HUD, USDA.	ERT.
International cooperation	DoS, DoD (CFA), DoE (CFA), NRC	EST, ERT.

4. Responsibilities for Assistance to Federal, State, and Local Governments

- Coordinate assistance to State and local governments among the Federal agencies.
- Coordinate among the Federal agencies all offsite response activities, except those pertaining to the FRMAP, and coordinate these with the onsite activities of the Cognizant Federal Agency.
- Work with the CFA to coordinate the dissemination of public information concerning Federal emergency response activities. Promote the coordination of public information releases with State and local governments, appropriate Federal agencies, and appropriate private sector authorities.
- Help obtain logistical support for Federal agencies.

5. FEMA Response Plan and Procedure References

Response Plan

1. *FEMA Emergency Response Operations for Extraordinary Situations: Emergency Support Team Policy and Operations Response Procedures*, February 8, 1984.

2. *Guidance for Emergency Response Team Plans*, August 17, 1982.

3. *Emergency Response Team Plans* for FEMA Regions I, II, III, IV, V, VI, VII, VIII, IX, and X. Various dates.

Interagency Procedures

1. *NRC/FEMA Operational Response Procedures for Response to a Commercial Nuclear Reactor Accident* (NUREG–0981; FEMA–51). Rev. 1, January 1984.

2. *Memorandum of Understanding* for Incident Response between the Federal Emergency Management Agency and the Nuclear Regulatory Commission, October 22, 1980.

6. FEMA Specific Authorities

- *Executive Order 11490*, June 15, 1976, as amended.
- *Executive Order 12148*, July 20, 1979.
- *Executive Order 12241*, September 29, 1980.

National Communications System Response Plan Summary

1. Summary of Response Mission

Under the current National Plan for Communications Support in Emergencies and Major Disasters, July 1983,[2] the National Communications System (NCS) coordinates and manages telecommunications support for Federal agencies during radiological emergencies. The General Services Administration (GSA) appoints a Regional Emergency Communications Coordinator (RECC) to provide technical support to the FEMA Regional Director during the pre-emergency or emergency planning phase. The GSA also assigns, on request, a Federal Emergency Communications Coordinator (FECC) to the FEMA Regional Director or Senior FEMA Official (SFO) to head an Emergency Communications Staff (ECS), assess the availability of telecommunications means, and take necessary action to satisfy essential telecommunications requirements in the emergency area. The Emergency Communications Staff is made up of a FEMA-appointed Radio Communications Coordinator (RCC), a Military Communications Representative (MCR), telecommunications industry representatives, and others as needed.

2. Point of Notification at NCS Headquarters

Contact Person's Title: Operations Officer.

Contact Person's Office: Office of Emergency Preparedness (Operations).

Contact Person's Emergency Location: NCS/DCA Operations Center, 8th St. and South Court House Rd., Arlington, VA 22204.

3. Federal Department or Agency Interfaces

Listed below are NCS's interfaces with other Federal departments or agencies in responding to a radiological emergency.

[2] The National Plan for Communications Support in Emergencies and Major Disasters, dated July 1983, is being revised and will be published during 1986 to reflect changes in the role of the FEMA Regional Communications Manager Consistent with the ERT/EST concept.

NATIONAL COMMUNICATIONS SYSTEMS FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible NCS organization
Notification (FEMA)	FEMA	Emergency preparedness.
Logistical support for Federal agencies	FEMA	Emergency preparedness.
Information exchange	FEMA	Emergency preparedness.
Designation of agency lead official	FEMA	Emergency preparedness.
Federal response center	FEMA	Federal emergency communications coordinator (FECC) and staff.
Status updates	FEMA	(FECC) and staff.
Information requirements	DoD (CFA), DoE, (CFA), NRC (CFA)	Emergency preparedness.
Congressional information	DoD (CFA), DoE, (CFA), NRC, FEMA	Emergency preparedness.

NATIONAL COMMUNICATIONS SYSTEMS FEDERAL AGENCY INTERFACES—Continued

Interface description	Agencies	Responsible NCS organization
Public information releases from headquarters, public information releases from the JIC.	DoD (CFA), DoE (CFA), NRC (CFA), during emergency phase; FEMA during recovery phase.	Emergency preparedness.
Recovery planning, White House responses	FEMA	FECC and staff.

4. Responsibilities for Assistance to Federal, State and Local Governments

- Provide and coordinate, in response to a FEMA request, the necessary communications for the Federal government response in accordance with the *National Plan for Communications Support in Emergencies and Major Disasters*, July 1983. Be prepared to provide this support prior to a formal declaration of an emergency or major disaster.
- Provide representation to appropriate State agencies to assist in meeting their communications requirements.

5. NCS Response Plan and Procedure References

Agency Response Plan

1. *National Plan for Communications Support in Emergencies and Major Disasters*, Office of Emergency Preparedness (Operations), July 1983.

Interagency Procedures

1. *Memorandum of Understanding*, GSA and FEMA, January 29, 1980.
2. *Executive Order 12046* (Relates to the transfer of telecommunications functions), The White House, March 27, 1978.

6. NCS Specific Authorities

- *Executive Order 12472*, Assignment of National Security and Emergency Preparedness Telecommunications Functions, April 3, 1984.
- *Executive Order 11490*, October 30, 1969.
- *Executive Order 12046, March 27, 1978.*
- White House Memorandum, *National Security and Emergency Preparedness: Telecommunications and Management and Coordination Responsibilities*, July 5, 1978.

U.S. Nuclear Regulatory Commission Response Plan Summary

1. Summary of Response Mission

The U.S. Nuclear Regulatory Commission (NRC) regulates the use of byproduct, source, and special nuclear material, including activities at commercial and research nuclear facilities. If an incident involving NRC-regulated activities poses a significant threat to the public health or safety or environmental quality, the NRC would be the Cognizant Federal Agency (CFA). In such an incident, the NRC is responsible for monitoring the licensee to ensure that appropriate protective action recommendations are being made to offsite authorities in a timely manner. In addition, the NRC will support its licensees and offsite authorities, including confirming the licensee's recommendations to offsite authorities, and will keep the media informed of the NRC's knowledge of the status of the incident. The NRC is also responsible for the development, coordination, and presentation (in conjunction with FEMA) of Federal protective action recommendations and for keeping other Federal agencies and entities informed of the status of the incident.

Consistent with NRC's agreement to participate in FRMAP, the NRC may also be called upon to assist in Federal radiological monitoring and assessment activities during incidents for which it is not the CFA.

2. Point of Notification at NRC Headquarters

Contact Person's Title: Headquarters Operations Officer.

Contact Person's Office: Inspection and Enforcement (I&E).

Contact Person's Emergency Location: NRC Operations Center, Bethesda, Maryland.

3. Federal Department or Agency Interfaces

Listed below are the NRC's interfaces with other Federal departments or agencies in responding to a radiological emergency.

NUCLEAR REGULATORY COMMISSION FEDERAL AGENCY INTERFACES

Interface description	Agencies [1]	Responsible NRC organization
Notification (CFA)	FEMA, DoE, EPA, HHS	For all interfaces listed:
Activation and deployment (procedures)	FEMA	
Status updates	DoC, DoD, DoE, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	a. Director of executive team (during initial activation).
Information requirements	DoC, DoD, DoE, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA.	b. Director of site operations (during expanded activation).
Public information releases from headquarters, public information releases from JIC.	DoD, (CFA), DoE, (CFA), during emergency phase; FEMA during recovery phase.	
Congressional information	DoC, DoD, DoE, EPA, FEMA, HHS, HUD, DoI, NCS, DoT, USDA, FEMA, DoE (FRMAP).	
Coordination (liaison)	FEMA, DoE (FRMAP)	
White House information, White House responses	FEMA	
PAR (development) RER (development)	FEMA, DoE EPA, HHS, USDA	
PAR and RER dissemination (CFA)	DoE (FRMAP), EPA (FRMAP)	
Federal lands	DoD, DoE, DoI, USDA	
Food/feed safety recommendations	HHS, USDA	
FRMAP (monitoring results)	DoE, (FRMAP)	
FRMAP (resources)	DoE, (FRMAP), EPA, (FRMAP)	
Impact assessment (Health)	HHS, EPA	
Indian tribes	DoI, HHS	
PAR (presentation), Logistical support for Federal agencies, Coordination (onsite/offsite), information exchange, designation of agency lead official, international cooperation (CFA), Federal response center.	FEMA	For all interfaces listed: a. Director of executive team (during expanded activation). b. Director of site operations (during expanded activation).
RER (presentation), PAR and RER dissemination (CFA)	FEMA, DoE, EPA, HHS, USDA, DoE (FRMAP), EPA (FRMAP)	
Recovery planning	FEMA	

[1] Periodic communications will be conducted with those agencies with which NRC has formal agreements, i.e., FEMA, DoE, EPA, HHS. Interfaces with other agencies will occur as required.

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Assess the nature and extent of the radiological emergency and its potential offsite effects on public health and safety. Advise the State and local agencies with jurisdiction based on this assessment.

• Assess the facility operator's recommendations and, if needed, develop Federal recommendations on protective actions for State and local governments with jurisdiction that consider, as required, all substantive views of other Federal agencies. Whenever possible, coordinate presentation of protective action recommendations with FEMA prior to or during their presentation to appropriate State and local officials (the State Governor or designee), except in situations of imminent peril to the public health and safety where the NRC may be required to make independent contact with State officials.

• Provide for the release of public information concerning the radiological emergency, except for the release of information classified for national security purposes. Coordinate such releases to the extent possible with the Senior FEMA Official, other Federal agencies, and the State to provide consistent and accurate information to the public by the most expeditious means.

5. NRC Response Plan and Procedure References

Response Plan

1. *NRC Incident Response Plan* Revision 1 (NUREG–0728), NRC Office of Inspection and Enforcement, April 1983.

Interagency Procedures

1. *Agency Procedures for the NRC Incident Response Plan* (NUREG–0845), NRC Office of Inspection and Enforcement, February 1983.

2. *NRC/FEMA Operational Response Procedures for Response to a Commercial Nuclear Reactor Accident*, (NUREG–0981; FEMA–51), Rev. 1, January 1984.

3. *Operational Response Procedures Developed Between NRC, EPA, HHS, and DOE, 1982.*

4. Memorandum of Understanding for Incident Response Between the Federal Emergency Management Agency and the Nuclear Regulatory Commission, October 22, 1980.

6. NRC Specific Authorities

• *Atomic Energy Act of 1954, as amended.*

• *Energy Reorganization Act of 1974.*

• 10 CFR Parts 0 to 199.

U.S. Department of Agriculture Response Plan Summary

1. Summary of Response Mission

The United States Department of Agriculture (USDA) is responsible for assisting State and local governments in developing agricultural protective measures and damage assessments. Other radiological emergency responsibilities of the USDA include: providing for the procurement of food for emergency feeding programs; ensuring that meat and meat products, poultry and poultry products, and eggs and egg products are safe for public consumption; and providing technical information and advice to farmers to aid in their recovery from the emergency.

2. Point of Notification at USDA Headquarters

Contact Person's Title: USDA Emergency Coordinator, Director, Intergovernmental Affairs, Room 102–A, Administration Building, Washington, D.C. 20250.

Contact Person's Office: Office of Intergovernmental Affairs, USDA.

3. Federal Department or Agency Interfaces

Listed below are USDA's interfaces with other Federal agencies in responding to a radiological emergency.

DEPARTMENT OF AGRICULTURE FEDERAL AGENCY INTERFACES

Interface description	Agencies	Responsible USDA organization
Notification (FEMA)	FEMA	Governmental and Public Affairs (GPA)/Office of Intergovernmental Affairs (OIA).
Status updates	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	GPA/OIA, Food Safety Inspection Service (FSIS), Office of Emergency Planning (OEP).
Information requirements	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	GPA/OIA, FSIS/OEP.
PAR (development), RER (development)	DoD (CFA), DoE (CFA), NRC (CFA), EPA, HHS	GPA/OIA, FSIS/OEP.
Public information releases from headquarters, public information releases from joint information center (JIC).	DoD (CFA), DoE (CFA), NRC (CFA), during emergency phase; FEMA during recovery phase.	GPA/Office of Information (OI).
Congressional information	DoD (CFA), DoE (CFA), NRC (CFA), FEMA	GPA/OI, GPA/Congressional relations (CR).
Coordination (offsite)	FEMA, HHS, EPA	GPA/OIA, FSIS/OEP.
Information exchange, designation of agency lead official, and logistical support for Federal agencies.	FEMA	GPA/OIA, FSIS/OEP, GPA/OIA, FSIS, Office of Operations (00).
Federal lands	DoD, DoE, DoI	GPA/OIA, FSIS/OEP.
FRMAP (notification), (resources), (liaison)	DoE, EPA	GPA/OIA, FSIS/OEP, USDA State/county resources as required.
Impact assessment (agriculture)	HHS, EPA	GPA/OIA, FSIS/OEP, USDA State/county resources as required.
Protective action implementation (food)	HHS, FEMA	GPA/OIA, FSIS/OEP, USDA State/county resources as required.
Food/feed availability, food/feed safety recommendations	HHS, FEMA, DoD (CFA), DoE (CFA), NRC (CFA)	GPA/OIA, FSIS/OEP, USDA State/county resources as required.
Water projects	DoD (Army Corps of Engineers), DoI, EPA	GPA/OIA, FSIS/OEP.
Recovery planning	FEMA	GPA/OIA, FSIS (OEP), USDA State/county resources as required.
White House responses	FEMA	GPA/OIA, FSIS (OEP).

4. Responsibilities for Assistance to Federal, State, and Local Governments

• Provide emergency food coupon assistance in officially designated disaster areas whenever a predetermined threshold of need is reached and the commercial system is sufficiently viable to accommodate the use of food coupons.

• Assist in providing livestock feed.

• Provide assistance through regular USDA programs if legally adaptable to radiological emergencies.

• Advise and assist State and local officials on the disposition of livestock and poultry affected by radiation. Coordinate this action with the EPA and HHS.

• Ensure the purity and wholesomeness of meat and meat products, poultry and poultry products, and eggs and egg products.

• Provide for the procurement of food.

- Assist State and local officials, in coordination with HHS and EPA, in the implementation of protective measures to minimize contamination through food ingestion.
- Assist in coordination with HHS and EPA in the emergency production, processing, and distribution of food during a radiological emergency, and assess damage to agricultural resources.
- Provide advice to State and local officials on how to minimize losses to agricultural resources from radiation effects.
- Provide information and assistance to farmers and others to aid them in returning to normal after a radiological emergency.
- Assist in reallocation of USDA donated food supplies from Commodity Credit Corporation stocks stored in warehouses, local schools, and other outlets to emergency care centers.
- Provide a liaison to State agricultural agencies to keep State and local officials informed of Federal efforts.

5. USDA Response Plan and Procedure References

1. *USDA Radiological Emergency Response Plan*, April 1984.

6. USDA Specific Authorities

- Title 7, U.S.C.

Appendix A—Acronyms*

ARAC Atmospheric Release Advisory Capability
CFA Cognizant Federal Agency
CFAO Cognizant Federal Agency Official
CFR Code of Federal Regulations
CHEMTREC Chemical Transportation Emergency Center
CLO Congressional Liaison Officer
DoC Department of Commerce
DoD Department of Defense
DoE Department of Energy
DoI Department of the Interior
DoJ/FBI Department of Justice/Federal Bureau of Ivestigation
DoS Department of State
DoT Department of Transportation
DSFO Deputy Senior FEMA Official
DSO Director of Site Operations, NRC
EACT Emergency Action and Coordination Team, DoE
EICC Emergency Information and Coordination Center, FEMA
EOC Emergency Operations Center, DoE
EOF Emergency Operations Facility, Licensee
EPA Environmental Protection Agency
FDA Food and Drug Administration
FEMA Federal Emergency Management Agency
FRC Federal Response Center
FRERP Federal Radiological Emergency Response Plan
FRMAC Federal Radiological Monitoring and Assessment Center, DoE or EPA
FRMAP Federal Radiological Monitoring and Assessment Plan (DoE)
FRPCC Federal Radiological Preparedness Coordinating Committee
HHS Department of Health and Human Services
HUD Department of Housing and Urban Development
IRAP Interagency Radiological Assistance Plan
JIC Joint Information Center
JNACC Joint Nuclear Accident Coordinating Center
LAO Lead Agency Official
LNO Liaison Officer
NCS National Communications System
NOAA National Oceanic and Atmospheric Administration, DoC
NRC Nuclear Regulatory Commission
NWS National Weather Service
OSTD Offsite Technical Director, DoE
PAG Protective Action Guide
PAR Protective Action Recommendation
PIO Public Information Officer
RAC Regional Assistance Committee
RAP Radiological Assistance Program, DoE
RER Other Protective Measure and Re-entry Recommendation
SCO State Coordinating Officer
SFO Senior FEMA Official
USDA U.S. Department of Agriculture
USGS U.S. Geological Survey

* This Appendix does not include acronyms that are defined in the Agency Response Plan Summaries (Section IV).

Appendix B—Definitions

Accident Response Group (ARG)—A DoE team of scientists, engineers, and technicians that is trained, organized, and equipped to respond to a nuclear weapons accident/incident.

Agency Lead Official—The designated official in each participating agency authorized to direct that agency's response to the radiological emergency.

Agreement State—A State that has entered into an Agreement under the *Atomic Energy Act of 1954*, as amended, in which NRC has relinquished to such States the majority of its regulatory authority over source, byproduct, and special nuclear material in quantities not sufficient to form a critical mass.

Assessment—The evaluation and interpretation of radiological measurements and other information to provide a basis for decision-making. Assessment can include projections of offsite radiological impact.

Cognizant Federal Agency (CFA)—The Federal agency that owns, authorizes, regulates, or is otherwise deemed responsible for the radiological activity causing the emergency and that has the authority to take action on site.

Cognizant Federal Agency Official (CFAO)—The lead official designated by the CFA to manage its response at the site of a radiological emergency.

Coordinate—To bring into common action so as not to unnecessarily duplicate or omit important actions. Coordination does not involve direction of one agency by another.

DoE Emergency Operations Center (EOC)—The center located at DoE headquarters through which DoE's EACT coordinates a FRMAP multi-agency response to a radiological emergency.

DoE Team Leader—The individual designated by the Director of the Emergency Action and Coordination Team (EACT) to manage all DoE field activities in response to an accident/incident if DoE has onsite responsibilities. The DoE Team Leader primarily supervises onsite operations.

Emergency—Any natural or man-caused situation that results in or may result in substantial injury or harm to the population or substantial damage to or loss of property.

Emergency Action and Coordination Team (EACT)—The DoE senior management team at headquarters that coordinates the initial FRMAP response to radiological emergencies.

Emergency Response Team (ERT)—The FEMA team deployed to a radiolbgical emergency scene by the FEMA Director to make an initial assessment of the situation and then provide FEMA's primary response capability.

Emergency Support Team (EST)—The FEMA headquarters team that carries out notification, activation, and coordination procedures from the FEMA EICC. The EST is responsible for Federal agency headquarters coordination, staff support of the FEMA Director, and support of the SFO.

Federal Radiological Monitoring and Assessment Plan (FRMAP)—A center usually established at an airport near the scene of a radiological emergency from which the DoE Offsite Technical Director conducts the FRMAP response. This center generally need not be located near the onsite or Federal-State operations centers as long as its operations can be coordinated with them.

Federal Radiological Monitoring and Assessment Center (FRMAC)—A plan to provide coordinated radiological

monitoring and assessment assistance to the State and local governments in response to radiological emergencies. This plan, authorized by 44 CFR Part 351, is a revised version of the Interagency Radiological Assistance Plan.

Federal Response Center—A center established by FEMA at a location identified in conjunction with the State that serves as a focal point for Federal response team interactions with the State.

Fixed Nuclear Facilities—Stationary nuclear installations that use or produce radioactive materials in their normal operations. These facilities include commercial nuclear power plants and other fixed facilities.

Interagency Radiological Assistance Plan (IRAP)—A Plan originally published in 1965 by an interagency committee of Federal agency representatives as a means for providing rapid and effective radiological assistance in the event of a peacetime radiological incident. This plan has been superseded by the FRMAP.

Joint Information Center (JIC)—A central point of contact for all news media at the scene of the incident. News media representatives are kept informed of activities and events via public information officials from all participating Federal, State, and local agencies, who, ideally, are co-located at the JIC.

Joint Nuclear Accident Coordinating Center (JNACC)—A joint DoE/DoD capability at Kirtland Air Force Base, Albuquerque, New Mexico, responsible for maintaining current information on the location of specialized DoE and DoD teams or organizations capable of providing nuclear weapons accident assistance.

Liaison Officer (LNO)—A Federal agency official sent to another agency to facilitate interagency communications and coordination.

License—A license issued to a facility owner or operator by the NRC pursuant to the conditions of the *Atomic Energy Act of 1954* (as amended), or issued by an Agreement State pursuant to appropriate State laws. NRC licenses certain activities under section 170(a) of that Act.

Limited Response—Response to a request for radiological assistance that involves limited DoE or other agency resources and does not require the formal field management structure.

Local Government—Any county, city, village, town, district, or political subdivision of any State, any Indian tribe or authorized tribal organization, or Alaska Native village or organization, including any rural community or unincorporated town or village or any other public entity.

Monitoring—The use of sampling and radiation detection equipment to determine the levels of radiation.

National Contingency Plan—An operations plan required to outline the Federal response to radiological emergencies at commercial nuclear power plants. In Executive Order 12241, the President delegated to FEMA the responsibility for the development and promulgation of such a plan in response to Pub. L. 96-295.

National Defense Area (NDA)—An area established by a DoD official on non-Federal lands located within the United States, its possessions, or its territories for the purpose of safeguarding classified defense information or protecting DoD equipment or material. Establishment of a National Defense Area temporarily places such non-Federal lands under the effective control of DoD and results only from an emergency event. The senior DoD representative at the scene will define the boundary, mark it with a physical barrier, and post warning signs.

National Radiological Emergency Preparedness/Response Plan For Commercial Nuclear Power Plant Accidents (Master Plan)—Commonly referred to as the Master Plan, this document was published by FEMA for interim use in December 1980 and represented the first step towards developing Federal radiological emergency response plans and procedures.

National Security Area (NSA)—An area established by DoE on non-Federal lands located within the United States, its possessions, or territories, for the purpose of safeguarding classified or restricted information, or protecting DoE equipment or material. Establishment of a NSA temporarily places such non-Federal lands under the effective control of DoE and results only from an emergency event. The senior DoE representative having custody of the material at the scene will define the boundary, mark it with a physical barrier, and post warning signs.

Nuclear Weapon Accident—An unexpected event involving nuclear weapons or radiological nuclear weapon components that results in any of the following:

- Accidential or unauthorized launching, firing, or use by U.S. forces or U.S.-supported allied forces of a nuclear capable weapons system that could create the risk of an outbreak of war;
- Nuclear detonation;
- Non-nuclear detonation or burning of a nuclear weapon or radiological nuclear weapon component;
- Radioactive contamination;
- Seizure, theft, loss, or destruction of a nuclear weapon or radiological nuclear weapon component, including jettisoning; and
- Public hazard, actual or implied.

Nuclear Weapon Significant Incident—An unexpected event involving nuclear weapons or radiological nuclear weapon components which does not fall in the nuclear weapon accident category but:

- Results in evident damage to a nuclear weapon or radiological nuclear weapon component to the extent that major rework, complete replacement, or examination or recertification by DoE is required;
- Requires immediate action in the interest of safety or nuclear weapons security;
- May result in adverse public reaction (national or international) or premature release of classified information; and
- Could lead to a nuclear weapon accident and warrants high officials of the signatory agencies being informed or taking action.

Off Site—The area outside the boundary of the onsite area.

Off Site Federal Support—Federal assistance in mitigating the offsite consequences of an emergency and protecting the public health and safety, including assistance with determining and implementing public protective action measures.

Off Site Technical Director (OSTD)—The DoE or EPA official designated to coordinate the Federal radiological monitoring and assessment activities under the Federal Radiological Monitoring and Assessment Plan.

On Site—The area within (a) the boundary established by the owner or operator of a fixed nuclear facility; or (b) the boundary established at the time of the emergency by the State or local government with jurisdiction for a transportation accident not occurring at a fixed nuclear facility and not involving nuclear weapons; or (c) the area established by the CFA as defined by a National Defense Area or National Security Area in a nuclear weapons accident or weapon significant incident.

On-Scene Commander—The military officer of senior DoE official who commands DoD and DoE forces and supervises all DoD and DoE operations at the scene of a DoD/DoE nuclear weapon accident or weapon significant incident.

Onsite Federal Support—Federal assistance that is the primary responsibility of the Federal agency that owns, authorizes, regulates, or is

otherwise deemed responsible for the radiological facility or material being transported, i.e., the CFA. This response supports State and local efforts by supporting the owner or operator's efforts to bring the incident under control and thereby prevent or minimize offsite consequences.

Other Protective Measures and Re-entry Recommendations (RERs)—Advice provided to the State concerning guidance on actions necessary to avoid or minimize exposure to residual radiation or exposure through the ingestion pathway. Also advice provided to the State concerning guidance that may be issued to members of the public on returning to an area affected by a radiological emergency, either permanently or for short-term emergency actions.

Owner or Operator—The organization that owns or operates the nuclear facility or carrier, or cargo that causes the radiological emergency. The owner or operator may be a Federal agency, a State or local government, or a private business.

Participating Agencies—44 CFR Part 351 establishes the Federal Radiological Preparedness Coordinating Committee (FRPCC), which has approved the establishment of the Subcommittee on Federal Response. The 12 agencies represented on this Subcommittee are referred to as the participating agencies in the FRERP. They are: FEMA, NRC, EPA, HHS, DoE, USDA, DoC, DoT, DoD, DoI, HUD, and NCS.

Protective Action Guide (PAG)—A radiation exposure level or range established by appropriate Federal or State agencies beyond which protective action should be considered.

Protective Action Recommendation (PAR)—Advice to the State on emergency measures it should consider in determining action for the public to take to avoid or reduce their exposure to radiation.

Public Information Officers (PIOs)—Federal agency officials at headquarters and in the field responsible for preparing and coordinating the dissemination of public information in cooperation with other responding Federal, State, and local agencies.

Radiological Assistance Program (RAP) Team—A team dispatched to the site of a radiological incident by the DoE regional office responding to a radiological incident.

Radiological Emergency—A type of radiological incident that poses an actual or potential hazard to public health or safety or loss of property.

Radiological Transportation Incident—Any incident that involves a transportation vehicle or shipment containing radioactive materials.

Recovery Plan—A plan developed by the State to restore the affected area with Federal assistance if needed.

Senior FEMA Official (SFO)—Official appointed by the Director of FEMA, or his representative, to direct the FEMA response at the scene of a radiological emergency.

State Coordinating Officer (SCO)—An official designated by the Governor of the affected State to work with the CFAO and SFO in coordinating the response efforts of Federal, State, local, volunteer, and private agencies.

Subcommittee on Federal Response—A Subcommittee of the Federal Radiological Preparedness Coordinating Committee formed to develop and test the Federal Radiological Emergency Response Plan. Most agencies that would participate in the Federal radiological emergency response are represented on this Subcommittee.

Transportation of Radioactive Materials—Refers to the loading, unloading, movement, or temporary storage en route of radioactive materials.

Appendix C—Federal Emergency Phone and Facsimile Numbers

Federal department or agency	Contact person's tile	Phone No. and facsimile
DoC	Chief, Applied Services Branch (Alt) NOAA/ NWS Communications Branch.	(301) 427-7677. (301) 763-8196 (24-Hr.).
DoD	Deputy Director of Operations (DDO).	(202) 697-6340 (24-Hour). (Auto) 227-6340. (FTS) 697-6340.
DoE	Emergency Coordinator	(301) 353-5555. (FTS) 233-5555.
HHS	do	(202) 475-0276.
HUD	do	(202) 755-6020. (202) 755-6417 (After Hours).
DoI	Director, Office of Environmental Project Review.	(202) 343-3891. (FTS) 343-3891. (202) 248-8259 (Res). (202) 533-0488 (Alt Res).
	U.S. Park Police	(202) 426-6600 (24-Hour). (FTS) 426-6000 (24-Hour).
DoT	Director of Emergency Transportation.	(202) 426-4262 (Ofc). (202) 426-1830. (Dot/USCG Duty Officer after normal duty hours).
EPA	Radiological Response Coordinator.	(703) 557-7390. (FTS) 557-7390. (FAX) 235-9027 (DEX-4100).
FEMA	Emergency Action Officer.	(202) 646-2400.
NCS	Operations Officer	(202) 692-2714. (202) 692-2539. (Auto) 231-1787. 851-1790, 851-3740. (FTS) 692-2816 (Ofc). (Auto) 222-2816 (Ofc). (FAX) 692-2714 (Commor FTS).
NRC	Headquarters Operations Officer.	(202) 951-0550 (FAX). (301) 492-7285 (Group I, II, III). (301) 492-8187 (Group I, II, III). (301) 492-7376 (Group I, II, III). (301) 492-7293 (Verification).
USDA	USDA Emergency Coordinator.	(FTS) 447-6643 (Days). (703) 491-6751 (Res). (301) 461-2237.

[FR Doc. 85-26582 Filed 11-7-85; 8:45 am]
BILLING CODE 6718-01-M

federal register

Friday
November 8, 1985

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Administration

48 CFR Ch. 24

Implementation of the Competition in Contracting Act of 1984 Into the HUD Acquisition Regulation; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

48 CFR Ch. 24

[Docket No. R-85-1263; FR-2098]

Implementation of the Competition in Contracting Act of 1984 Into the HUD Acquisition Regulation

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Interim rule.

SUMMARY: This interim rule implements the requirements of the Competition in Contracting Act of 1984 into the HUD Acquisition Regulation.

DATE: *Effective Date:* Upon expiration of the first period of 30 calendar days of continuous session of Congress, but not before further notice of the effective date is published in the **Federal Register.**

Comment Due Date: January 7, 1986.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of the General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, telephone (202) 755-5294. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

The uniform regulation for the procurement of supplies and services by Federal departments and agencies, the Federal Acquisition Regulation (FAR) was promulgated on September 19, 1983 (48 FR 42102). It includes eight subchapters on the following subjects: (1) General Administrative and Definitional Matters; (2) Acquisition Planning; (3) Contracting Methods and Contract Types; (4) Socioeconomic Programs; (5) General Contracting Requirements; (6) Special Categories of Contracting; (7) Contract Management; and (8) Formats for Clauses and Forms. The FAR is codified in Title 48, Chapter 1 of the Code of Federal Regulations.

Because of differing statutory authorities among Federal departments and agencies, the FAR authorizes departments and agencies to promulgate regulations to implement FAR policies and procedures within the organization, and to include additional policies and procedures, solicitation provisions, or contract clauses to satisfy the specific needs of the respective organizations.

HUD promulgated its regulations to implement the FAR on March 1, 1984 (49 FR 7696). The HUD Acquisition Regulation (HUDAR) included: (1) Reformatting the previous HUD procurement regulations from 41 CFR Chapter 24; (2) removing provisions that would duplicate FAR coverage; and (3) inserting necessary departmental procedures where required to supplement the FAR.

Since the FAR has been promulgated to be the uniform Federal Government-wide acquisition regulation, the lack of coverage of a particular topic in the HUDAR indicates that the Department accepts the FAR policy and procedure on the topic without need for further elaboration. Hence, in such sections as HUDAR 2409.504 (contracting officer responsibilities), 2415.6 (source selection procedures), and 2416.405 (description of contract clauses for award fee contracts), the HUDAR substantially supplements the FAR requirements to respond to departmental concerns.

The numbering and citation format for the HUDAR is state in HUDAR 2401.104-2. Generally, the following rules apply:

1. When the HUDAR implements or deviates from a parallel part, subpart, section, subsection or paragraph of the FAR, that implementation or deviation is numbered and captioned where possible to correspond to the FAR part, subpart, section, subsection, or paragraph.

2. When HUD supplements material contained in the FAR, it is given a unique number containing the numerals "70" or higher. The rest of the number parallels the FAR part, subpart, etc., that it supplements. Only those specific parts, subparts, sections, subsections paragraphs, or subparagraphs of the FAR that are being supplemented will appear in the HUDAR under a unique number containing the numerals "70" or higher. See, e.g., HUDAR 2406.304-70(a) of this interim rule.

3. Where material in the FAR requires no elaboration, there is no corresponding numbering in the HUDAR. Therefore, there may be gaps in the HUDAR sequence of numbers where the FAR, as written, is applicable.

4. The HUDAR is cited in accordance with **Federal Register** standards approved for the FAR. Any section of the HUDAR may be formally identified by its section number. In the HUDAR, any reference to the FAR is indicated by "FAR" followed by the section number.

II. Revisions to the FAR Under the Competition in Contracting Act (CICA)

Since the promulgation of the FAR on September 19, 1983, at least eleven sets of FAR revisions have been promulgated in the **Federal Register.** The most significant revisions that affect HUDAR requirement were promulgated on January 11, 1985 (50 FR 1726) January 15, 1985 (50 FR 2268), and June 20, 1985 (50 FR 25680). These three sets of revisions implement the Competition in Contracting Act of 1984 (CICA) (41 U.S.C. 253, 41 U.S.C. 403, and 31 U.S.C. 3551-3556). Since any revision to the FAR directly affects HUD acquisition procedures, these revisions of the FAR as a result of CICA represent changes to HUD's procurement practices.

The following sections summarize the key regulatory areas of CICA and the 1985 FAR revisions that significantly affect the revisions to the HUDAR in this interim rule, in addition to the HUDAR provisions that implement those revisions.

A. Competition in Contracting Requirements

CICA amends section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253) (the 1949 Act) to establish as congressional policy that competitive procedures are required in awarding Federal contracts for property or services.

CICA requires that agency managers and staff use certain procurement procedures where awards are proposed using other than full and open competition. (See section 303(b)-(f) of the amended 1949 Act.) The January 11, 1985 revisions to the FAR incorporate these reqiurements at FAR Subpart 6.3. Under FAR 6.304, approvals at certain departmental levels are required for other than full and open competition, depending on the size of a contract:

1. For a proposed contract not exceeding $100,000, approval must be at a level above the contracting officer;

2. For a proposed contract greater than $100,000, but not exceeding $1 million, approval must be by the designated "competition advocate" for the respective procuring activity;

3. For a proposed contract greater than $1 million but not exceeding $10 million, approval must be by the head of the procuring activity or a designee who meets certain criteria in FAR 6.304(a)(3)(i) and (ii); and

4. For a proposed contract greater than $10 million, by the senior

procurement executive as designated by the respective agency.

Section 303A of the CICA-amended 1949 Act specifies planning and solicitation requirements to implement the goal of full and open competition. Generally, agencies must develop specifications and purchase descriptions using market research reflecting the minimum needs of the respective agency and the market available to meet those needs.

In order to implement FAR Part 6 to specific HUD programs, HUDAR Part 2406 designates certain managers and staff to carry out various functions:

1. *Establishment of the Procurement Review Board (PRB).* HUDAR 2406.304–72 provides for the PRB to review and approve certain Headquarters-proposed sole-source awards in excess of the FAR small purchase limitations. PRB review and approval shall be in addition to that of agency managers and designated staff under FAR 6.304(a)(1)–(4). For sole-source awards in excess of $10 million, final review and approval are the responsibility of the Senior Procurement Executive. Regional PRBs have also been established by the respective Regional Administrators—Regional Housing Commissioners, based on directions from the HUD Senior Procurement Executive (the Assistant Secretary for Administration).

2. *Approval of a class justification for "other than full and open competition".* HUDAR 2406.304(c) states that this type of class justification must be approved in writing by the Senior Procurement Executive (the Assistant Secretary for Administration). These class justifications may refer to certain procurement actions where only one source of a limited number of sources possesses the requisite technical expertise to meet the Department's needs.

3. *Approval of a justification for "other than full and open competition" in certain HUD programs.* HUDAR 2406.304–70 establishes the levels of authority for approval of procurement justifications for "other than full and open competition" in the HUD Headquarters acquired property program. HUDAR 2406.304–71 provides that for Field Office procurements, such justifications for a proposed contract more than $1 million but not exceeding $10 million must be approved by the Deputy Regional Administrator. The Department has determined that this delegation would avoid a possible situation of the head of a procuring activity approving its own request for contracting in a manner using "other than full and open competition".

B. Competition Advocates

As described in CICA section 2732 and in FAR 6.502(a), Federal agencies are to designate "competition advocates" as internal monitors of agency performance to achieve full and open competition in its contracting operations. Among the competition advocates' duties are:

1. Preparing and submitting an annual report to the agency senior procurement executive, in accordance with agency procedures, describing—

(i) The competition advocate's activities;

(ii) New initiatives required to increase competition;

(iii) Any remaining barriers to full and open competition; and

(iv) Ways in which the agency has emphasized competition in areas such as acquisition training and research;

2. Recommending to the senior procurement executive goals and plans for increasing competition on a fiscal year basis; and

3. Recommending a system of personal and organizational accountability for competition to the senior procurement executive.

HUDAR 2406.5 designates the Deputy Assistant Secretary for Administration as the Department's competition advocate. Other designations of competition advocates for various procurement activities have been set out in HUD Handbooks and internal departmental directives. Replacements for these competition advocates will be approved by the Senior Procurement Executive.

C. Procurement Protest Procedures

Section 2741 of CICA (31 U.S.C. 3551–3556) modifies the procedures for bid protests. FAR Subpart 33.1 (Protests) and Subpart 33.2 (Disputes and Appeals) implement those procedures, with certain exceptions. Under FAR 33.103, when a protest is filed only with an agency, an award shall not be made until the matter is resolved. Exceptions are provided in FAR 33.103(a). FAR 33.103(b) states procedures for the respective agency's treatment of the protest before and after award. FAR 33.104 provides procedures for the treatment of protests before and after award to the General Accounting Office. Finally FAR 33.105 states standards for the treatment of protests concerning automatic data processing (ADP) acquisition awards to the General Services Board of Contract Appeals (GSBCA).

HUDAR Part 2433 of this interim rule implements CICA section 2741 and establishes procedures for the consideration of protests. The HUD Office of General Counsel (OGC) has the responsibility for handling matters relating to protests against the award of contracts by the Department that are filed with the GAO or GSBCA. All comments from the Department to GAO or GSBCA shall be written by OGC/HUD. The Contracting Officer has the responsibility for furnishing OGC with all information relating to the protest.

Concerning protests to HUD, HUDAR 2433.103 of this interim rule states that when the Contracting Officer makes a determination to award a contract notwithstanding a protest, as authorized by FAR 33.103(a)(1)–(3), the Head of the Contracting Activity (HCA) shall approve the determination before the award. In addition, the HCA shall notify OGC of his or her intent to approve the award.

Protests filed with the Department *after* the award will be considered by the Contracting Officer, with assistance from other HUD offices. Concerning the final HUD decision on an award protest, if the Contracting Officer determines that GAO views are desirable, the time period for reaching a departmental decision on the protest shall be 10 working days from the receipt of the GAO position, but not later than 30 working days after HUD receives the protest.

HUDAR 2433.104 of this interim rule sets out procedures to implement FAR Part 33 and CICA section 2741. Upon receipt by the Department of a written request for a formal report relating to a protest filed with GAO, OGC/HUD, with appropriate assistance from the Contracting Officer, shall prepare and file the report in accordance with GAO requirements at 4 CFR Part 21. The HCA shall report to the Comptroller General if HUD has decided not to comply with the GAO recommendation. The HCA shall also notify OGC/HUD of his or her decision not to comply.

D. Other Significant Revisions to the HUDAR

There are other significant modifications to the HUDAR. HUDAR Subpart 2415.6 of this interim rule substantially revises the format of the current regulations on source selection, but neither modifies the substantive procedures for source selection nor the administrative responsibilities and related powers of various departmental bodies (i.e., the Technical Evaluation Panel (TEP) and the Source Evaluation Board (SEB)) and other departmental officials (i.e., the Senior Procurement Executive and the respective contracting officers) involved in source selection.

These HUDAR revisions conform more closely to the specific sections of the FAR and eliminate redundant provisions. In a manner similar to that of the current regulations, Subpart 2415.6 of this interim rule sets different procedures for procurements where: (a) The expected dollar amount will be $500,000 or more, and (b) where the expected dollar amount will be less than $500,000.

HUDAR 2414.404–1(c) of this interim rule redelegates authority to Heads of Contracting Activities. Under this authority, invitations for bids may be cancelled and all bids rejected before award when the Head of the Contracting Activity determines in writing that cancellation is appropriate and consistent with FAR 14.401–1.

HUDAR Part 2421 (Minority Business Enterprises and Historically Black Colleges and Universities) has been redesignated as Part 2470 (Special Programs Affecting Acquisition) within a new Subchapter U—HUD Supplementations. This accords with the current FAR format and represents a more appropriate placement of this set of departmental procurement policies and procedures. In addition, HUDAR 2470.101 and 2470.103 of this interim rule revise the list of possible minority group members for the formation of a "minority business enterprise" for purposes of HUD acquisition policy, to add "Hasidic Jewish Americans". This revision accords with a final rule of the Minority Business Development Agency of the U.S. Department of Commerce published in the **Federal Register** of October 24, 1984 (49 FR 42699).

III. Miscellaneous

A. Executive Order 12291

Under Bulletin No. 85–7, the Director of the Office of Management and Budget (OMB) withdrew the general exemption from Executive Order 12291 for agency procurement regulations.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291. The rule 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 agencies or geographic regions; or (3) have significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The HUDAR revisions in this interim rule involve modifications of various departmental procedures for HUD procurement activities. These modifications will not affect specific HUD contractors or prospective contractors, but rather revise the procedures for HUD procurement decisions.

B. Regulatory Flexibility Act

Consistent with the provisions of section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned certifies that this rule does not have a significant economic impact on a substantial number of small entities because the rule contains few changes to current acquisition regulations. To the extent changes are made to current regulations, they are designed to foster and promote participation of small entities in the Department's procurement program.

C. Paperwork Reduction Act

HUDAR 2401.105 of this interim rule states that under the Paperwork Reduction Act of 1980 (44 U.S.C 3520), information collection requests covered by the Act have been approved by OMB. The HUDAR revisions in this interim rule refer to departmental procedures for HUD procurement activities and do not involve additional information collection burdens to those in the May 1984 HUDAR.

The following OMB control number applies for information collection requests under this interim rule: OMB Approval Number 2535–0091. The expiration date is March 31, 1987. This OMB approval refers to the following information collections activities: (1) Organizational conflict of interest disclosure or representation (2409.504(a)); (2) organizational conflict of interest clause (2409.504(b)); (3) determination of award fee earned clause (2416.405(e)(1)); and (4) certification of status as a Minority Business Enterprise (MBE) (2421.103).

D. National Environmental Policy Act

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 in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street SW., Washington, DC 20410.

E. Administrative Procedure Act

Section 553 of the Administrative Procedure Act exempts rules relating to public contracts from the prior notice and comment procedure normally required for informal rulemaking. However, the Office of Federal Procurement Policy (OFPP), Office of Management and Budget (OMB), has established procedures to be used by all Federal agencies in the promulgation of procurement regulations. In OFPP Policy letter 83–2, OFPP states that an agency must provide an opportunity for public comment before adopting procurement regulations if the regulations represent a "significant" change to existing regulations. "Significant" is defined generally as something that has an effect beyond the internal operating procedures of the agency or has a cost or administrative impact on contractors.

The Department has determined that this rule does not represent a significant change. As described earlier in the preamble, changes made to the HUD Acquisition Regulation are principally in the areas of format and internal procedures. The internal procedural changes are necessary to implement new policies established by CICA and by the 1985 FAR Amendments.

The Department traditionally has provided for prior notice and comment even when not required by the Administrative Procedure Act (*see* 24 CFR 10.1). Although this is the general policy of the Department, we have determined in this instance that it is unnecessary to delay the effectiveness of this largely procedural rule pending the receipt of public comments. Accordingly, the rule is being published for effect. Nevertheless, because of the possibility of public interest in portions of the rule, the Department is publishing the HUDAR changes as interim rulemaking and is providing for a public comment period of 60 days. The Department will review all comments received and take them into account in the development of a final rule.

F. Department's Semiannual Agenda of Regulations

This interim rule is listed as item 947 in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44166, 44206) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 48 CFR Chapter 24

Government procurement, HUD acquisition regulations.

Accordingly, the Department of Housing and Urban Development (HUD) amends Title 48, Chapter 24 of the Code of Federal Regulations as follows:

1. The Table of Contents for Title 48, Chapter 24 is revised to read as follows:

CHAPTER 24—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER A—GENERAL

Part
2401 Federal Acquisition Regulations System
2402 Definitions of Words and Terms
2403 Improper Business Practices and Personal Conflicts of Interest
2404 Administrative Matters

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

2405 Publicizing Contract Actions
2406 Competition Requirements
2407 Acquisition Planning
2409 Contractor Qualifications

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACT TYPES

2413 Small Purchase and Other Simplified Purchase Procedures
2414 Sealed Bidding
2415 Contracting by Negotiation
2416 Types of Contracts

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

2419 Small Business and Small Disadvantaged Business Concerns
2420 Labor Surplus Area Concerns
2424 Protection of Privacy and Freedom of Information

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

2428 Bonds and Insurance
2429 Taxes
2432 Contract Financing
2433 Protests, Disputes, and Appeals

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

2436 Construction and Architect-Engineer Contracts
2437 Service Contracting

SUBCHAPTER G—CONTRACT MANAGEMENT

2449 Termination of Contracts

SUBCHAPTER U—HUD SUPPLEMENTATIONS

2470 Special Programs Affecting Acquisition

SUBCHAPTER A—GENERAL

PART 2401—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. The authority citation for the CFR Part 2401 is revised to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

3. A new 2401.105 is added, to read as follows:

2401.105 OMB approval under the Paperwork Reduction Act.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that Federal agencies obtain approval from the Office of Management and Budget (OMB) before collecting information from 10 or more persons. HUD has received approval from OMB to collect information under the provisions of its Acquisition Regulation. The OMB Approval Number is 2535–0091.

4. The Table of Contents for Subpart 2401.6 is revised to read as follows:

Subpart 2401.6—Contracting Authority and Responsibilities

Sec.
2401.601 General.
2401.601–70 Office of Procurement and Contracts.
2401.601–71 Acquired Property Program of the Office of Housing.
2401.601–72 Government National Mortgage Association (GNMA).
2401.601–73 Regional Offices.
2401.602 Contracting Officers.
2401.602–70 Ratification of unauthorized contract awards.
2401.603 Selection, appointment, and termination of appointment.
2401.603–2 Selection.
2401.603–3 Appointment.

Subpart 2401.6—Contracting Authority and Responsibilities

5. HUDAR 2401.601–1 and 2401.601–2 are removed and HUDAR 2401.601–70, 2401.601–71, 2401.601–72, and 2401.601–73 are added to read as follows:

2401.601–70 Office of Procurement and Contracts.

The Office of Procurement and Contracts, in the Office of the Assistant Secretary for Administration, is responsible for all Departmental procurement except as specified below. The Office of Procurement and Contracts also is responsible for awarding all contracts and agreements in support of the Department's Consolidated Supply Program. Such awards will be made under the regulations found at 24 CFR Part 965, Subpart G. These contracts are established for voluntary use by Public Housing Agencies and Indian Housing Authorities in their purchase of certain supplies and equipment necessary for the operation and maintenance of low-income housing.

2401.601–71 Acquired Property Program of the Office of Housing.

The Office of Housing, headed by the Assistant Secretary for Housing-Federal Housing Commissioner, awards and manages procurement actions for HUD-owned property and property held by HUD as mortgagee-in-possession under the National Housing Act (12 U.S.C. 1701–1749). This includes all contract actions associated with property disposition, such as the procurement of goods and services for the management, repair, improvement, alteration, demolition, maintenance, operation, rental, sale or other disposal of such properties. This function also includes the award and management of procurement actions incidental to a foreclosure or the taking of a deed-in-lieu of foreclosure on property with HUD-held mortgages, including purchase money mortgages. Operational contracting for the program is decentralized to specific positions at HUD Field Offices. In addition, the Office of Housing, through its Headquarters staff:

(a) Awards contracts for the above-described functions when the contracts have national applicability;

(b) Provides technical assistance and operational contracting support to Housing Field Office personnel, as needed;

(c) Issues internal procedures for the above, which are consistent with and not duplicative of the FAR or HUDAR.

2401.601–72 Government National Mortgage Association (GNMA).

The President, GNMA, exercises statutory procurement authority with respect to requirements related to GNMA's programmatic functions. The HUDAR does not apply to these procurement actions. The President, GNMA is responsible for issuing and complying with appropriate GNMA procurement guidelines not inconsistent with standards established by the Senior Procurement Executive.

2401.601–73 Regional Offices.

Procurement of supplies and services for HUD Regional requirements is accomplished at each Regional Office by the Regional Contracting Officer and the Director of the Administrative Services Division, Office of Administration.

PART 2402—DEFINITIONS OF WORDS AND TERMS

6. The authority citation for 48 CFR Part 2402 is revised to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

7. HUDAR 2402.101 is revised to read as follows:

2402.101 Definitions.

"Department"—means The Department of Housing and Urban Development, which may also be designated as "HUD".

"Head of the Contracting Activity (HCA)"—is defined in accordance with the FAR. The following HUD officials are designated as HCAs:

(1) *Director, Office of Procurement and Contracts,* for HUD Headquarters procurement and the Consolidated Supply Program;

(2) The *Regional Directors, Offices of Administration,* for Regional Office procurement;

(3) The *Chief, Reconditioning and Contracting Branch,* Office of Multifamily Housing Management, for Headquarters acquired property operations;

(4) The *Managers, HUD Field Offices,* for decentralized procurement for acquired properties and other delegated procurement; and

(5) The *President, Government National Mortgage Association (GNMA),* for procurements related to GNMA's programmatic functions.

"Primary Organization Heads"—are those officials of the Department who are responsible for the major organizational components of HUD and who report directly to the Secretary or Under Secretary. The Primary Organization Heads of HUD are: the Assistant Secretaries, the General Counsel, the Deputy Under Secretaries, the President of GNMA, the President of the Solar Energy and Energy Conservation Bank, the Inspector General, and the Regional Administrators.

"Secretary"—means the Secretary of the Department of Housing and Urban Development, or his or her designee.

"Senior Procurement Executive"—means the Assistant Secretary for Administration. The Senior Procurement Executive has responsibility for the development of procurement systems, evaluation of systems performance in accordance with approved criteria, enhancement of career management of the procurement work force, and certification to the Secretary that the Department's procurement systems meet approved criteria. The Senior Procurement Executive is also responsible for all Departmental procurement policy, regulations, and procedures, except for internal procedures related to programmatic procurements of the Government National Mortgage Association and the acquired property program under the Assistant Secretary for Housing-Federal Housing Commissioner.

8. The caption of Subchapter B is revised to read as follows:

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

9. The authority citation for 48 CFR Part 2405 is revised to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

10. HUDAR Part 2405, Publicizing Contract Actions, is redesignated, without revision, as the first part in HUDAR Subchapter B.

11. A new Subpart 2405.2 and section 2405.202 are added, to read as follows:

Subpart 2405.2—Synopses of Proposed Contract Actions

2405.202 Exceptions.

(b) The Senior Procurement Executive shall make the written determination in accordance with FAR 5.202(b) that advance notice of proposed contract actions is not appropriate or reasonable.

12. A new Part 2406 is added, to read as follows:

PART 2406—COMPETITION REQUIREMENTS

Subpart 2406.2—Full and Open Competition After Exclusion of Sources

2406.202 Establishing or maintaining alternative sources.

Subpart 2406.3—Other Than Full and Open Competition

2406.304 Approval of the justification.
2406.304–70 Approval of the justification—Headquarters acquired property program.
2406.304–71 Approval of the justification—Field Office procurements.
2406.304–72 Approval of the justification—Procurement Review Board.

Subpart 2406.5—Competition Advocates

2406.501 Requirement.

Authority: Competition in Contracting Act of 1984 (41 U.S.C. 253); sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2406.2—Full and Open Competition After Exclusion of Sources

2406.202 Establishing or maintaining alternative sources.

(b)(1) The HCA shall sign the Determination and Finding (D&F) required by FAR 6.202(b)(1).

Subpart 2406.3—Other Than Full and Open Competition

2406.304 Approval of the justification.

(c) A class justification for other than full and open competition shall be approved in writing by the Senior Procurement Executive.

2406.304–70 Approval of the justification—Headquarters acquired property program.

(a) The justification for other than full and open competition for the Headquarters acquired property program shall be approved in writing—

(1) For a proposed contract not exceeding $100,000, by the Chief, Reconditioning and Contracting Branch, Office of Multifamily Housing Management.

(3) For a proposed contract more than $1 million but not exceeding $10 million, by the Director, Office of Multifamily Housing Management.

2406.304–71 Approval of the justification—Field Office procurements.

(a) The justification for other than full and open competition for Field Office procurements shall be approved in writing—

(3) For a proposed contract more than $1 million but not exceeding $10 million, by the Deputy Regional Administrator.

2406.304–72 Approval of the justification—Procurement Review Board.

(a) The Senior Procurement Executive shall provide for the operation of a Procurement Review Board (PRB) to review and approve all Headquarters-proposed sole-source awards in excess of the small purchase limitation that are based upon FAR exceptions 6.302–1, 6.302–2, or 6.302–3. The PRB shall be comprised of senior departmental managers and shall use criteria consistent with those in the FAR in evaluating proposed sole-source awards.

(b) PRB review and approval shall be in addition to that required by FAR 6.304(a)(1–3). No justification for other than full and open competition proposing a sole-source award as specified in 2406.304–72(a), above, shall be considered final and approved by the Department until it has been reviewed and approved by the PRB, and in the case of a sole-source award in excess of $10 million, by the Senior Procurement Executive.

(c) Regional Administrators-Regional Housing Commissioners shall provide for the operation of Regional Procurement Review Boards based upon directions received from the Senior Procurement Executive.

Subpart 2406.5—Competition Advocates

2406.501 Requirement.

The Deputy Assistant Secretary for Administration is designated as the Department's competition advocate. The authority to approve replacements for all HUD competition advocates is delegated to the Senior Procurement Executive.

SUBCHAPTER C—CONTRACTING METHODS AND CONTRACTING TYPES

13. The title and Table of Contents for Part 2414 are revised to read as follows:

PART 2414—SEALED BIDDING

Subpart 2414.4—Opening of bids and Award of Contract

2414.404 Rejection of bids.
2414.404–1 Cancellation of invitations after opening.
2414.406 Mistakes in bid.
2414.406–3 Other mistakes disclosed before award.
2414.406–4 Mistakes after award.
2414.407 Award.

2414.407–2 Responsible bidder-reasonableness of price.

Authority: Competition in Contracting Act of 1984 (41 U.S.C. 253); sec. 205(c) of the Federal Property and Administrative Service Act of 1949 (42 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

14. A new 2414.404 and 2414.404–1 are added, to read as follows:

2414.404 Rejection of bids.

2414.404–1 Cancellation of invitations after opening.

(c) Invitations may be cancelled and all bids rejected before award but after opening when the Head of the Contracting Activity, as described in Subpart 2402.1, determines in writing that cancellation is appropriate and consistent with FAR 14.404–1.

15. HUDAR 2414.406–3 is revised to read as follows:

2414.406–3 Other mistakes disclosed before award.

(e) Mistakes in bids disclosed before award (other than obvious clerical errors) shall be submitted to the following authorities for determinations:

(1) *Director, Office of Procurement and Contracts* for all Departmental procurement except as stated in paragraphs (2) and (3) of this section.

(2) *Field Office Managers for the Acquired Property Program.* The Field Office Manager will obtain the concurrence of the Office of General Counsel in Headquarters or the Regional Counsel for the respective Field Office before notification to the bidder. The Contracting Officer shall be notified promptly of the course of action to be taken.

(3) *Chief, Reconditioning and Contracting Branch, Office of Multifamily Housing Management* for Headquarters acquired property operations.

16. HUDAR 2414.470–8 is removed.

PART 2415—CONTRACTING BY NEGOTIATION

17. The authority citation for 48 CFR Part 2415 is revised to read as set forth below, and any authority citation following any section in Part 2415 is removed:

Authority: Competition in Contracting Act of 1984 (41 U.S.C. 253); sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

18. HUDAR Subpart 2415.1 is removed.

19. HUDAR 2415.408 is revised to read as follows:

2415.408 Issuing solicitations.

(d) The FAR policy on bidding time for procurements that involve sealed bids (FAR 14.202–1) is applicable to negotiated procurements under this part.

20. HUDAR Subpart 2415.6 is revised to read as follows:

Subpart 2415.6—Source Selection

2415.604 Responsibilities.
2415.605 Evaluation factors.
2415.608 Proposal evaluation.
2415.609 Competitive range.
2415.610 Written or oral discussion.
2415.611 Best and final offers.
2415.611–70 Final selection.
2415.613 Alternative source selection procedures.
2415.613–70 Applicability.
2415.613–71 Evaluation and negotiation or procurements.

Subpart 2415.6—Source Selection

2415.604 Responsibilities.

(b) The technical requirements related to source selection shall be performed by a Technical Evaluation Panel (TEP) for procurements lower than $500,000. The TEP shall be composed of one or more technical personnel designated by the program or initiating office.

2415.605 Evaluation factors.

(e) Each technical evaluation factor and subfactor shall be assigned a numerical weight which shall appear in the RFP. These factors will serve as the standard against which all proposals will be evaluated.

2415.608 Proposal evaluation.

(a)(2) Technical evaluation. The TEP shall assign each proposal a score on the basis of the factors specified in the solicitation. The TEP shall identify each proposal as being either acceptable or unacceptable. A proposal shall be considered unacceptable if it is so clearly deficient that it cannot be corrected through written or oral discussions. Predetermined cut-off scores designed to determine a threshold level of acceptability of proposals shall not be employed. A TEP report shall be prepared and signed by the technical evaluator or evaluators, furnished to the Contracting Officer, and maintained as a permanent record in the official procurement file.

(3) In addition to the documentation listed in FAR 15.608(a)(2)(i–iv), the TEP report shall include—

(i) The score of each proposal;

(ii) A narrative evaluation specifying the strengths and weaknesses of each proposal;

(iii) Any reservations or qualifications that may bear upon the selection of a source or sources for negotiation and award;

(iv) Specific technical reasons supporting a determination of unacceptability with respect to any proposal; and

(v) Score sheets of all TEP members.

(b) The HCA may reject all proposals received in response to a solicitation. His or her written determination shall follow FAR 15.608(b).

2415.610 Written or oral discussion.

(b) Except as provided in FAR 15.610(a), the Contracting Officer (or his or her designee) and the TEP shall conduct written or oral discussions with all responsible offerors who submit proposals within the competitive range.

2415.611 Best and final offers.

2415.611–70 Final selection.

(d) After the close of discussions and receipt of best and final offers, the TEP shall perform a final evaluation and prepare its selection recommendation or recommendations. Based on the EEP evaluation and recommendations, the Contracting Officer shall select for final contract negotiation the offeror(s) whose proposal promises the greatest value to the Government in terms of cost, technical, and other relevant factors.

2415.613 Alternative source selection procedures.

2415.613.–70 Applicability.

For those procurements where the expected dollar amount will be $500,000

or more, the procedures set out in 2415.613–71 will apply. These procedures, which are more formal than those applying to procurements of less than $500,000, may also be used at the request of the funding Assistant Secretary for procurements of less than $500,000.

2415.613–71 Evaluation and negotiation of procurements.

(a) *Evaluation.* (1) Selection of the source or sources for final contract negotiations shall be made by the Source Selection Official (SSO) who is the head of the funding office, or by his or her designee. To assist the SSO in evaluating proposals and making the selection, the SSO shall designate a Source Evaluation Board (SEB) composed of a chairperson, voting members, and advisors.

(2) After the deadline for receipt of proposals, the Contracting Officer will forward copies of the technical portion of each proposal to the SEB chairperson or his or her designee, who shall be responsible for custody of the proposals throughout the evaluation process. The cost portion of each proposal shall be retained by the Contracting Officer pending initial technical evaluation by the SEB.

(3) The SEB shall evaluate each proposal in strict conformance with the requirements in 2415.608(a)(2).

(4) After the initial technical evaluation, the Contracting Officer and the SEB shall evaluate the cost portion of each proposal.

(b) *Competitive range.* Unless the SEB is prepared to recommend under FAR 15.610(a)(3) that the award be made on the basis of the most favorable initial proposal, the SEB shall establish a competitive range based upon the evaluation of all the factors for award, including cost or price.

(c) *Written or oral discussions.* The SEB shall conduct written or oral discussions with all offerors within the competitive range as required by FAR 15.610.

(d) *Final SEB Report.* After the close of discussions and receipt of any revisions to proposals and any final adjustments to proposal scores, the SEB shall prepare a written report of its findings and recommendations and submit it to the SSO for action. The report shall summarize all significant SEB actions in the solicitation and evaluation phases and shall include (in addition to the requirements in FAR 15.608(a)(2)(i–iv) and 2415.608(a)(2)(i–v)) recommendations to the SSO regarding selection in terms of: (1) A single source; (2) a number of equal sources; (3) a number of sources in descending order; or (4) options to be considered in arriving at the final decision.

(e) *Selection and final negotiation.* (1) Based upon the SEB report and the SSO's review of the matter, the SSO shall select a source or sources and document the basis for his or her selection. The SSO shall communicate these findings and selection in a memorandum to the Contracting Officer. The memorandum shall request the Contracting Officer to negotiate with the selected sources(s) and may include specific instructions and an alternate source(s) in the event the conduct of final negotiations so warrants.

(2) After receipt of the SSO's selection, the Contracting Officer shall undertake final negotiations. A proposal shall not be considered accepted or a contract awarded until final negotiations are completed with the source and a contract is executed.

21. The heading of Subpart 2415.10 is revised to read as follows:

Subpart 2415.10—Preaward, Award, and Postaward Notifications, Protests, and Mistakes

22. HUDAR 2415.1003 is redesignated as 2415.1004, and is revised to read as follows:

2415.1004 Protests against award.

Protests against awards of negotiated procurements shall be processed in accordance with FAR Subpart 33.1 and HUDAR Subpart 2433.1

SUBCHAPTER D—SOCIOECONOMIC PROGRAMS

PART 2419—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

23. The authority citation 48 CFR Part 2419 is revised to read as set forth below:

Authority: Sec. 205(c) of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2419.201 [Amended]

24. In 2419.201, paragraph (d) is removed, and paragraph (e) is redesignated as paragraph (d).

2419.201–70 [Amended]

25. A new 2419.201–70 is added, to read as follows:

2419.201–70 Regional Small Business Specialist.

Each Regional Administrator shall designate a Regional Small Business Specialist, who shall coordinate and monitor the activities of the small business/small disadvantaged business specialists designated by each Head of a Contracting Activity, as provided in paragraph (d) of 2419.201.

26. HUDAR Part 2421 is removed.

SUBCHAPTER E—GENERAL CONTRACTING REQUIREMENTS

27. A new Part 2428 is added, to read as follows:

PART 2428—BONDS AND INSURANCE

Subpart 2428.1—Bonds

2428.106 Administrative.
2428.106–6 Furnishing information.

Subpart 2428.2—Sureties

2428.203 Options in lieu of sureties.
2428.203–70 Irrevocable letter of credit.

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2428.1—Bonds

2428.106 Administrative.

2428.106–6 Furnishing information.

(c) The HCA shall furnish the certified copy of the bond and the contract for which it was given to any person who requests them in accordance with FAR 28.106–6.

Subpart 2428.2—Sureties

2428.203 Options in lieu of sureties.

2428.203–70 Irrevocable letter of credit.

In addition to the options provided in FAR 28.203, any person or organization required to furnish a bond in connection with a contract under the Acquired Property Program (see 2401.601–71) has the option of furnishing an irrevocable letter of credit instead of furnishing surety or sureties on the bonds.

28. A new Part 2433 is added, to read as follows:

PART 2433—PROTESTS, DISPUTES, AND APPEALS

2433.000 Scope of part.

Subpart 2433.1—Protests.

2433.101–70 Definitions.
2433.102 General.
2433.102–70 Responsibility.
2433.103 Protests to the agency.
2433.103–70 Times for filing.
2433.103–71 Agency decision.
2433.104 Protests to GAO.
2433.104–70 Notice of protest and submission of report.
2433.105 Protest to GSBCA.

Authority: Competition in Contracting Act of 1984 (31 U.S.C. 3551–3556); sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec.

7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2433.000 Scope of part.

This part identifies the responsible agents and sets forth procedural requirements for handling protests (except for protests against awards under acquired property contracts, which shall be processed in accordance with 24 CFR Part 20).

Subpart 2433.1—Protests

2433.101-70 Definitions.

"Working day", as used in this part, means a working day of the Agencies of the Federal Government, excluding Saturdays, Sundays, and Federal holidays, as specified in 5 U.S.C. 6103.

2433.102 General.

2433.102-70 Responsibility.

The Office of General Counsel has responsibility for handling matters relating to protests filed with the General Accounting Office (GAO) or the General Services Board of Contract Appeals (GSBCA) against award of contracts by the Department. All written communications from the Department to the GAO or the GSBCA shall be by the Office of General Counsel. The Contracting Officer has responsibility for furnishing the Office of General Counsel with all information relating to a protest.

2433.103 Protests to the agency.

(a) When the Contracting Officer makes a determination to award a contract notwithstanding a protest, as authorized by FAR 33.103(a)(1)–(3), that determination shall be approved by the HCA before the award, after consultation with the Office of General Counsel.

(b)(2) Protests received after award that are filed only with the Department shall be decided promptly by the Contracting Office after consultation with appropriate officials, including the program office and the Office of General Counsel.

2433.103-70 Times for filing.

The times for filing a protest filed only with the Department shall be consistent with GAO requirements at 4 CFR Part 21.

2433.103-71 Agency decision.

The Contracting Officer shall issue, in writing, his or her final decision on a protest within 20 working days from the date of receipt of the protest by the Department. If it is determined that it is desirable to solicit the views of GAO, the time for rendering a decision shall be 10 working days after the Department's receipt of GAO's views, but not later than 30 working days after the Department receives the protest.

2433.104 Protests to GAO.

(a)(1) General. When advised by GAO of the receipt of a protest, the Office of General Counsel shall immediately inform the contracting activity. The Contracting Officer shall notify the Office of General Counsel upon receipt of the copy of the protest from the protestor.

(2) Upon receipt by the Department of a written request for a formal report relating to a protest, the Office of General Counsel, with appropriate assistance from the Contracting Officer, shall prepare and file the report in accordance with GAO requirements at 4 CFR Part 21.

(c) Protests after award. Protests received after award shall be treated in the same manner as those filed with GAO before award in accordance with paragraphs (a)(1) and (a)(2) of this section.

(d) Findings and notice. When the Contracting Officer makes a determination to award a contract notwithstanding a protest as authorized by FAR 33.104(b)(1)(i–ii), or to continue contractor performance as authorized by FAR 33.104(c)(2), that determination of the intent to make an award or to continue contract performance shall be approved by the HCA after consultation with the Office of General Counsel.

(f) Notice to GAO. The HCA shall report to the Comptroller General if the Department has decided not to comply with a GAO recommendation. The HCA shall notify the Office of General Counsel of the intent not to comply.

2433.105. Protests to GSBCA.

(d)(2) The Determination and Finding (D&F) establishing circumstances for not suspending the Department's procurement authority shall be executed by the HCA, as defined in 2402.1.

SUBCHAPTER F—SPECIAL CATEGORIES OF CONTRACTING

29. HUDAR Part 2437 is revised to read as follows:

PART 2437—SERVICE CONTRACTING

Subpart 2437.2—Consulting Services

2437.205 Management controls.

(b)(6) Any proposed contract for consulting services that exceeds the small purchase limitation requires review and approval by the Procurement Review Board (PRB) at Headquarters or in the cognizant Regional Office. Criteria for PRB review and approval of contracts for consulting services are published in internal HUD directives and are consistent with FAR 37.205(b).

(7) PRB review is equivalent to the reviews required by FAR 37.205(b) (6) and (7).

(8) A copy of the PRB's written approval of the proposed contract action shall be maintained in the official contract file.

Authority: Sec. 205(c) of the Federal Procurement and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

30. A new Subchapter U and Part 2470 are added, to read as follows:

SUBCHAPTER U—HUD SUPPLEMENTATIONS

PART 2470—SPECIAL PROGRAMS AFFECTING ACQUISITION

Subpart 2470.1—Minority Business Enterprises

2470.101 Policy.
2470.102 Responsibilities.
2470.103 Certification of status as a minority business enterprise.

Subpart 2470.2—Historically Black Colleges and Universities

2470.201 Policy.

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart 2470.1—Minority Business Enterprises

2470.101 Policy.

It is the policy of the Department to foster and promote Minority Business Enterprise (MBE) participation in its procurement program, to the extent permitted by law and consistent with its primary mission. A "minority business enterprise" is a business which is at least 51 percent owned by one or more minority group members; or, in case of a publicly-owned business, one in which at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily business operations are controlled by one or more such individuals. For this purpose, minority group members are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans and Asian Indian Americans, and Hasidic Jewish Americans.

2470.102 Responsibilities.

(a) *The Assistant Secretary for Fair Housing and Equal Opportuntity.* The Assistant Secretary for Fair Housing and Equal Opportunity develops Departmental plans and policies for

MBE functions in accordance with Executive Orders 11625 and 12432 and by directive from the Secretary. He or she provides advice and guidance to the Secretary and to other Assistant Secretaries on MBE functions, reviews and makes recommendations to the Secretary on MBE annual plans and goals of other Assistant Secretaries, monitors and evaluates the Department's MBE functions, and reports on the MBE program to Primary Organization Heads and to the Department of Commerce.

(b) *Director of the Office of Small and Disadvantaged Business Utilization (OSDBU).* The Director of the Office of Small and Disadvantaged Business Utilization performs a staff role for the Secretary with respect to MBE functions.

2470.103 Certification of status as a minority business enterprise.

All contracting activities shall request all interested Contractors, bidders, or offerors (including sources utilized through small purchase procedures) to complete, on a voluntary basis, a certification as to whether they are a minority business enterprise as defined under 2470.101. Completion of this certification is not a condition of eligibility for contract award.

RFQ/IFB/FRP No. _____
Purchase Order/Contract No. _____

U.S. Department of Housing and Urban Development additional certification of status as a Minority Business Enterprise.

Offerors, bidders or suppliers are requested to complete, sign and attach this page, in single copy, to any bid, proposal or quote submitted under the Solicitation identified above. Completion of the certification is not a condition of eligibility for contract award.

The Bidder/Offeror/Supplier certifies that he [ ] is, [ ] is not, (check one) a minority business enterprise which is defined as a business which is at least 51 percent owned by one or more minority group members or, in the case of a publicly owned business, at least 51 percent of its voting stock is owned by one or more minority group members, and whose management and daily operations are controlled by one or more such individuals. For the purpose of this definition, minority group members are Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans and Asian Indian Americans, and Hasidic Jewish Americans.

(Name and title of person signing.) _____
Signature _____
Date _____

Subpart 2470.2—Historically Black Colleges and Universities

2470.201 Policy.

Executive Order 12320, September 15, 1981 (46 FR 46107), 3 CFR, 1981 Comp., P. 176), directed the Department to establish annual plans to increase the ability of Historically Black Colleges and Universities to participate in Federally sponsored programs including contracts, grants and cooperative agreements. OSDBU is responsible for developing the annual plans regarding the participation of Historically Black Colleges and Universities in Departmental programs. OSDBU is responsible also for ensuring that the reporting requirements are fulfilled.

Dated: October 29, 1985.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 85-26314 Filed 11-7-85; 8:45 am]

BILLING CODE 4210-01-M

Federal Register

Friday
November 8, 1985

Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 310
21 CFR Parts 343 and 357
Drugs for Over-the-Counter Human Use; Final Rule and Notice of Proposed Rulemaking

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 76N-052C]

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Anticholinergic Drug Products for Over-the-Counter Human Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule establishing that any anticholinergic drug product for over-the-counter (OTC) human use is not generally recognized as safe and effective, is misbranded, and is subject to regulatory action unless it has an approved new drug application (NDA). (Anticholinergics are drugs used in cough-cold products for the relief of excessive secretions of the nose and eyes, symptoms which are commonly associated with hay fever, allergy, rhinitis, and the "common cold" (cold)). FDA is issuing this final rule after considering public comments on the agency's proposed regulation, which was issued in the form of a tentative final monograph, and all new data and information on anticholinergic drug products that have come to the agency's attention. This final rule is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: November 10, 1986.

FOR FURTHER INFORMATION CONTACT: William E. Gilberston, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 9, 1976 (41 FR 38312), FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products, together with the recommendations of the Advisory Review Panel on OTC Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in these drug classes. Interested persons were invited to submit comments by December 8, 1976. Reply comments in response to comments filed in the initial comment period could be submitted by January 7, 1977.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, after deletion of a small amount of trade secret information.

The agency's proposed rule, in the form of a tentative final monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products is being issued in the following segments: anticholinergics and expectorants, bronchodilators, antitussives, nasal decongestants, antihistamines, and combinations. The first segment, the tentative final monograph for anticholinergic drug products and expectorant drug products, was published in the **Federal Register** of July 9, 1982 (47 FR 30002). Interested persons were invited to file by September 7, 1982, written comments, objections, or requests for oral hearing before the Commissioner of Food and Drugs regarding the proposal. Interested persons were invited to file comments on the agency's economic impact determination by November 8, 1982. New data could have been submitted until July 11, 1983, and comments on the new data until Septmber 9, 1983.

In a notice published in the **Federal Register** of August 27, 1982 (47 FR 37934), the agency advised that it had extended the period for comments, objections, or requests for oral hearing for OTC anticholinergic drug products and expectorant drug products. The notice allowed the period for comments, objections, or requests for oral hearing to be extended to November 8, 1982.

The agency's final rule in the form of a final monograph for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products is also being published in segments. Final agency action on antichlolinergic drug products occurs with the publication of this document. The expectorant segment will be the subject of a separate **Federal Register** document.

In the preamble to the agency's proposed rule on OTC anticholinergic drug products (47 FR 30002), the agency stated that no anticholineric active ingredients had been found to be generally recognized as safe and effective and not misbranded, but that Category I labeling was being proposed in that document in the event that data were submitted that resulted in the upgrading of any ingredients to monograph status in the final rule. In this final rule, no anticholinergic ingredient has been determined to be generally recognized as safe and effective for cough-cold use. Therefore, the labeling for anticholinergics in § 341.70 of the proposed rule is not included in this document. This final rule declares products containing anticholinergic active ingredients for cough-cold use to be new drugs under section 201(p) of the Federal Food, Drug, and Cosmetic Act (the act), for which a new drug application approved under section 505 of the act (21 U.S.C. 355) and 21 CFR Part 314 is required for marketing. In the absence of an approved new drug application, products containing these drugs for this use also would be misbranded under section 502 of the act (21 U.S.C. 352). This final rule amends 21 CFR Part 310 to include anticholinergics for cough-cold use by adding to Subpart E new § 310.533 (21 CFR 310.533). The inclusion of anticholinergic drugs for OTC cough-cold use in Part 310 is consistent with FDA's established policy for regulations in which there are no monograph conditions. (See, e.g., §§ 310.510, 310.519, 310.525, and 310.526.) If, in the future, any ingredient is determined to be generally recognized as safe and effective as an OTC anticholinergic for cough-cold use, the agency will promulgate an appropriate regulation at that time.

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA is no longer using the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but is using instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III).

In the proposed rule for OTC anticholinergic drug products (47 FR 30003), the agency advised that it was not aware that any anticholinergic ingredients were being tested and that products containing anticholinergic ingredients may have to be reformulated. The agency has established a period of 12 months after the date of publication of the final rule in the **Federal Register** for reformulation

of products. Although the agency is now aware that one manufacturer has expressed interest in testing anticholinergics and has submitted a protocol, the results of a study have not been submitted to the agency for evaluation. Therefore, anticholinergic drug products that are subject to this rule are not generally recognized as safe and effective and are misbranded (nonmonograph conditions). On or after November 10, 1986, no OTC anticholinergic-containing drug products that are subject to this final rule and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved NDA.

In response to the proposed rule on OTC anticholinergic drug products, one manufacturer, two drug manufacturer associations, one health care professional, and one health care professional society submitted comments. Copies of the comments received are on public display in the Dockets Management Branch. Any additional information that has come to the agency's attention since publication of the proposed rule is also on public display in the Dockets Management Branch.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the Federal Register of August 9, 1972 (37 FR 16029) or to additional information that has come to the agency's attention since publication of the notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Conclusions on the Comments

A. General Comments on Anticholinergic Drug Products

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC drug rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the Federal Register of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the Federal Register of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F.2d 688, 696–98 (2d Cir. 1975) and *National Association of Pharamaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F.2d 887 (2d Cir. 1981).

2. One comment disagreed with the agency's statement that "no anticholinergic active ingredients have been determined to be generally recognized as safe and effective and not misbranded" (47 FR 30002). Arguing that the evidence to support the safety and effectiveness of these ingredients may not be conclusive, the comment stated that most of these drugs are not unsafe when used as directed by the manufacturers. The drugs may be effective in a "significant proportion of patients," the comment maintained, and it would be desirable to examine the physiologic and pharmacologic effects of these drugs to determine whether larger than recommended doses do have measurable beneficial or harmful effects in patients who claim that "standard" doses produce subjective benefits.

The agency's statement that "no anticholinergic active ingredients have been determined to be generally recognized as safe and effective and not misbranded" was a tentative conclusion based on a lack of adequate studies at that time to support the use of these drugs for their claimed effects. The data remain inadequate to upgrade any anticholinergic ingredient to a monograph condition.

In accordance with 21 CFR 310.533, which is being promulgated with the publication of this document, manufacturers may test nonmonograph anticholinergic ingredients to determine whether the Panel's recommended doses or even larger doses are effective. If the larger than recommended doses are not within a known safety range, additional safety studies will be needed.

3. In response to the agency's request for definitions of the term "anticholinergic" in lay language (47 FR 30004), one comment suggested that "anticholinergic" be defined as "a drug that acts upon those mechanisms in the damaged nose or lungs which lead to the production of excessive secretions so as to decrease their production thereby resulting in a drying effect." The comment also stated that the definition of anticholinergic drugs should mention the specific anticholinergic action from a pharmacologic or structural point of view.

The agency concludes that the definition offered by the comment for the term "anticholinergic" does not appear to be any clearer or more appropriate than that proposed by the agency in § 341.3 (47 FR 30009). By inviting public comment on definitions for "anticholinergic," the agency acknowledged the difficulty in defining this word in lay terms. In the tentative final monograph, the agency proposed §§ 341.3 and 341.70, which contain the definition of anticholinergic and the labeling for anticholinergic drugs, respectively. Because there are no safe and effective anticholinergic ingredients to be included in a final monograph, §§ 341.3 and 341.70 are not included in this document.

4. One comment stated that because there is a striking lack of data regarding the use of anticholinergic drugs in children, it is important to have research conducted to clarify the role of these agents in the care of children.

The agency agrees with the comment that there is a lack of data regarding the use of anticholinergic drugs in children. Because of this lack of data, the Panel consulted a committee of experts on pediatric drug therapy in order to determine pediatric dosages for OTC cough-cold drug ingredients. The Panel and the pediatric committee recommended that pediatric dosages based on age be allowed for those OTC drugs that had a wide margin of safety and for which adequate effectiveness data were available. The agency agrees that research to clarify the role of anticholinergics in the care of children should be conducted.

B. Comment on Anticholinergic Drug Products

5. One comment disagreed with the agency's tentative conclusion to classify atropine sulfate as an anticholinergic in Category III. The comment stated that marketing experience over a 20-year period with no adverse reactions traceable to atropine sulfate and favorable feedback from health professionals attest to the effectiveness of its combination drug products containing atropine sulfate. The comment submitted a proposed protocol, 7 references, and 161 testimonials in support of its request to classify atropine sulfate at a dose of 0.2 milligram (mg) or greater in Category I (Ref. 1). The comment added that its products are designed for use in industrial medical dispensaries where it is important to treat workers' colds with a drug that does not cause drowsiness and that forced removal of atropine sulfate from these products would not

only have a detrimental effect on the efficiency of workers, but would also result in substantial economic hardship to its company.

The agency evaluated the comment's proposed protocol for studying the effectiveness of atropine sulfate as an OTC anticholinergic and responded with a number of suggestions regarding that protocol (Ref. 2). The results of a study have not yet been submitted to the agency. Marketing experience and testimonials alone cannot be considered proof of effectiveness, but must be corroborated by clinical studies (see 21 CFR 330.10(a)(4)(ii)). The agency evaluated the seven references and determined that none of the studies can be used as supportive evidence for the effectiveness of atropine sulfate for use as an OTC anticholinergic to relieve excessive secretions of the nose and eyes associated with hay fever, allergy, and colds. Cullumbine et al. (Ref. 3) studied the safety and tolerance of higher doses of atropine sulfate in healthy volunteers. Murrin (Ref. 4) studied the dose-effect characteristics of atropine on depression of salivation. Mirakhur (Ref. 5) compared oral and intramuscular doses of atropine and measured the reduction of salivary secretions in normal adults. Joseph et al. (Ref. 6) compared the effect of oral and subcutaneous doses of atropine on salivary secretions in children undergoing tonsillectomy. Light et al. (Ref. 7) studied the effects of oral doses of 0.5 mg atropine sulfate on the pulmonary function of asthmatics. Hyde et al. (Ref. 8) investigated the effects in intranasal administration of atropine on saliva production. Only Jackson et al. (Ref. 9) studied the drug in the target population (allergic rhinitis); however, atropine sulfate was not studied as a single ingredient, but was part of a six-ingredient combination product containing chlorpheniramine maleate, phenylpropanolamine hydrochloride, phenylephrine hydrochloride, and three anticholinergics (hyoscyamine sulfate, atropine sulfate, and scopolamine hydrobromide).

The agency concludes that there are insufficient data at this time to support general recognition of the safety and effectiveness of the OTC use of atropine sulfate as an anticholinergic. Therefore, atropine sulfate is not included as a monograph condition in this final rule. It will be necessary for manufacturers to reformulate any OTC cough-cold drug products containing this ingredient unless the product has an approved NDA.

The agency acknowledges that many products used to treat colds contain ingredients, such as antihistamines, that can cause drowsiness and thus create a problem for persons in the work environment. However, the comment's contention that atropine sulfate does not cause drowsiness and thus will increase the efficiency of the work force is irrelevant because atropine sulfate has not been demonstrated to be effective for its intended use as an anticholinergic in OTC cough-cold drug products.

In the **Federal Register** of February 8, 1983 (48 FR 5806), the agency published a notice announcing the availability of an assessment of the economic impacts of the OTC drug review. In that assessment, the agency concluded that the OTC drug review was not a major rule as defined in Executive Order 12291, but recognized that significantly large impacts might be experienced by some small firms in some years. FDA has a statutory mandate to assure that OTC drug products are safe and effective for their intended use and are properly labeled. The statute does not allow FDA to waive these important public health considerations merely because additional costs may be incurred by a manufacturer in order to achieve compliance with a monograph.

References

(1) Comment No. RPT002, Docket No. 76N-052C, Dockets Management Branch.

(2) Letter from W.E. Gilbertson, FDA, to L. Gilson, Otis Clapp & Son, Inc., coded ANS003, Docket No. 76N-052C, Dockets Management Branch.

(3) Cullumbine, H., et al., "The Effects of Atropine Sulphate Upon Healthy Male Subjects," *Quarterly Journal of Experimental Physiology*, 40:309-319, 1955.

(4) Murrin, K.R., "A Study of Oral Atropine in Healthy Adult Subjects," *British Journal of Anaesthesia*, 45:475-480, 1973.

(5) Mirakhur, R.K., "Comparative Study of the Effects of Oral and I.M. Atropine and Hyoscine in Volunteers," *British Journal of Anaesthesia*, 50:591-598, 1978.

(6) Joseph, M.C., et al., "Premedication With Atropine by Mouth," *Lancet*, 2:1060-1061, 1960.

(7) Light, R.W., et. al., "Oral Atropine in the Treatment of Chronic Asthma," *Annals of Allergy*, 38:58-61, 1977.

(8) Hyde, R.W., et al., "Absorption from the Nasal Mucous Membrane," *Annals of Otology, Rhinology, and Laryngology*, 62:957-968, 1953.

(9) Jackson, R.H., et al., "Ru-Tuss in the Symptomatic Treatment of Allergic Rhinitis," *Annals of Allergy*, 35:172-174, 1975.

C. Comments on OTC Anticholinergic Labeling

6. One comment noted its continuing position that FDA cannot legally and should not, as a matter of policy, prescribe exclusive lists of terms from which indications for use for OTC drugs must be drawn, thereby prohibiting alternative OTC drug labeling terminology that is truthful, not misleading, and intelligible to the consumer. The comment added that these views were presented to FDA in oral and written testimony in connection with the September 29, 1982 agency hearing on the exclusivity policy.

The comment added that these labeling restrictions prevent the use of words that have been widely understood and commonly used for generations on OTC medications. The comment stated that the industry has long encouraged an agency policy that would allow choice in labeling nonprescription medicines for consumer use and urged the Commissioner to avoid restricting alternative labeling not only in this monograph but also in future proposed rulemakings.

During the course of the OTC drug review, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under § 330.10(a)(12).

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by The Proprietary Association to reconsider its position. In a notice published in the **Federal Register** of July 2, 1982 (47 FR 29002), FDA announced that a hearing would be held to assist the agency in resolving this issue. On September 29, 1982, FDA conducted an open public forum at which interested parties presented their views. The forum was a legislative type administrative hearing under 21 CFR Part 15 that was held in response to a request for a hearing on the tentative final monographs for nighttime sleep-aids and stimulants (alertness aids) (published in the

Federal Register of June 13, 1978; 43 FR 25544).

After considering the record, in the Federal Register of April 22, 1985 (50 FR 15810), FDA proposed to change its exclusivity policy for the labeling of OTC drug products. As proposed, manufacturers may select one of the following options:

(1) The label and labeling would contain within a boxed area designated "APPROVED USES" the specific wording on indications for use established under an OTC drug monograph. The boxed area would be required to be displayed in a prominent and conspicuous location. As under the present policy, the labeling in the boxed area would be required to be stated in the exact language of the monograph. However, with this option a statement that the information in the box was published by the Food and Drug Administration would appear either in the box or reasonably close by. At the manufacturer's option, the designation of the boxed area and the statement that the labeling was established by FDA could be combined.

(2) As a complete alternative to using the boxed area designated "APPROVED USES," the proposal would for the first time allow manufacturers an option to use other truthful and nondeceptive statements relating only to the indications established in an applicable monograph subject to the prohibitions in section 502(a) of the act against misbranding by the use of false or misleading labeling. If this alternative is selected, the manufacturer would not be able to use a boxed area or include a statement that the indications are endorsed by the Food and Drug Administration.

(3) As a third alternative, manufacturers could use both a boxed area with the monograph language and also, elsewhere in the labeling, use other non-monograph language that meets the statutory standards of truthfulness and accuracy.

Regardless, other aspects of OTC drug labeling, such as the statement of identity, warnings, and directions, would continue to be required to comply with the monograph, including following any exact language established in the monograph.

The proposal to change the exclusivity policy provides for 90 days of public comment. After considering all comments submitted, the agency will announce its final decision on this matter, in a future issue of the Federal Register.

7. One comment objected to the agency's limiting the statement of identity of anticholinergic drug products to only one term, i.e., "anticholinergic." The comment urged FDA to allow manufacturers alternative ways of expressing the statement of identity in accord with 21 CFR 201.61, which allows the statement of identity to include an accurate statement of the general pharmacological category(ies) of the drug or the principal intended action(s) of the drug. The comment stated that by using the principal intended actions to describe these products instead of using only their pharmacologic categories, an anticholinergic could be described as a product "for the relief of running nose." The comment added that such a description would have more meaning to laymen and should not be prohibited.

Wherever possible, the agency prefers to use the general pharmacologic category as the statement of identity because information on the principal intended action of the product is provided in the indications section. However, in instances where the pharmacologic category is not appropriate as the statement of identity, the principal intended action is used. For example, the statement of identity for an antihistamine used as a nighttime sleep-aid is "nighttime sleep-aid."

The alternative statement of identity suggested by the comment for anticholinergic drug products is similar to the indications statement that was proposed for these drugs in § 341.70(b) of the tentative final monograph (47 FR 30009). Because there are no anticholinergic ingredients included in this final rule, no statement of identity for anticholinergics is included in this document.

8. Referring to the proposed warning for anticholinergic drugs in § 341.70(c)(3), "Do not take this product if you have asthma, glaucoma, or difficulty in urination due to enlargement of the prostate gland unless directed by a doctor," one comment stated that there is insufficient evidence to suggest that anticholinergics are harmful in asthma and noted that inhaled anticholinergic agents can be very valuable anti-asthmatic drugs. The comment also stated that the warning presumably should apply to any obstructive pulmonary disease in which clearance of secretions is a major problem, and that while some asthmatics may have this problem, not all asthmatics do.

The agency recognizes that anticholinergic drugs such as atropine have been administered by inhalation to induce bronchial dilatation when treating asthma; however, these drugs are not commonly used by physicians because of their undesirable drying side effects (Refs. 1 and 2). Ipratropium bromide, a new anticholinergic drug for inhalation use, it currently being studied and may be preferable to atropine; however, at this time, ipratropium bromide is available only for experimental use in the United States by qualified scientific investigators (Refs. 1, 3, and 4). Anticholinergics, such as atropine, can be helpful in asthma when given by inhalation; however, when given orally, atropine can reduce the volume of bronchial secretions and cause thickening of the secretions, which may lead to dangerous obstruction and infection of the respiratory airways (Ref. 1). Although all asthmatics may not have the same symptoms or problems with clearance of viscous secretions, the agency believes that, in general, the OTC use of anticholinergics by asthmatics should be discouraged in the interest of safety and a warning against use of anticholinergics by asthmatics would be necessary if an anticholinergic achieves monograph status.

The agency agrees with the comment's statement that a warning against use of anticholinergics should also apply to any obstructive pulmonary disease in which clearance of secretions is a problem. The Panel also stated that it is important to avoid anticholinergics in the presence of bronchial asthma or chronic obstructive pulmonary disease because of the possibility that anticholinergics may cause secretions to become less fluid and difficult to remove, and thus cause obstruction of the respiratory passages (41 FR 38377). The Panel's recommended warning in § 341.70(b)(3) included asthma, but did not include chronic obstructive pulmonary disease as a contraindication for the use of anticholinergics; however, the agency believes that it would be appropriate to expand the warning to include all types of chronic obstructive pulmonary disease. This term applies to patients with clinically significant, irreversible, generalized airways obstruction associated with varying degrees of chronic bronchitis, abnormalities in small airways, and/or emphysema (Ref. 5).

At this time, there are no anticholinergic ingredients that are safe and effective for inclusion in an OTC monograph; thus, no labeling for anticholinergic drugs is being proposed. However, in the event that any anticholinergic ingredient reaches monograph status, the agency will determine appropriate labeling at that time.

References

(1) Weiner, N., "Atropine, Scopolamine, and Related Antimuscarinic Drugs," *in* "The Pharmacological Basis of Therapeutics," 6th Ed., edited by L.S. Goodman and A. Gilman, Macmillan Publishing Co., Inc., New York, pp. 134–135, 1980.

(2) Weiss, E.B., and M.S. Segal, editors, "Bronchial Asthma Mechanisms and Therapeutics," Little, Brown, and Company, Boston, p. 325, 1976.

(3) Groggins, R.C., A.D. Milner, and C.M. Stokes, "Bronchodilator Effects of Clemastine, Ipratropium Bromide, and Salbutamol in Preschool Children with Asthma," *Archives of Diseases in Childhood*, 56:342–344, 1981.

(4) Poppius, H., and Y. Salorinne, "Comparative Trial of a New Anticholinergic Bronchodilator Sch 1000, and Salbutamol in Chronic Bronchitis," *British Medical Journal*, 4:134–136, 1973.

(5) Berkow, R., editor, "The Merck Manual," 14th Ed., Merck Sharp & Dohme Research Laboratories, Rahway, NJ, pp. 628–635, 1982.

9. Three comments disagreed with the agency's proposed substitution of the word "doctor" for "physician" in OTC drug labeling. One comment stated that because "physician" is a term that is recognized by people of all ages and social and economic levels, there is no need for the change, which would be costly and provide no benefit. The comment further contended that "physician" is a more accurate term, whereas "doctor" is a broad term that could confuse and mislead the lay person into taking advice on medication from persons other than medical doctors, such as optometrists, podiatrists, and even chiropractors. The other two comments added that the term "physician" is clearly defined as a person licensed to practice medicine, whereas the term "doctor" is ambiguous and much more general. One of these comments recommended that FDA not eliminate "physician," the more specific term, but allow flexibility to use either term.

The agency recognizes that the term "doctor" is not a precise synonym for the word "physician," but believes that the terms are frequently used interchangeably by consumers and that the word "doctor" is likely to be more commonly used and better understood by consumers. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs. Based on comments received to these proposals, the agency has determined that final monographs and any applicable OTC drug regulation will give manufacturers the option of using either the word "physician" or the word "doctor."

10. One comment objected to elimination of the term "Caution(s)" in the labeling of OTC drug products. The comment claimed that a warning precludes use under certain conditions, whereas "caution" does not preclude use, but may often alert the consumer to a potential problem, e.g., "Caution: If irritation develops discontinue use and consult a physician." Thus, the word "warning" is harsher than "caution." The comment stated that a caution may also be used to add emphasis, e.g., "Caution: Use only as directed," or to alert the user to a special need regarding the care of a product, e.g., "Caution: Keep out of direct sunlight;" "Store in refrigerator;" "Replace bottle cap."

The comment argued that it would undoubtedly dilute the impact of essential warning statements if "cautions," which require the consumer to take certain precautions while using the product, were intermingled with "warnings," which signal that the product should not be used at all under specified circumstances. The comment asserted that although both types of statements are usually used to call attention to danger, the distinction is important, particularly when products contain long lists of warnings. The comment added that because the same phrases may be warnings with regard to one class of products and merely cautions with regard to another, the flexibility of both terms is essential in order to prepare accurate and comprehensible labeling.

Section 502(f)(2) of the act (21 U.S.C. 352(f)(2)) states, in part, that any drug marketed OTC must bear in labeling ". . . such adequate warnings . . . as are necessary for the protection of users . . . ." Section 330.10(a)(4)(v) of the OTC drug regulations provides that labeling of OTC drug products should include ". . . warnings against unsafe use, side effects, and adverse reactions . . . ."

The agency notes that historically there has not been consistent usage of the signal words "warning" and "caution" in OTC drug labeling. For example, in §§ 369.20 and 369.21 (21 CFR 369.20 and 369.21), which list "warning" and "caution" statements for drugs, the signal words "warning" and "caution" are both used. In some instances, either of these signal words is used to convey the same or similar precautionary information.

FDA has considered which of these signal words would be most likely to attract consumers' attention to that information describing conditions under which the drug product should not be used or its use should be discontinued. The agency concludes that the signal word "warning" is more likely to flag potential dangers so that consumers will read the information being conveyed. The agency considers the word "warning" alone to be the simplest, clearest signal to consumers. Therefore, FDA has determined that the signal word "warning," rather than the word "caution," will be used routinely in OTC drug labeling that is intended to alert consumers to potential safety problems. However, as stated earlier, because there are no anticholinergic ingredients included in this final rule, no labeling for anticholinergics is included in this document.

II. Summary of Significant Changes From the Proposed Rule

Because no anticholinergic active ingredients are generally recognized as safe and effective and not misbranded, §§ 341.3 and 341.70, which contain the proposed definition and labeling of anticholinergic drugs, respectively, are not included in this final rule. (See comments 3 and 7 above.) Rather, the agency is amending Part 310 to include anticholinergic ingredients by adding to Subpart E new § 310.533 (21 CFR 310.533).

III. The Agency's Final Conclusions on OTC Anticholinergic Drug Products

The agency has determined that no anticholinergic active ingredient has been found to be generally recognized as safe and effective and not misbranded for use in OTC cough-cold drug products. Therefore, all anticholinergic ingredients, including atropine sulfate, belladonna alkaloids containing atropine (*d*-, *dl*-hyoscyamine) and scopolamine (*l*-hyoscine), and belladonna alkaloids (as contained in Atropa belladonna and Datura stramonium), which were reviewed by the Panel, are considered nonmonograph ingredients and misbranded under section 502(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(a)) and must be removed from OTC cough-cold drug products by the effective date of this final rule unless the product has an approved NDA.

In response to the agency's request for specific comment on the economic impact of this rulemaking (47 FR 30009), one comment was received. (See comment 5 above.) The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment

determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this final rule for OTC anticholinergic drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC anticholinergic drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 310

New drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended in Part 310 as follows:

1. The authority citation for Part 310 continues to read as follows:

Authority: Secs. 502, 503, 505, 710, 52 stat. 1051, 1052, 1053, 1055 as amended (21 U.S.C. 352, 353, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

2. In Subpart E by adding new § 310.533 to read as follows:

PART 310—NEW DRUGS

§ 310.533 Drug products containing active ingredients offered over-the-counter (OTC) for human use as an anticholinergic in cough-cold drug products.

(a) Atropine sulfate, belladonna alkaloids, and belladonna alkaloids as contained in Atropa belladonna and Datura stramonium have been present as ingredients in cough-cold drug products for use as an anticholinergic. Anticholinergic drugs have been marketed OTC in cough-cold drug products to relieve excessive secretions of the nose and eyes, symptoms that are commonly associated with hay fever, allergy, rhinitis, and the common cold. Atropine sulfate for oral use as an anticholinergic is probably safe at dosages that have been used in marketed cough-cold products (0.2 to 0.3 milligram); however, there are inadequate data to establish general recognition of the effectiveness of this ingredient. The belladonna alkaloids, which contain atropine (*d, dl* hyoscyamine) and scopolamine (*l*-hyoscine), are probably safe for oral use at dosages that have been used in marketed cough-cold products (0.2 milligram) but there are inadequate data to establish general recognition of the effectiveness of these ingredients as an anticholinergic for cough-cold use. Belladonna alkaloids for inhalation use, as contained in Atropa belladonna and Datura stramonium, are neither safe nor effective as an OTC anticholinergic. There are inadequate safety and effectiveness data to establish general recognition of the safety and/or effectiveness or any of these ingredients, or any other ingredient, for OTC use as an anticholinergic in cough-cold drug products.

(b) Any OTC cough-cold drug product that is labeled, represented, or promoted for use as an anticholinergic is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act, for which an approved new drug application under section 505 of the act and Part 314 of this chapter is required for marketing. In the absence of an approved new drug application, such product is also misbranded under section 502 of the act.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FDA-1571) (OMB Approval No. 0910-0014), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any cough-cold drug product labeled, represented, or promoted OTC as an anticholinergic is safe and effective for the purpose intended.

(d) After the effective date of the final regulation, any such OTC cough-cold drug product that is labeled, represented, or promoted for use as an anticholinergic may not be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved new drug application.

Frank E. Young,

Commissioner of Food and Drugs.

Dated: October 7, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85-26688 Filed 11-7-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 343

[Docket No. 77N-0094]

Internal Analgesic, Antipyretic, and Antirheumatic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph for Drug Products for the Treatment and/or Prevention of Nocturnal Leg Muscle Cramps

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) drug products for the treatment and/or prevention of nocturnal leg muscle cramps are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and public comment on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by January 7, 1986. New data by November 10, 1986. Comments on the new data by January 8, 1987. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination by March 10, 1986.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 1, 1982 (47 FR 43562), FDA published, under § 333.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to reopen the OTC internal analgesic, antipyretic, and antirheumatic drug products rulemaking to consider quinine used OTC for the treatment of nocturnal leg muscle cramps together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products (Miscellaneous Internal Panel), which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by December 30, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by January 31, 1983.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

In response to the advance notice of proposed rulemaking, one drug distributor submitted a comment. A copy of the comment received is on public display in the Dockets Management Branch.

In order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10), the present document is designated as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) to establish Part 343 (21 CFR Part 343), FDA states for the first time its position on the establishment of a monograph for OTC drug products used for the treatment and/or prevention of nocturnal leg muscle cramps. Final agency action on this matter will occur with the publication at a future date of a final rule for OTC internal analgesic, antipyretic, and antirheumatic drug products.

This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on the OTC use of quinine for nocturnal leg muscle cramps based on the comment received and the agency's independent evaluation of the Panel's report. Vitamin E, which was not reviewed by the Panel, is also included in this proposed rulemaking based on the comment received.

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA will no longer use of the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC internal analgesic, antipyretic, and antirheumatic drug products (published in the **Federal Register** of July 8, 1977 (42 FR 35346), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monographs regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the

monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products may have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular mononograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

In the advance notice of proposed rulemaking, the Miscellaneous Internal Panel did not recommend any Category I conditions for the OTC use of drug products for the treatment and/or prevention of nocturnal leg muscle cramps, and no monograph was recommended by the Panel in that notice. At this time, no active ingredients have been determined to be generally recognized as safe and effective and not misbranded for OTC use for the treatment and/or prevention of nocturnal leg muscle cramps. However, the agency is proposing Category I labeling in this document in the event that data are submitted that result in the upgrading of any ingredients to monograph status in the final rule.

In the event that new data submitted to the agency during the allotted 12-month period are not sufficient to establish "monograph conditions" for the use of OTC drug products for the treatment and/or prevention of nocturnal leg muscle cramps, a final rule will declare these products to be new drugs under section 201(p) of the Federal Food, Drug, and Cosmetic Act, for which new drug applications approved under section 505 of the act and 21 CFR Part 314 are required for marketing. Such rule will also declare that in the absence of an approved new drug application, these products would be misbranded under section 502 of the act. A rule will then be incorporated into 21 CFR Part 310, Subpart E—Requirements for Specific New Drugs or Devices, instead of into the OTC drug monograph established under Part 343.

I. The Agency's Tentative Conclusions on the Comment

1. The comment disagreed with the Panel's recommendation that there were insufficient data to establish that quinine is safe and effective for OTC use for the treatment of nocturnal leg muscle cramps. The comment argued that the standard for determination of effectiveness under the OTC drug review is not as stringent as that imposed for approval of a new drug application and, therefore, existing available clinical evidence is sufficient to establish the effectiveness of quinine for the prevention and treatment of nocturnal leg muscle cramps. To support its argument that less stringent requirements for proof of effectiveness should be applied to OTC monograph drugs, the comment referred to 21 CFR 330.10(a)(4)(ii) as authorizing agency waiver of controlled clinical investigations "on the basis of showing that it [the requirement for controlled clinical investigations] is not reasonably applicable to the drug or essential to the validity of the investigation and that an alternative method of investigation is adequate to substantiate effectiveness."

In addition, the comment maintained that, regardless of what the actual Panel report stated, various individual Panel members actually found quinine to be effective for the treatment and prevention of nocturnal leg muscle cramps. To support its contention, the comment cited various excerpts from the transcripts of Panel meetings. The comment added that the discussion of the Advisory Review Panel on OTC Internal Analgesic and Antirheumatic Drug Products (Internal Analgesic Panel) in the advance notice of proposed rulemaking for OTC internal analgesic, antipyretic, and antirheumatic drug products at 42 FR 35434 (July 8, 1977) indicates that there are adequate reports of controlled and uncontrolled clinical trials showing that quinine is effective for prevention and treatment of this condition. The comment also submitted additional data, including three market-research studies and a number of supportive testimonials, to support the use of quinine in the treatment of nocturnal leg muscle cramps.

The comment also pointed out an apparent inconsistency between the findings of the Miscellaneous Internal Panel and the Internal Analgesic Panel regarding the safety of quinine as an OTC medication. The comment stated that although the Internal Analgesic Panel concluded that quinine was not safe for OTC use, that Panel's evaluation was based on the use of quinine at dosages of 0.3 to 0.6 grams (g), in daily doses up to 2 g. The comment pointed out, however, that the Miscellaneous Internal Panel concluded that quinine was safe for OTC use on the basis of its being reasonably safe over prolonged periods of time in generally recommended doses of 200 to 325 milligrams (mg) daily for use in treating and preventing nocturnal leg muscle cramps.

The comment concluded that the literature, "standard treatises" (Refs. 1, 2, and 3), scientific evidence, physician and patient acceptance, and marketing results provide adequate evidence that quinine is generally recognized as [safe and] effective for prevention and treatment of nocturnal leg muscle cramps. The comment also pointed out a number of difficulties in conducting clinical studies for this condition and felt that FDA had adequate evidence of the effectiveness of the drug to waive the requirement for controlled clinical investigations, as provided in § 330.10(a)(4)(ii).

The question of whether less stringent standards of effectiveness should be applied to drugs under consideration in the OTC drug review was addressed in the preamble of the final regulations establishing the OTC drug review procedures. (See the **Federal Register** of May 11, 1972; 37 FR 9471 to 9472.) In that preamble, the agency stated that the best possible data in establishing a drug's effectiveness would consist of adequate and well-controlled studies. However, the regulations do provide for waiver where there is a showing that such studies are unnecessary or inappropriate and there is an adequate alternative method to substantiate effectiveness. The agency also stated that "objective or subjective clinical studies; bioavailability of ingredients;

documented clinical experience or uncontrolled clinical studies; market research studies; animal studies; general medical and scientific literature, published and unpublished; long use by the professional and the consumer; and common medical knowledge" may be used as corroborative evidence to support effectiveness.

The agency continues to believe that the best data to support effectiveness are obtained from adequate and well-controlled clinical studies and that a waiver of the requirement is appropriate only if evidence from controlled clinical studies is inapplicable or unnecessary and there is an adequate alternative method to substantiate effectiveness. Neither the Internal Analgesic Panel nor the Miscellaneous Internal Panel believed that the information that did not come from controlled studies was an adequate basis for general recognition of quinine as an effective OTC drug for the treatment of nocturnal leg muscle cramps. Also, selected comments from the transcripts of panel meetings do not suffice to establish a panel's recommendation. Members of the OTC advisory review panels commonly expressed differing positions before determining their group's final recommendation. No minority reports were included in the Miscellaneous Internal Panel's statement on quinine.

The agency has reviewed the studies and information discussed by both Panels, and the comments of the Miscellaneous Internal Panel members, and believes that this information is not sufficient to reach a conclusion that quinine is generally recognized as safe and effective for this intended use. Further, because the comment has not provided an adequate alternative method for determining the effectiveness of quinine to treat or prevent nocturnal leg cramps, the agency believes that a waiver is not appropriate in this situation and that evidence from adequate and well-controlled studies is necessary.

The agency has the following comments on the new data submitted:

A study by Kaji et al. (Ref. 4) was a double-blind, controlled study to determine the efficacy of quinine in hemodialysis-induced muscle cramps. Nine patients who were on maintenance hemodialysis three times per week and had frequent muscle cramps were given either 320 mg of quinine sulfate or placebo at the beginning of each dialysis for a period of 12 weeks. Efficacy was measured in terms of reduction in the frequency and severity of muscle cramps. The authors reported 10 episodes of cramps for the 162 dialyses in patients taking quinine, as opposed to 28 episodes of cramps for the 162 dialyses in patients taking placebo. The authors considered these results to be statistically significant.

Although this was a controlled study, the agency considers it unacceptable as evidence of the efficacy of quinine in preventing or treating nocturnal leg muscle cramps because the medical condition in the patients was not nocturnal (or recumbency induced) leg muscle cramps. Furthermore, even if this had been a study of patients with nocturnal leg cramps, the statistical analysis is faulty, because episodes of cramps, and not individual patient experiences, were analyzed.

A study by Morl et al. (Ref. 5) was a single-blind study in 22 adult patients with a minimum of 3 episodes of leg cramps per week to compare the efficacy of a quinine sulfate and aminophylline combination drug to placebo for 4 weeks. Because the drug used in this trial was quinine in combination with aminophylline, the study does not provide any evidence of the effectiveness of quinine alone.

A submitted article describes a roundtable discussion of peripheral neuropathy by a panel of six experts in the field (Ref. 6). In its discussion of entities causing lower limb distress, the panel stated that it considers quinine to be effective in relieving nocturnal leg muscle cramps. However, such evidence, as well as the testimonials submitted, can at best be classified as anecdotal and is not derived from a controlled clinical trial.

The three market-research studies submitted involved consumer acceptance of a combination product containing quinine, vitamin E, and lecithin (Ref. 7). One survey consisted of telephone interviews of 57 customers who had received a free sample for use in relieving leg muscle cramps. The other two market surveys consisted of responses from consumers who had purchased the same product at retail. Half of the users stated that the product was effective; the other half found it somewhat helpful in the prevention and treatment of nocturnal leg muscle cramps. However, these market research surveys do not provide corroborative evidence of the effectiveness of quinine as a single ingredient because the product tested was a combination of quinine and two other ingredients. The agency finds that the "standard treatises" (Refs. 1, 2, and 3) mentioned by the comment as supporting the effectiveness of quinine in the treatment of nocturnal leg cramps are of historical interest, but do not suffice to support use of quinine for this claim without a clinical study.

The agency notes that the Miscellaneous Internal Panel acknowledged frequent prescribing of quinine by physicians for treatment of nocturnal leg muscle cramps (47 FR 43564). The National Disease and Therapeutic Index (NDTI), a survey based on reports by a panel of office-based physicians, estimates about 175,000 mentions of the drug quinine during 1983, of which 64 percent are related to its use in the relief of leg cramps (Ref. 8). The term "mentions," as used in the NDTI, reflects usage, but should not be interpreted as directly equivalent to prescriptions or patients. The inclusion of quinine sulfate in the 1984 edition of the American Hospital Formulary Service, including reference to its use in the relief or treatment of nocturnal recumbency leg muscle cramps, is a further indication of its prescription use by physicians (Ref. 9).

The agency concludes that these additional data and information do not provide sufficient evidence to establish that quinine is generally recognized as safe and effective for OTC use in the treatment and/or prevention of nocturnal leg muscle cramps.

Although accurately reflecting the Miscellaneous Internal Panel's views on the safety of quinine at the 250-to 325-mg daily dose level, the comment failed to note that the Internal Analgesic Panel stated that "Until controlled studies show that a [quinine] dose of not more than 325 mg daily is safe and useful for relief of nocturnal leg cramps the drug should not be available for OTC use for treatment of nocturnal leg cramps" (42 FR 35434).

Because of the two Panel's conflicting evaluations regarding the safety of a 200- to 325-mg daily dosage of quinine as an OTC drug and the questions raised by both Panels concerning the efficacy of quinine as an OTC drug for the treatment of nocturnal leg muscle cramps, the agency has determined that adequate clinical data are necessary to support the Category I status of quinine for both safety and effectiveness for this OTC use. Based on the above discussion, the agency is also including prevention of nocturnal leg muscle cramps as a potential indication.

The issues to be addressed in any such studies before quinine can be reclassified from Cateory III to Category I are as follows:

(1) Is quinine effective in treating and/or preventing nocturnal leg muscle cramps in low daily doses (e.g., 200 to 325 mg) over short periods of time (e.g., 7 days or less)?

(2) If short-term quinine treatment with low doses is not significantly

effective in reducing recurrent episodes of nocturnal leg muscle cramps, must such medication be taken over extended periods of time to obtain relief? If yes, how long a period of time?

(3) What are the adverse effects experienced by subjects exposed to effective doses of quinine over an effective course of therapy?

References

(1) "AMA Drug Evaluation—1971," 1st Ed., American Medical Association, Chicago, p. 455, 1971.

(2) Osol, A., and J. E. Hoover, editors, "Remington's Pharmaceutical Sciences," 14th Ed., Mack Publishing Co., Easton, PA, p. 1249, 1970.

(3) Rollo, I. M., "Drugs Used in the Chemotherapy of Malaria," *in* "The Pharmacological Basis of Therapeutics," edited by A. G. Gilman, L. S. Goodman, and A. Gilman, 6th Ed., MacMillan Publishing Co., Inc., New York, p. 1057, 1980.

(4) Kaji, D. M., et al., Prevention of Muscle Cramps in Hemodialysis Patients by Quinine Sulfate, *Lancet* 2:66, 1976.

(5) Morl, D., et al., "Nocturnal Leg Cramps—Causes and Treatment," *Medizinische Klinik*, 75:264–267, 1980.

(6) "Helping Patients with Lower Limb Distress," roundtable discussion, *Patient Care*, p. 106, June 1977.

(7) Comment No. C00111, Docket No. 77N–0094, Dockets Management Branch.

(8) "National Disease and Therapeutic Index," (NDTI) Vol. I, IMS America Ltd., Ambler, PA, p. 593, 1983.

(9) "American Hospital Formulary Service, Drug Information," edited by G. K. McEvoy and G. M. McQuairre, American Society of Hospital Pharmacists, Bethesda, MD, pp. 184–186, 1984.

2. The comment also submitted data to support the effectiveness of vitamin E (alphatocopherol) in the treatment and prevention of nocturnal leg muscle cramps. The data included two uncontrolled studies, one letter, one comment regarding leg muscle cramps, and four papers concerned with the treatment of intermittent claudication. The comment pointed out that, although this ingredient was not classified by the Miscellaneous Internal Panel, a brief discussion of vitamin E appears in the report on OTC vitamin and mineral drug products, published in the Federal Register of March 16, 1979 (44 FR 16170).

The agency has the following comments on the data and information submitted.

The paper by Ayres and Mihan (Ref. 1) reports a "serendipitous observation" of the value of vitamin E in relieving nocturnal leg cramps in 125 patients who were receiving the vitamin for dermatologic conditions. The patients were taking either 300 or less international units (IU) of vitamin E a day or 400 or more IU a day; the results were drawn from all 125 patients regardless of the dose of vitamin E. The authors concluded that 103 patients (82 percent) had complete relief; 13 (10.4 percent) had 75–90 percent relief; 7 (5.6 percent) had 50 to 75 percent relief; and 2 (1.6 percent) had poor relief. The authors also noted that some of the patients had recurrences of cramps upon the cessation of use of the drug or decrease of the doses, but responded again upon the resumption of vitamin E. The comment stated that the results of this study confirmed the authors' earlier findings. (The earlier study is discussed below.) While the data show potential for a favorable effect on leg muscle cramps, this report is not a scientifically-controlled study to demonstrate the efficacy of vitamin E in the treatment or prevention of nocturnal leg muscle cramps.

The earlier paper by Ayres and Mihan (Ref. 2) reported on 24 patients with leg cramps and 2 patients with "restless leg syndrome" who had prompt relief from their symptons while taking 100 IU of vitamin E three times a day for the treatment of dermatologic conditions. The authors claim that vitamin E is a better choice than quinine for the treatment of leg cramps because vitamin E is relatively free of side effects. The comment also included a letter to the editor of a medical journal (Ref. 3) agreeing with this report by Ayres and Mihan on the effectiveness of vitamin E in relieving nocturnal leg muscle cramps. However, the agency finds that this study does not present scientifically acceptable evidence of the efficacy of vitamin E in the treatment of nocturnal leg muscle cramps because it was uncontrolled and unblinded.

The comment stated that additional evidence supporting vitamin E in the treatment of leg cramps lies in its use in the treatment of intermittent claudication (pain, ache, or cramp due to a deficient blood supply in exercising muscle) (Refs. 5 through 8). The comment contended that because nocturnal leg cramps and intermittent claudication have many of the same causes—reduced blood flow to the legs and a lack of oxygen supplied to muscles in the legs—these findings are relevant and indicative of the effectiveness of vitamin E in the treatment of leg and foot cramps. The agency notes that, although ischemia may be responsible for nocturnal leg muscle cramps in some patients, other etiologies have also been postulated. At the present time, this disorder must be considered one specific subgroup of cramps, and not a model for *all* nocturnal cramps.

The article by Roberts (Ref. 4) mentioned that both the public and many "nutritionists" regard the use of vitamin E as therapeutic or prophylactic for a wide variety of disorders, including leg cramps. Roberts mentioned that some of his patients resumed the use of vitamin E because of its apparent benefit on their leg cramps or other symptoms, even though they risked a recurrence of hypertension or thrombophlebitis (which did occur). Roberts noted that the purported safety of vitamin E is repeatedly underscored by physicians in popular health-oriented publications, but Roberts pointed out that he continues to encounter patients with problems that "seem to have been caused or aggravated by" self-medication with vitamin E (used here to designate the various tocopherols) in high dosage.

None of the papers contained controlled studies to show the efficacy of vitamin E in the treatment of nocturnal leg cramps. In addition, the paper by Roberts raises some questions about the safe dose of vitamin E. Roberts mentions that there is bound to be considerable controversy as to what constitutes excessive vitamin E therapy. He regards a daily intake of a fully active tocopherol in excess of 100 to 300 units as a "megadose." Roberts mentions that another study (Ref. 9) demonstrated that 300 mg of DL-x-tocopheryl acetate, given daily for three weeks to men and young boys, produced a significiant depression in the bactericidal activity of the leukocyte and mitogen-induced lymphocyte transformation. A safe and effective OTC dosage of vitamin E used for the treatment and/or prevention of nocturnal leg muscle cramps has not been established. Therefore, the agency classifies this ingredient in Category III for this indication.

References

(1) Ayres, S., Jr., and R. Mihan, "Nocturnal Leg Cramps (Systremma): A Progress Report on Vitamin E" *Southern Medical Journal*, 67: 1308–1312, 1974.

(2) Ayres, S., Jr., and R. Mihan, "Leg Cramps (Systremma) and Restless Leg Syndrome-Response to Vitamin E (Tocopherol)," *California Medicine*, 3:87–91, 1969.

(3) Cathcart, R. F., "Leg Cramps and Vitamin E," Letter to the editor, *Journal of the American Medical Association*, 219:216–217, 1972.

(4) Roberts, H. J., "Perspective on Vitamin E as Therapy," *Journal of the American Medical Association*, 246:129–131, 1981.

(5) Williams, H. T. G., D. Fenna, and R. A. MacBeth, "Alpha-Tocopherol in the Treatment of Intermittent Claudication," *Surgery, Gynecology and Obstetrics*, 132:662–666, 1971.

(6) Williams, H. T. G., L. J. Clein, and R. A. MacBeth, "Alpha-Tocopherol in the Treatment of Intermittent Claudication. A Preliminary Report," *Canadian Medical Association Journal*, 87:538–541, 1962.

(7) Hamilton, M., et al., "The Treatment of Intermittent Claudication with Vitamin E," *Lancet*, 1:367–370, 1953.

(8) New York Academy of Science, Conference on Vitamin E: Biochemical, Hematological and Clinical Aspects, Abstracts, New York, pp. 1–21, November 11–13, 1981.

(9) Prasad, J. S., "Effect of Vitamin E Supplementation on Leukocyte Function," *American Journal of Clinical Nutrition*, 33:606–608, 1980.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category III Conditions

1. Summary of Ingredient Categories

The agency has reviewed the Miscellaneous Internal Panel's recommendation, as well as other data and information available at this time, and concurs with the Panel's classification of quinine sulfate. The agency has also reviewed the Internal Analgesic Panel's discussion of quinine and concurs with that Panel that until controlled studies show that a quinine dose of not more than 325 mg daily is safe and useful for relief [or prevention] of nocturnal leg cramps, the drug should not be generally recognized as safe and effective for this use.

The agency acknowledges that, in another rulemaking pertaining to combinations containing aminophylline, one firm previously marketing a prescription aminophylline-quinine sulfate combination product for nocturnal leg muscle cramps has been allowed to remove the aminophylline for lack of effectiveness as an antiasthmatic drug and to continue marketing the 260-mg quinine sulfate component as a prescription drug, pending final action of this rulemaking for OTC nocturnal leg muscle cramps drug products. (See the **Federal Register** of April 9, 1976; 41 FR 15053.) The agency is also aware of other products containing 260 mg of quinine sulfate labeled for prescription use only.

Quinine is currently available as an OTC drug for use in treating and preventing noctural leg muscle cramps, as well as for other uses, such as for treatment of chills and fever of malaria (in 200 and 325 mg dosages). The only use of quinine covered by this document is its use in the treatment and/or prevention of leg muscle cramps.

Vitamin E, which was not reviewed by the Panel, is proposed as Category III for the treatment and/or prevention of nocturnal leg muscle cramps.

As a convenience to the reader the following list is included as a summary of the categorization of these two orally administered active ingredients for the treatment and/or prevention of nocturnal leg muscle cramps.

Active ingredients	Panel	Agency
Quinine sulfate	[1] III	III
Vitamin E	NA	III

[1] Classified for use in treatment of nocturnal leg muscle cramps only.

In proposing labeling for quinine in this document, the agency is including the existing caution for quinine in 21 CFR 369.20 in the warning section of the proposed monograph under § 343.150. The agency is expanding this caution to inform consumers to discontinue using the product if diarrhea or nausea occur because, as the Panel noted, quinine sometimes leads to gastrointestinal symptoms (47 FR 43564). These types of warnings were included in draft labeling submitted to the Miscellaneous Internal Panel to review (Ref. 1), and the Panel acknowledged this labeling in its report (47 FR 43564). The Panel also noted that among quinine's more serious side effects are the induction of abortion and occasional cases of autoimmune thrombocytopenic purpura and hemolytic anemia (47 FR 43564). Therefore, the agency is proposing that quinine products bear a warning that the drug not be taken by anyone who is pregnant or sensitive to quinine. The agency notes that some currently marketed OTC quinine-containing drug products bear labeling that states not to take the drug product if pregnant. Finally, the Panel noted that nocturnal leg cramps occur in middle life and beyond (47 FR 43564). Thus, the agency is proposing that quinine products bear a warning that children under 12 years of age not take the drug. Based on the above, the agency is proposing the following warning in this tentative final monograph for products containing quinine: "Discontinue use if ringing in the ears, deafness, skin rash, or visual disturbances occur. Do not take if pregnant, sensitive to quinine, or under 12 years of age."

The agency is also proposing a definition for nocturnal leg muscle cramps in the tentative final monograph, based on the Miscellaneous Internal Panel's recommendations (47 FR 43564). This definition reads: "A condition of localized pain in the lower extremeties occurring in middle life and beyond with no regular pattern concerning time or severity and variously attributed to:

(1) Arterial insufficiency with resulting anoxic muscle spasm;

(2) Excessive venous dilation secondary to sudden emptying of small venules into larger vessels during recumbency; and

(3) Acccumulation of products of muscle metabolism with local pH changes due to lactic acid accumulation."

The agency is not aware of any data demonstrating the safety and effectiveness of any other ingredients used OTC as orally administered drug products for the treatment and/or prevention of nocturnal leg muscle cramps. Therefore, the agency classified all other ingredients as Category II for this use.

Reference

(1) OTC Volume 170050

2. Testing of Category III Conditions

The Panel did not recommend any testing guidelines for OTC orally administered drug products for the treatment of nocturnal leg muscle cramps. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any orally administered ingredient for the treatment and/or prevention of nocturnal leg muscle cramps or about any condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740) and clarified April 1, 1983 (48 FR 14050). That policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC drug products for the treatment and/or prevention of nocturnal leg muscle cramps, is a major rule.

For purposes of the Regulatory Flexibility Act, Public Law 96–354, the

economic assessment concluded that, while the average economic impact of the overall OTC drug review on small entities will not be significant, the possibility of larger-than-average impacts on some small firms in some years might exist. Therefore, the assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose a significant impact on a substantial number of small entities. The analysis identified the possibilities of reducing burdens on small firms through the use of (a) relaxed safety and efficacy standards or (b) labels acknowledging unproven safety and efficacy. However, the analysis concluded that there is no legal basis for any preferential waiver, exemption, or tiering strategy for small firms compatible with the public health requirements of the Federal Food, Drug, and Cosmetic Act. Nevertheless, to avoid overlooking any problems or feasible possibilities of relief peculiar to this group of products, the agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC orally administered drug products for the treatment and/or prevention of nocturnal leg muscle cramps. Comments regarding the economic impact of this rulemaking should be accompanied by appropriate documentation.

The agency previously invited public comment in the advance notice of proposed rulemaking regarding any impact that this rulemaking would have on quinine used OTC for the treatment of nocturnal leg muscle cramps. No comments on economic impacts were received. Any comments on the agency's initial determination of the economic consequences of this proposed rulemaking should be submitted by March 10, 1986. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In the **Federal Register** of April 22, 1985 (50 FR 15810) the agency proposed to change its "exclusivity" policy for the labeling of OTC drug products that has existed during the course of the OTC drug review. Under this policy, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph.

The proposed rule would establish three alternatives for stating the indications for use in OTC drug labeling while all other aspects of OTC drug labeling (i.e., statement of identity, warnings, and directions for use) would continue to be subject to the existing exclusivity policy. The proposed rule for OTC drug products for the treatment/prevention of nocturnal leg muscle cramps included in this document incorporates the exclusivity proposal by providing for the use of other truthful or nonmisleading statements in the product's labeling to describe the indications for use. After considering all comments submitted on the proposed revision to the exclusivity rule, the agency will announce its final decision on this matter in a future issue of the **Federal Register**. This final rule for OTC drug products for the treatment/prevention of nocturnal leg muscle cramps will incorporate the final decision on exclusivity for labeling.

Interested persons may, on or before January 7, 1986 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before March 10, 1986. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before November 10, 1986; may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before January 8, 1987. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4. p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on January 8, 1987. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects in 21 CFR Part 343

OTC drugs: Internal analgesics, antipyretics, and antirheumatics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 343 consisting of new Subpart E as follows:

PART 343—INTERNAL ANALGESIC, ANTIPYRETIC AND ANTIRHEUMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart A—[Reserved]

Subpart B—[Reserved]

Subpart C—[Reserved]

Subpart D—[Reserved]

Subpart E—Drug Products for the Treatment and/or Prevention of Nocturnal Leg Muscle Cramps

Sec.

343.100 Scope.
343.103 Definitions.
343.110 Active ingredients for the treatment and/or prevention of nocturnal leg muscle cramps. [Reserved]
343.150 Labeling of products for the treatment and/or prevention of nocturnal leg muscle cramps.

Authority: Secs. 201(p) 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 [21 U.S.C 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

Subpart E—Drug Products for the Treatment and/or Prevention of Nocturnal Leg Muscle Cramps

§ 343.100 Scope.

(a) An over-the-counter drug product for the treatment and/or prevention of nocturnal leg muscle cramps in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this subpart and each general condition established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted.

§ 343.103 Definitions.

As used in this part:

Nocturnal leg muscle cramps. A condition of localized pain in the lower extremeties occurring in middle life and beyond with no regular pattern concerning time or severity and variously attributed to:

(1) Arterial insufficiency with resulting anoxic muscle spasm;

(2) Excessive venous dilation secondary to sudden emptying of small venules into larger vessels during recumbency; and

(3) Accumulation of products of muscle metabolism with local pH changes due to lactic acid accumulation.

§ 343.110 Active ingredients for the treatment and/or prevention of nocturnal leg muscle cramps. [Reserved]

§ 343.150 Labeling of products for the treatment and/or prevention of nocturnal leg muscle cramps.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "nocturnal leg muscle cramps treatment," or "nocturnal leg muscle cramps treatment and prevention."

(b) *Indications.* The labeling of the product states, under the heading "Indications", the following: "For the treatment and/or prevention of nocturnal leg muscle cramps." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the prohibitions in section 502(a) of the act against misbranding by the use of false or misleading labeling and the prohibition in section 301(d) of the act against the introduction into interstate commerce of unapproved new drugs.

(c) *Warnings.* For products containing quinine: "Discontinue use if ringing in the ears, deafness, skin rash, or visual disturbances occur. Do not take if pregnant, sensitive to quinine, or under 12 years of age."

(d) *Directions.* [Reserved]

Frank E. Young,

Commissioner of Food and Drugs.

Dated: September 10, 1985.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85-24747 Filed 11-7-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 357

[Docket No. 79N-0379]

Exocrine Pancreatic Insufficiency Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) exocrine pancreatic insufficiency drug products (drug products used to treat pancreatic enzyme deficiency) are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by January 7, 1986. New data by November 10, 1986. Comments on the new data by January 8, 1987. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination March 10, 1986.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 21, 1979 (44 FR 75666) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC exocrine pancreatic insufficiency drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by April 21, 1980. Reply comments in response to comments filed in the initial comment period could be submitted by May 21, 1980.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information.

In response to the advance notice of proposed rulemaking, two manufacturers, one foundation, and two physicians submitted comments. Copies of the comments received are also on public display in the Dockets Management Branch.

The advance notice of proposed rulemaking, which was published in the **Federal Register** on December 21, 1979 (44 FR 75666), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) to establish Subpart E of Part 357, FDA states for the first time its position on the establishment of a monograph for OTC exocrine pancreatic insufficiency drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC exocrine pancreatic insufficiency drug products.

This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC exocrine pancreatic insufficiency drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been

made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC exocrine pancreatic insufficiency drug products (published in the **Federal Register** of December 21, 1979; 44 FR 75666), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products may have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace.

If the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes, cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

All comments objected for varying reasons to the Panel's recommendation that pancreatic extracts (pancreatin and pancrelipase) for treating exocrine pancreatic insufficiency be available OTC.

1. Several comments stated that pancreatic extracts should not be available OTC because the disease states that lead to exocrine pancreatic insufficiency, e.g., cystic fibrosis, chronic pancreatitis, post-pancreatectomy, and pancreatic ductal obstruction, require physician diagnosis and treatment. The comments argued that, generally, OTC drug products should be used to treat self-diagnosable conditions and that the public should be able to determine the safe and effective dosage levels from the labeling. The comments contended that none of these criteria are satisfied with respect to pancreatic extracts.

The agency agrees that, in general, the criteria stated by the comments are important in deciding whether a drug should be prescription or OTC. However, these criteria are not the sole determining factors. Section 503(b)(1)(B) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 353(b)(1)(B)) sets out the principal statutory requirements with respect to the marketing status of a drug. Specifically, it states that a drug shall be dispensed only upon prescription when "because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, [it] is not safe for use except under the supervision of a practitioner licensed by law to administer such drug." In the case of pancreatic extracts, the agency does not believe the statutory requirements for prescription restriction are met.

Although the condition of exocrine pancreatic insufficiency requires diagnosis by a physician and the disease states that give rise to exocrine pancreatic insufficiency require close monitoring by a physician, the agency believes that once the insufficiency is diagnosed, a consumer can safely and effectively self-treat the condition with pancreatic extracts.

The recommended OTC dose of pancreatic extracts is virtually free of toxicity. Although doses in considerable excess of the recommended dose have been associated with hyperuricosuria (increased amounts of uric acid in the urine) and hyperuricemia (increased amounts of uric acid in the blood), these problems have not been observed at the recommended OTC dose nor have the increased levels of uric acid been associated with any clinical manifestations. (See comment 2 below.) Also, as discussed in comments 2, 3, and 4 below, other adverse effects that have been associated with these products may be adequately handled through labeling. The agency does not believe that these effects are significant enough to warrant restricting the pancreatic extracts to prescription status.

The agency recognizes that the dose of pancreatic extracts is highly individualized, but believes that the patient is able to self-monitor the presenting symptom (stools with a high fat content) and make any necessary adjustments within the OTC recommended dose. For example, if a person snacks between meals, additional doses of the pancreatic extracts may need to be taken to keep the fatty stools under control. However, the need to adjust dosage is dependent on the amount and content of the diet and will vary from individual to individual. Even if the pancreatic extracts were limited to prescription status, the patient would need to make these same adjustments.

Because the condition of exocrine pancreatic insufficiency can be self-monitored and because pancreatic extracts are not toxic at the recommended OTC dose, the agency sees no need to restrict these drugs to prescription status.

The agency is also aware that a number of pancreatic extract products have been available OTC for many years, whereas others have been available only on prescription. The agency is unaware of any safety problems associated with those products which have been available OTC. There is no reason for perpetuating the dual marketing of these products. Therefore, the agency is proposing that pancreatin and pancrelipase, at the dosages recommended by the Panel, be available OTC.

2. Two comments objected to the OTC availability of pancreatic extracts because hyperuricosuria and hyperuricemia have been associated with their use. The comments supplied several references to support their position (Refs. 1, 2, and 3). One comment also noted that the use of pancreatic extracts may results in obstipation (intractable constipation) or intestinal obstruction (Refs. 4, 5, and 6).

The maximum daily dose recommended by the Panel for pancreatin was 42 grams (g) and 3.5 g for pancrelipase. In each of the references cited by the comments, hyperuricosuria or hyperuricemia was reported to result from daily doses of pancreatic extracts in considerable excess of those recommended by the Panel. However, even when hyperuricosuria or hyperuricemia occurred, the increased uric acid levels are not associated with any clinical manifestations. The agency is unaware of any reports of hyperuricosuria or hyperuricemia when pancreatic extracts are given within the dosage range recommended by the Panel. Likewise, obstipation and intestinal obstruction have been associated with excessive doses of pancreatic extracts, but have not been reported at the recommended OTC dose.

The agency believes that the symptoms of exocrine pancreatic insufficiency can be controlled in most patients within the dosage limits recommended by the Panel. Although recognizing that some patients may require medication in excess of the labeled dose, the agency does not believe the dose should be exceeded without a doctor's knowledge. For this reason, the agency is proposing a warning (§ 357.450(c)(2)) in this tentative final monograph to state clearly that the dose should not be exceeded unless directed by a doctor.

The agency does not believe that the concerns regarding hyperuricosuria, hyperuricemia, obstipation, or intestinal obstruction from the use of pancreatic extracts warrant restricting these drugs to prescription status.

References

(1) Stapleton, F.B., et al., "Hyperuricosuria Due to High-Dose Pancreatic Extract Therapy in Cystic Fibrosis," *New England Journal of Medicine*, 295:246–248, 1976.

(2) Nousia-Arvanitakis, S., et al., "Therapeutic Approach to Pancreatic Extract-Induced Hyperuricosuria in Cystic Fibrosis," *Journal of Pediatrics*, 90:302–305, 1977.

(3) Davidson, G. P., et al., "Iatrogenic Hyperuricemia in Children with Cystic Fibrosis," *Journal of Pediatrics*, 93:976–978, 1978.

(4) Wood, R. E., T. F. Boat, and C. F. Doershuk, "State of the Art—Cystic Fibrosis," *American Review of Respiratory Diseases*, 113:833–875, 1976.

(5) Letter from C. Denning, St. Vincent's Hospital to R. Vodra, Cystic Fibrosis Foundation, included in Comment No. C00005, Docket No. 79N–0379, Dockets Management Branch.

(6) Letter from H. Shwachman, The Children's Hospital Medical Center to R. J. Beall, Cystic Fibrosis Foundation, included in Comment No. C00005, Docket No. 79N–0379, Dockets Management Branch.

3. One commenter, citing personal experiences in treating patients with pancreatic extracts, reported that serious ulcerations of the mouth, lips, and tongue can occur from chewing tablets of pancreatic extracts. The commenter pointed out that this problem is of particular concern in cystic fibrosis patients because the ulceration provides an ideal portal of entry for the pathogenic bacteria constantly harbored by these patients. The commenter questioned whether pancreatic extracts should be available OTC in light of these adverse effects.

The agency is aware that if the pancreatic extracts are retained in the mouth, the enzymes will begin to digest the mucous membranes and cause ulcerations. However, the agency believes that the labeling of these products can adequately guard against this problem by including the following warning: "Swallow quickly to lessen potential for mouth irritation." In addition, the agency is proposing that tablet dosage forms contain the warning "Do not chew."

4. One comment cited reports of hypersensitivity reactions, including life-threatening asthmatic attacks (anaphylaxis), occurring in parents who administer powdered dosage forms of pancreatic extracts to children (Refs. 1, 2, and 3). The comment stated that these adverse reactions should be considered in deciding whether these drugs are safe for OTC use.

The agency is aware of a number of case reports in the literature of allergic reactions occurring after repeated inhalation of pancreatic extract powder in persons administering the drug (Refs. 3 through 11). The incidence of these reactions is estimated to be between 5 to 11 percent of the population exposed to pancreatic extracts (Ref. 3). For the most part, the reactions are limited to rhinitis, conjunctivitis, and mild asthma symptoms. Although more severe reactions have been reported, they do not appear to be widespread, and restricting the drugs to prescription status would not have prevented them from occurring. However, the agency believes the problems could be minimized by including a warning on these products advising persons not to inhale the powder and is proposing the following warning for pancreatic extracts marketed as powders: "Avoid inhalation of powder. Sensitive individuals may experience allergic

reactions." Also, because parents often open the capsule dosage form and sprinkle the contents on their child's food, the following warning is proposed for capsule dosage forms: "If capsules are opened, avoid inhalation of powder. Sensitive individuals may experience allergic reactions."

References

(1) Letter from C. Denning, St. Vincent's Hospital to R. Vodra, Cystic Fibrosis Foundation, included in Comment No. C00005, Docket No. 79N–0379, Dockets Management Branch.

(2) Letter from H. Shwachman, The Children's Hospital Medical Center to R. J. Beall, Cystic Fibrosis Foundation, included in Comment No. C00005, Docket No. 79N–0379, Dockets Management Branch.

(3) Ganier, M., and P. Lieberman, "IgE Mediated Hypersensitivity to Pancreatic Extract (PE) In Parents of Cystic Fibrosis (CF) Children," *Clinical Allergy*, 9:125–132, 1979.

(4) Nakamura, S., "On Occupational Allergic Asthma of Different Kinds Newly Found in Our Allergy Clinic," *Journal of Asthma Research*, 10:37–47, 1972.

(5) Dolan, T. F., and A. Meyers, "Bronchial Asthma and Allergic Rhinitis Associated With Inhalation of Pancreatic Extracts," *American Review of Respiratory Disease*, 110:812–813, 1974.

(6) Hill, D., "Pancreatic Extract Lung Sensitivity," *Medical Journal of Australia*, 2:553, 1975.

(7) Sakula, A., "Bronchial Asthma Due to Allergy to Pancreatic Extract: A Hazard in the Treatment of Cystic Fibrosis," *British Journal of Diseases of the Chest*, 71:295–299, 1977.

(8) Chignell, R., "External Influences On Nose and Throat," *Proceedings of the Royal Society of Medicine*, 65:679–681, 1972.

(9) Abernathy, R. S., "Why Wasn't Mother Skin Tested?", *Pediatrics*, 56:141, 1975.

(10) Bergner, A., and R. K. Bergner, "Pulmonary Hypersensitivity Associated With Pancreatin Powder Exposure," *Pediatrics*, 55:814–817, 1975.

(11) Twarog, F. G., "Hypersensitivity to Pancreatic Extract In Parents of Patients, With Cystic Fibrosis," *Journal of Allergy and Clinical Immunology*, 59:35, 1977.

5. Several comments stated that it is not feasible or possible to describe, in lay terms, the clinical, dietary, and other considerations necessary for consumers to select pancreatic extracts and to determine the dosage levels and modes of administration of these products. The comment contended that although the Panel recommended maximum daily doses for pancreatin and pancrelipase, these levels may be excessive for some individuals and inadequate for others. In addition, because of the wide variation in enzyme activities among products, and, in some cases, variations in enzyme levels between different forms of the same product, a consumer cannot readily make comparisons between products.

As discussed in comment 1 above, the agency recognizes that the dose of pancreatic extracts is highly individualized, but believes that patients are able to self-monitor their condition and make the necessary dosage adjustments as needed. Also, because these drug products would be used only after a diagnosis of exocrine pancreatic insufficiency has been made by a physician, the physician will have the opportunity to give advice on other clinical and dietary considerations.

The agency recognizes that because of the varying amounts of enzyme activities in pancreatic extract products it is important that the labeling of these products state the level of lipase, amylase, and protease activity per dosage unit. Therefore, the agency is proposing in this tentative final monograph that the enzyme activity levels per dosage unit be stated on the labeling of pancreatic extract products.

6. Several comments objected to the OTC availability of pancreatic extracts because persons not suffering from exocrine pancreatic insufficiency would have unlimited access to these drugs. The comments argued that there is no scientific evidence that people who do not have pancreatic insufficiency would benefit by consuming these drugs. In addition, the comment argued that long-term safety of these drugs in persons without pancreatic insufficiency has not been adequately assessed.

Pancreatic extracts have been available on the OTC market for many years in various digestive aid products. The Advisory Review Panel on OTC Miscellaneous Internal Drug Products also reviewed pancreatin and pancrelipase for the use in digestive aid drug products. In its report published in the **Federal Register** of January 5, 1982 (47 FR 454), the Panel concluded that these drugs are safe, but that additional data are needed to determine their effectiveness for testing symptoms of intestinal distress. The agency's position of the use of pancreatic extracts in digestive aid drug products will be stated in a future issue of the **Federal Register.** In addition, the label of pancreatic extracts intended for use in treating exocrine pancreatic insufficiency will carry a warning telling people not to take the product unless directed by a doctor. Nevertheless, these products should cause no harm in individuals who do not have exocrine pancreatic insufficiency if taken according to the labeled directions and other warnings.

7. Several comments contended that if pancreatic extract preparations were available OTC, cystic fibrosis patients would avoid checkups with their physician, thus allowing other complications (e.g., pulmonary infection or deterioration of pulmonary function) to go untreated.

The agency shares the comments' concern, but disagrees that the OTC availability of pancreatic extracts will cause cystic fibrosis patients to avoid checkups with their physician. Exocrine pancreatic insufficiency is only one component of the cystic fibrosis syndrome. Chronic obstructive pulmonary disease occurs in almost all cases of cystic fibrosis and is the major cause of morbidity and mortality in these patients. The pulmonary involvement tends to be progressive and to become severe enough that physician intervention is necessary. The pancreatic extracts have no effect on the progression of the lung involvement. In addition, the agency believes that patients with cystic fibrosis recognize the seriousness of their condition and will make frequent physician visits whether or not the pancreatic extracts are available OTC.

8. Several comments objected to the OTC availability of pancreatic extracts because many third-party reimbursers do not reimburse for OTC medications. The comments argued that making the pancreatic extracts available OTC would impose an insurmountable financial burden on patients who require these drugs.

In comment 1 above, the agency discusses the statutory provisions regarding prescription or OTC status of a drug. Financial considerations are not among the statutory criteria and, therefore, cannot be used in deciding whether pancreatic extracts should be available OTC. FDA is aware of variability in third-party reimbursements for OTC drugs. Because pancreatic extracts, for the most part, are also maintenance drugs, third-party reimbursers might wish to consider the need for any changes in current reimbursement policies for these drugs.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. Summary of Ingredient Categories

The agency has reviewed the claimed active ingredients submitted to the Panel as well as other data and information available at this time and concurs with the Panel's categorization of pancreatin and pancrelipase in Category I and hemicellulase in Category II for use in exocrine pancreatic insufficiency.

2. Testing of Category II and Category III Conditions

Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any exocrine pancreatic insufficiency ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740) and clarified in the **Federal Register** of April 1, 1983 (48 FR 14050). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

1. The Panel did not recomend a specific statement of identity. The agency is proposing "pancreatic enzyme replacement" as the statement of identity for OTC pancreatic extract drug products.

2. The agency is proposing a warning to guard against the potential for mouth irritation. (See comment 3 above.)

3. The agency is proposing a warning advising against inhalation of pancreatic extract powder. (See comment 4 above.)

4. The agency is proposing that the enzyme activity levels per dosage unit be stated on the labeling of pancreatic extract products. (See comment 5 above.)

5. In an effort to further clarify the labeling of pancreatic extract products, the agency is proposing that the indications be limited to the following: "For the treatment of exocrine pancreatic insufficiency." In addition, the following warning is being proposed: "Do not take this product unless directed by a doctor." The agency believes that these two statements will be more meaningful and less confusing to consumers than the indication statement recommended by the Panel in § 357.450(b).

b. Because pancreatin is available from beef or pork (Ref. 1), the agency is proposing in this tentative final monograph that the pork-allergenicity warning recommended by the Panel in § 357.450(c) be included only on the labeling of pork-derived pancreatic extract products. For consistency in style between this and other similar warnings in other OTC drug monographs, the agency is proposing that the warning read as follows: "Do not take this product if you are allergic to pork."

7. Although the Panel recommended that the dose of pancreatic extracts be "as recommended by a physician," the agency does not believe that these directions are adequate for OTC labeling. The Panel did not specify whether the recommended maximum daily dose of pancreatic extracts was for adults or children, but the agency has determined that the dose applies to children as well as to adults. The agency is also aware that there is little difference in effectiveness between giving pancreatic extracts in divided doses with meals or giving them in evenly spaced intervals (1 to 2 hours) throughout the day (Ref. 2). Therefore, the agency is proposing that the labeling indicate that the maxium daily recommended dose of pancreatic extracts be administered to adults or children either in divided doses with meals (with an extra dose taken with food eaten between meals) *or* at 1- to 2-hour intervals throughout the day *or* as directed by a doctor.

8. The agency is aware that the United States Pharmaceopeia (U.S.P.) monographs for pancreatin and pancrelipase specify only the minimum amounts of enzyme activity per milligram (mg) and do not specify any upper limit of enzyme activity (Ref. 1). In addition, marketed products contain varying levels of enzyme activity per mg. The agency believes it would be confusing to specify the maximum daily recommended dose only in terms of a gram amount because there is no standard correlation between that amount and enzyme activity.

Also, it is not clear from the U.S.P. monographs whether the ratios of activity level (2 U.S.P. units lipase:25 U.S.P. units protease:25 U.S.P. units amylase for pancreatin; and 24 U.S.P. units lipase:100 U.S.P. units protease:100 U.S.P. units amylase for pancrelipase) are to be maintained in all products. The U.S.P. is also aware of these problems and presently has a revision committee looking into them (Ref. 3).

For these reasons, the agency is proposing in this tentative final monograph to include the maximum daily recommended enzyme activity levels based on the minimum levels established in the U.S.P. in addition to the gram amounts as follows: For pancreatin the maximum daily recommended dose is 42 g, equivalent to 84,000 U.S.P. units lipase activity, 1,050,000 U.S.P. units protease activity and 1,050,000 U.S.P. units amylase activity. For pancrelipase the maximum daily recommended dose is 3.5 g, equivalent to 84,000 U.S.P. units lipase activity, 350,000 U.S.P. units protease activity, and 350,000 U.S.P. units amylase activity. The agency invites specific comment on these proposed dosage limits.

References

(1) "United States Pharmacopeia XXI—National Formulary XVI," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 777–781, 1985.

(2) DiMagno, E. P., et al., "Fate of Orally Ingested Enzymes in Pancreatic Insufficiency—Comparison of Two Dosage Schedules," *New England Journal of Medicine*, 296:1318–1322, 1977.

(3) Memorandum of telephone conversation between J. Short, FDA, and E. Theimer, U.S.P., concerning interpretation of the U.S.P. Pancreatin and Pancrelipase monographs, August 22, 1983, copy included in OTC Volume 17BTFM.

9. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and any applicable OTC drug regulations will give manufacturers the option of using either the word "physician" or the word "doctor". This tentative final monograph proposes that option.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that no one of these rules, including this proposed rule for OTC exocrine pancreatic insufficiency drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a

substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC exocrine pancreatic insufficiency drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC exocrine pancreatic insufficiency drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC exocrine pancreatic insufficiency drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on exocrine pancreatic insufficiency drug products, a period of 120 days from the date of publication of this proposed rulemaking in the **Federal Register** will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact, and the evidence supporting that finding may be seen in the Dockets Management Branch, Food and Drug Administration (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636). Under the new rule, an action of this type would require an environmental assessment under 21 CFR 25.31a(a).

Sections 357.450(d) (1) and (2) of this proposed rule contain collection of information requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, FDA has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these collection of information requirements. Other organizations and individuals desiring to submit comments on these collections of information requirements should direct them to FDA's Dockets Management Branch (address above) and to the Office of Information and Regulatory Affairs, OMB, Rm. 3208, New Executive Office Bldg., Washington, DC 20503, Attn: Bruce Artim.

Exclusivity of Labeling. In the **Federal Register** of April 22, 1985 (50 FR 15810) the agency proposed to change its "exclusivity" policy for the labeling of OTC drug products that has existed during the course of the OTC drug review. Under this policy, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph.

The proposed rule would establish three alternatives for stating the indications for use in OTC drug labeling while all other aspects of OTC drug labeling (i.e., statement of identity, warnings, and directions for use) would continue to be subject to the existing exclusivity policy. The proposed rule for OTC exocrine pancreatic insufficiency drug products included in this document incorporates the exclusivity proposal by providing for the use of other truthful or nonmisleading statements in the product's labeling to describe the indications for use. After considering all comments submitted on the proposed revision to the exclusivity rule, the agency will announce its final decision on this matter in a future issue of the **Federal Register**. The final rule for OTC exocrine pancreatic insufficiency drug products will incorporate the final decision on exclusivity of labeling.

Interested persons may, on or before January 7, 1986 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-64, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before March 10, 1986. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before November 10, 1986, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before January 8, 1987. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA-305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on January 8, 1987. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register**, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects in 21 CFR Part 357

OTC drugs; anthelmintic drug products, cholecystokinetic drug products, deodorant drug products for internal use, exocrine pancreatic insufficiency drug products, orally administered drug products for fever blisters, poison treatment drug products, and smoking deterrent drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 357 by adding new Subpart E as follows:

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

Subpart E—Exocrine Pancreatic Insufficiency Drug Products

Sec.
357.401 Scope.
357.403 Definition.
357.410 Exocrine pancreatic insufficiency active ingredients.
357.450 Labeling of exocrine pancreatic insufficiency drug products.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

Subpart E—Exocrine Pancreatic Insufficiency Drug Products

§ 357.401 Scope.

(a) An over-the-counter exocrine pancreatic insufficiency drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart in addition to each of the general conditions established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 357.403 Definition.

As used in this subpart:

Exocrine pancreatic insufficiency. A condition in which the symptoms are due to inadequate exocrine pancreatic secretion as diagnosed by a physician.

§ 357.410 Exocrine pancreatic insufficiency active ingredients.

The active ingredient of the product consists of either one of the following when used within the dosage limits established for each ingredient:

(a) Pancreatin.

(b) Pancrelipase.

§ 357.450 Labeling of exocrine pancreatic insufficiency drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "pancreatic enzyme replacement."

(b) *Indications.* The labeling of the product states, under the heading "Indications," the following: "For the treatment of exocrine pancreatic insufficiency." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the prohibitions in section 502(a) of the act against misbranding by the use of false or misleading labeling and the prohibition in section 301(d) of the act against the introduction into interstate commerce of unapproved new drugs.

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings":

(1) "Do not take this product unless directed by a doctor."

(2) "Do not exceed the labeled dose unless directed by a doctor."

(3) "Swallow quickly to lessen potential for mouth irritation."

(4) *For tablet dosage forms.* "Do not chew."

(5) *For powder dosage forms.* "Avoid inhalation of powder. Sensitive individuals may experience allergic reactions."

(6) *For capsule dosage forms.* "If capsules are opened, avoid inhalation of powder. Sensitive individuals may experience allergic reactions."

(7) *For pork-derived pancreatic products.* "Do not take this product if you are allergic to pork."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing pancreatin.* The daily dose of pancreatin is up to 42 grams (equivalent to 84,000 U.S.P. units lipase activity, 1,050,000 U.S.P. units protease activity, and 1,050,000 U.S.P. units amylase activity) either in divided doses at 1- or 2-hour interval *or* with meals and an extra dose taken with food eaten between meals *or* as directed by a doctor. The label must state the amount of enzyme activity per dosage unit in terms of U.S.P. units of lipase, amylase, and proteases activity.

(2) *For products containing pancrelipase.* The daily dose of pancrelipase is up to 3.5 grams (equivalent to 84,000 U.S.P. units lipase activity, 350,000 U.S.P. units protease activity, and 350,000 U.S.P. units amylase activity) either in divided doses at 1- or 2-hour intervals *or* with meals and an extra dose taken with food eaten between meals *or* as directed by a doctor. The label must state the amount of enzyme activity per dosage unit in terms of U.S.P. units of lipase, amylase, and protease activity.

(e) The word "physican" may be substituted for the word "doctor" in any of the labeling statements in this section.

Dated: October 8, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85–26687 Filed 11–7–85; 8:45 am]

BILLING CODE 4160–01–M

federal register

Friday
November 8, 1985

Part VI

Environmental Protection Agency

40 CFR Part 280

Notification Requirements for Owners of Underground Storage Tanks; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 280

[OSW-FRL 2911-6]

Notification Requirements for Owners of Underground Storage Tanks

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Today the Environmental Protection Agency (EPA) is publishing a notification form to be used by owners of underground storage tanks that store or have stored petroleum or hazardous substances. Under section 9002 of the Resource Conservation and Recovery Act (RCRA), as amended, these owners are required to notify designated State or local agencies of the existence of their tanks. In publishing this form, EPA is fulfilling its obligation under section 9002(b) to prescribe the form of notice and the information it must contain. On May 28, 1985, EPA proposed two notification forms in the **Federal Register** (50 FR 21772–21781). In addition, the Agency noticed the availability of a revised form on August 30, 1985 in the **Federal Register** (50 FR 35261). Today's rulemaking reflects several modifications made to the proposed forms as well as the revised form in response to comments received. The form published today must be used by all owners subject to the section 9002 notification provisions unless the State in which the tank is located requires use of its own form or forms and such form(s) meet the requirements of section 9002.

DATE: Final rule effective November 8, 1985.

ADDRESS: The public docket for this final rule [Docket No. 9002] is located in Room S–212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. This docket contains, among other material, the economic analyses, background documents, and comments discussed in this preamble.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 (toll free) or (202) 382–3000 in Washington, D.C.; or Virginia Cummings, Office of Solid Waste (WH–565A), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382–7925.

For information on implementation of this rulemaking, contact the EPA regional office below:

Region I

William Torrey, Waste Management Division, 150 Causeway Street, Room 701–709, Boston, Massachusetts 02223, (617) 223–6883

Region II

Tom Taccone, Program Support Section, Solid Waste Branch, 26 Federal Plaza, New York, New York 10278, (212) 264–0504

Region III

Dennis Carney, Hazardous Waste Management Division, 841 Chestnut Street, Philadelphia, Pennsylvania 19107, (215) 597–3182

Region IV

Mike Williams, Waste Management Division, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881–3633

Region V

Gerald Phillips, Waste Management Division, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 335–6159

Region VI

Faye Sandberg, Hazardous Materials Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2941

Region VII

Chest McLaughlin, RCRA Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 236–2852

Region VIII

C. Jay Silvernale, LUST Coordinator, 999 18th Street, Suite 1300, Denver, Colorado 80202, (303) 293–1503

Region IX

Eve Levin, RCRA Program Section, 215 Fremont Street, San Francisco, California 94105, (415) 974–8169

Region X

Joan Cabreza, Waste Management Branch, RCRA Program Development Section, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–0344

SUPPLEMENTARY INFORMATION:

I. Authority

These regulations are issued under the authority of sections 9001, 9002, and 9006 of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 U.S.C. 6991, 6992, and 6996).

II. Background

A. The Statutory Framework

On November 8, 1984, President Reagan signed the Hazardous and Solid Waste Amendments of 1984. These Amendments extend and strengthen the provisions of the Resources Conservation and Recovery Act (RCRA) of 1976, the Federal law protection human health and the environment from improper waste management practices. One of the new RCRA provisions, Subtitle I, initiates a program to control hazards created by underground storage tanks. The Subtitle I program regulates underground tanks that store petroleum and substances defined as hazardous under section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (except substances regulated as hazardous wastes under Subtitle C of RCRA).

Underground storage tank is defined in section 9001(1) of Subtitle I as "any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is 10 percent or more beneath the surface of the ground."

Section 9001(1) excludes the following from the definition of underground storage tank:[1]

(1) Farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(2) Tanks used for storing heating oil for comsumptive use on the premises where stored;

(3) Septic tanks;

(4) Pipeline facilities (including gathering lines) regulated under (a) the Natural Gas Pipeline Safety Act of 1968, (b) the Hazardous Liquid Pipeline Safety Act of 1979, or (c) which is an intrastate pipeline facility regulated under State laws comparable to the provisions of law referred to in (a) and (b) above;

(5) Surface impoundments, pits, ponds, or lagoons;

(6) Storm water or wastewater collection systems;

(7) Flow-through process tanks;

(8) Liquid traps or associated gathering lines directly related to oil or gas production and gathering operations; or

(9) Storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the tank is situated upon or above the surface of the floor.

Subtitle I was developed by Congress in response to a growing number of groundwater contamination incidents caused by substances leaking from underground storage tanks. To assist States in locating and evaluating such tanks, Congress required in section 9002 of Subtitle I that owners of underground storage tanks notify designated State or local agencies of the existence of their tanks. As a means of enforcing the

[1] The term underground storage tank does not include any pipes connected to any of the tanks described in the exclusions.

notification requirements for owners of such tanks. Congress authorized the assessment of civil penalties against any owner who knowingly fails to notify or who submits false information regarding any tank for which notification is required.

B. The Notification Requirements

Section 9002 requires owners of underground storage tanks used to store or dispense regulated substances on or after November 8, 1984, to notify by May 8, 1986, and provide information on the age, size, type, location, and use of each tank.[2] Owners who bring underground storage tanks into use after May 8, 1986, must notify within 30 days of bringing the tank into use and provide information on the age, size, type, location, and use of such tanks.

Section 9002 also imposes requirements on owners of underground storage tanks which were taken out of operation after January 1, 1974, but remain in the ground. Owners of these tanks must notify by May 8, 1986, and provide information to the extent known on the date the tank was taken out of operation; the size, type, and location of the tank; and the type and quantity of substances left stored in the tank on the date it was taken out of operation.

With respect to tanks in use on or after November 8, 1984, the term "owner" is defined in the statute as "any person who owns an underground storage tank." Thus, for any tank used to store or dispense regulated substances after November 8, 1984, the "owner" is the current owner.

With respect to tanks permanently taken out of operation before November 8, 1984, the statute defines "owner" as any person who owned the tank "immediately before discontinuation of its use." Thus for tanks taken out of operation between January 1, 1974 and November 8, 1984, the person obligated to provide notification concerning the tank is the person who last owned the tank before it was taken out of use.

To ensure that owners of underground storage tanks are informed of their responsibility to notify, Congress also imposed certain obligations on persons who deposit regulated substances in tanks and on tank sellers. From December 9, 1985 through May 9, 1987 anyone depositing regulated substances in an underground storage tank must notify the owner or operator of such tanks of the owner's notification responsibilities. Beginning 30 days after EPA issues new tank performance standards under section 9003(e), any person who sells a tank intended to be used as an underground storage tank must inform the purchaser of the tank of the owner's notification requirements.

Section 9002 requires EPA, in consultation with State and local officials and after notice and opportunity for public comment, to prescribe the form of the notice and the information it must contain. Section 9002 requires that designated State or local agencies, not EPA, receive the notification. EPA has provided in Appendix II a list of these Agencies. Owners of underground storage tanks are advised to consult this list to determine: (1) To whom notice must be sent; and (2) whether the State in which the underground tank is located requires the use of the EPA form or an alternate State form for notification purposes. The State forms noted in Appendix II have been reviewed by EPA and are consistent with Federal requirements. Owners may thus use these forms to fulfill their Federal notice obligation. The listing, however, does not represent an EPA finding that State requirements, such as those concerning who must notify and when notification must be received, are consistent with section 9002.

III. Response to Comments on the Proposed Notification Requirements

A. Introduction

The majority of the commenters supported the proposed rulemaking with minor modifications. Five major issues, however, were raised in the comment letters received by the Agency on the May 28, 1985, proposal. These issues concerned:

1. Mandatory use of the Federal notification form by all tank owners;
2. Additional information to be provided by tank owners;
3. Clarification of certain definitions;
4. Notification responsibilities for sellers of tanks and depositors of regulated substances;
5. Implementation of the notification requirements.

1. Mandatory use of the Federal notification form.

In the preamble to the proposed rule, EPA suggested that States could modify the Federal notification forms to obtain additional information, or develop a separate notification form specifically suited to State needs. The issue most frequently mentioned by commenters was whether EPA should require States to use EPA's form or to use their own forms. Many industry commenters felt that EPA should encourage States to adopt EPA's form in the interest of maintaining uniformity and simplicity in the underground storage tank program. For companies with underground storage tanks in two or more States, they noted, compliance with the notification provisions of EPA's underground storage tank regulations would be considerably simplified if a uniform Federal notification form were required. They argued that, should a State insist upon having additional information, the State could provide an addendum to the Federal form or carry out a follow-up data request on only those facilities of interest.

In addition, several commenters expressed the belief that section 9002 requires EPA to prescribe a form to be used nationwide and that there is no statutory authority for EPA to approve alternative State forms.

In response to these comments, the Agency points out that section 9002 does not require EPA to mandate nationwide use of the Federal form. It merely requires EPA to "prescribe the form of notice and the information to be included in the notifications." Using a standard dictionary definition, the word "prescribe" can be interpreted several ways. It could mean "to lay down as a guide, direction, or rule of action; to specify with authority; or to designate or order the use as a remedy." Accordingly, EPA believes that section 9002 provides EPA the flexibility to prescribe its form as a guide for States but does not necessarily mandate use of EPA's form by States that opt to use their own forms.

In light of the specific language used in this provision, the Agency believes that the phrase "to prescribe the form of the notice" does not require the use of one standardized notice form. Rather, the Agency believes that the statute requires it to set out the type of notice that will comply with section 9002 information requirements.

The EPA form is to be used as the notice form in States where no State notification forms have been developed (that conform to the minimum statutory requirements) and as a guide for States that develop their own forms. This interpretation accords with EPA's view of the principal purpose of section 9002, which is to aid States in developing basic information concerning the tank universe within their borders.

Furthermore, EPA believes that it would be unreasonable to require States with notification programs already underway that satisfy the requirements of section 9002 to adopt the Federal forms. For them to make major changes in their programs and to require a second notification would be a needless

[2] No notification is required for tanks taken out of the ground prior to May 8, 1986 or for tanks taken out of operation on or before January 1, 1974.

and expensive duplication of effort for both the State and the tank owner subject to its reporting requirements. In those States where data collection that accords with the requirements of section 9002 has already taken place, therefore, EPA believes that notification under these State registration programs should be accepted as compliance with section 9002. Thus, EPA is not requiring States to use the Federal form if the State provides a form that meets the statutory requirements of section 9002.

In response to the argument made by commenters for mandating use of the Federal form with a State addendum, EPA does not believe that this action would significantly reduce the burden to tank owners. The regulated community may need to provide as much information in an addendum as would be required by a State form.

In light of the burden on owners subject to reporting in more than one State, the Agency is encouraging States to use the EPA form. EPA has tried to produce a form that States will want to use, one that is simple and straightforward, yet meets the requirements of section 9002. We have worked closely with many States in developing the form and have communicated to them that the objective of the present notification program is to obtain basic and accurate information quicky while avoiding imposition of excessive burdens or unproductive requirements on the regulated community. In addition, we notified the public of the availability of a new form in the **Federal Register** on August 30 (50 FR 35261) and invited comments on it. The present form reflects those comments on both the May and August proposals.

2. Additional information to be provided by tank owners.

In the preamble to the proposed rule (50 FR 21774, May 28, 1985), the Agency indicated that it had rejected the option of requiring more information from tank owners than is expressly required under section 9002. EPA expressed its belief that inclusion of additional information requirements across the board, in all States, would involve increased time and costs to the regulated community and to the State or local agency processing the information. EPA noted that if a State prefers to request more information, it can provide an addendum to the EPA form to suit its needs or develop its own form.

The Agency solicited comment from the States in the proposal on the applicability of the proposed forms to their needs. At that time, EPA also requested comment from the members of the public who would be required to use the form.

Commenters representing six States believed EPA should require additional information. Many State commenters stated that EPA should require a description of any leaks or spills that have occurred at the facility. Other commenters said the notification forms should contain information on the installation status (i.e., whether the tank was installed under industry approved methods) and on methods or equipment used for leak detection or prevention.

Nearly all of the commenters who opposed additional information requirements were members of the regulated community. Many of these commenters recommended that EPA resist all attempts to expand and further complicate the notification form to include additional information not specifically required by section 9002. They argued that additional information requirements would increase the cost and complexity of implementation.

In response to EPA's suggestion that States could "piggy back" additional State information requirements to the Federal form, only one industry representative expressly disapproved. That commenter felt that EPA should discourage States from providing an addendum to the Federal form on the grounds that the initial notification should not attempt to address all the questions that may arise concerning underground storage tanks. Several other commenters said that States that perceive gaps in the section 9002 notification program or that require additional information for their particular tank programs should use section 9004 ("Approval of State programs") rather than 9002 to obtain that data.

The Agency believes that the latter commenter's reference to section 9004 in this matter is inappropriate. Section 9004 provides for the approval by EPA of State underground storage tank programs that meet minimum Federal requirements. It requires that States seeking approval have a notification program that accords with the requirements of section 9002, but it does not provide States authority apart from section 9002 to collect information for notification purposes.

After careful consideration of the other comments and concerns described above, EPA has decided to promulgate a form that will limit the information required in the notification form to those matters specifically mentioned, in section 9002. The Agency based this decision on a number of factors. First, the Agency believes that the purpose of the notification program is to collect information that could be used to develop a preliminary tank inventory. To add more detailed reporting requirements would convert the relatively modest notification obligation contemplated by Congress into a major undertaking. The Agency believes there will be ample opportunity later for the States and tank owners to consider what additional information might be necessary for the administration of ongoing State programs.

Second, the Agency also recognizes that requiring additional information will escalate costs because such additional information may often be difficult to obtain. Even if one assumes that additional information can be obtained, the Agency questions the value of such information for this notification program. For example, leak detection systems and methods of tank gauging are frequently changed. Thus, such information could soon be outdated or be in need of continuous revision.

In some areas, however, the Agency found it necessary to request additional information. The first area is piping. Although piping is included in the legal definition of underground storage tank contained in section 9001(1), EPA did not differentiate the parts of the tank system in the proposed forms. Several State commenters expressed concern that the proposed form appears to exclude piping, a significant oversight because piping is part of the tank definition and leaks from piping have been identified as a significant source of release incidents. We now include information requirements on the piping portion of the tank separately on the notification form.

The second area for which additional information is required on the final form is closure. For purposes of clarification, a box was added for owners to indicate if the tank was filled with an inert solid material. EPA believes this information can be useful to agencies in determining which of the tanks no longer will require follow-up action.

The third area concerns the addition of a box under "type of notification" where owners can indicate whether the notification is an original submission or an amendment to a previous submission. It should be noted, however, that the submission of this information will be optional on the form and that owners are not required to amend or update their registrations under the Federal law. Nevertheless, owners may be required to update the forms under State law. Thus, the addition of these boxes will be useful in those States.

3. Clarification of certain definitions.

EPA received many comments requesting clarification of several statutory definitions that were found in the proposed rule.

(a) *Owner.* One definition several commenters found unclear was the term "owners." Under the statute an owner is defined as: "(a) in the case of an underground storage tank in use on the date of enactment of the Hazardous and Solid Waste Amendments of 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and (b) in the case of any underground storage tank in use before the date of enactment of the Act, but no longer in use on the date of enactment, owner means any person who owned such tank immediately before the discontinuation of its use."

A number of commenters found this definition confusing. With respect to tanks taken out of operation by former owners, one commenter stated that, because the term "owner" may include former owners, if the tanks were taken out of service between January 1, 1974 and November 8, 1984, it may be extremely difficult for such owners to know or determine whether their tanks will be placed back into use by subsequent owners. Another commenter stated that, unless a former owner of a nonoperational tank is aware of the requirements, he will probably assume that the current tank owner or landowner where the tank is located is the owner for purposes of notification. One commenter recommended that the definition of tank owner be reworded to make the current owner of the facility responsible for notification.

With respect to tanks of current owners, several comenters pointed out that ownership questions may be difficult to resolve because tanks have been purchased, installed, and transferred under many kinds of arrangements, including partnerships, executory interests, and trusts. In some instances tanks may have been installed under sale and lease-back arrangements, or a bank may have taken title as a security interest for a purchase money loan. One commenter said that because tank owners were often not required to keep documentation concerning the sale or transfer of their tanks, such documentation in many cases had been lost or destroyed.

Several other commenters suggested that with respect to current owners the following approaches be considered, only where ownership may be disputed or is uncertain: (1) presume that the person in direct control of the real property and facilities is the owner of the tank unless he ascertains that another entity accepts ownership and will file the notification form; (2) presume that a person is *not* an owner of the tank if he cannot, through reasonable efforts, confirm the sale or transfer of such tanks, and is not the owner of the real estate where the tank is located, and has not received notice pursuant to the depositor notice requirement.

Another commenter suggested that with respect to all tanks, EPA could indicate that any person with an interest in a tank could submit the required notification without admitting ownership.

EPA has carefully considered these suggestions of the commenters. While EPA cannot revise the definition contained in the statute, the Agency will attempt to clarify its meaning by providing the Agency's interpretation of what tanks EPA considers to be "no longer in use" prior to November 8, 1984, for which notice must be provided by former owners discontinuing their use, and what tanks it considers to be "in use" on or after November 8, 1984, for which notification must be provided by current owners.

With regard to a tank no longer in use on November 8, 1984, for which notification must be provided by the owner who discontinued its use, EPA believes that such an owner should notify if the owner knows or has reason to believe the tank was *permanently* taken out of use for storing regulated substances. Indications that a tank is permanently out of use are: (a) If it is filled with inert solid material or otherwise rendered unusable, or (b) if there is reason to believe that it will not be used in the future (e.g., the owner abandoned the tank, intakes and vents are paved over, access piping is disconnected or removed, or the tank was sold to a person who had no use for the tank, such as a residential real estate developer).

With regard to tanks in use on or after November 8, 1984, notification must be provided by the tank's current owner. If the tank was in operation on November 8, 1984, the current owner is responsible to provide notification under the statute even if the tank was permanently taken out of use after November 8, 1984, and even if the current owner was not the person who took the tank out of use. For example, if a tank was in use on November 8, 1984, but was taken out of use before it was sold to a new owner the following month, the new owner has the responsibility to notify even though the new owner had never used the tank to store regulated substances.

The Agency has presented these interpretations in an effort to minimize confusion concerning the notification requirements for tanks taken out of operation. With respect to tanks for which ownership is unclear because of uncertain title, however, EPA has determined not to adopt presumptions suggested by commenters. The Agency believes these presumptions may define ownership in a manner that is not consistent with the statutory definition of owner. The Agency recognizes the need for further guidance with respect to the definition of "owner," but believes that such guidance cannot be given until the Agency has had an opportunity to consider its implications. EPA will address these issues in a later rulemaking or guidance.

Recognizing that there may be confusion concerning ownership interests and wishing to encourage notification for all tanks, the Agency has decided to modify the notification form to allow persons other than the "owner" to notify. By permitting persons other than the owner to notify, however, the Agency realizes that some double reporting may occur, but such reporting would likely provide States with a more complete inventory of underground storage tanks. Because of this modification to the form, EPA believes it is unnecessary to adopt commenters' suggestions for establishing ownership by using presumptions.

(b) *Depositors.* The Agency also received comments requesting clarification of who is a "person who deposits regulated substances" into a tank for purposes of Section 9002(a)(4)." In the proposed rule, EPA indicated that depositors could include operators, distributors, and transporters. Several commenters recommended that a "person who deposits" should be defined as an entity whose employees or agents physically transfer regulated substances into an underground storage tank. Under this definition, the transporter would be the most likely person to give notice. Commenters did not clarify to whom notice should be given (e.g., hourly worker at facility, supplier, facility office).

Another commenter suggested that the refiner or marketer, not the common carrier or trucker, should be responsible for giving notice to the tank owner. The commenter argued that the refiner or marketer has already been given that responsibility under the FTC octane rules as well as the Department of Energy's price rules.

EPA believes that the purpose of this provision is to provide a source of information via normal commercial relationships for tank owners concerning their responsibility to notify. Thus, EPA has concluded that the burden for informing owners should be

on the party last selling the regulated substances (i.e., the person who conveys title in the substances to the owner) prior to its being placed in the tank, and not necessarily the entity who physically deposits the substance in the tank. The Agency believes that enforceability of the requirements for depositors would be otherwise difficult. For these reasons, the Agency encourages those who sell regulated substances to outline the notification requirements on the shipping papers or on the invoice that accompanies the sale. EPA also acknowledges, however, that there are other acceptable methods for depositors of regulated substances to fulfill their statutory duty to provide reasonable notification to owners or operators. These methods are addressed in more detail elsewhere in this Section.

(c) *Seller.* Several commenters requested that EPA clarify who is "a person who sells a tank intended to be used as an underground storage tank." The Agency believes that the tank seller, in the context of the notification requirements, is the last person in the marketing distribution chain. It should be noted that the notification requirements apply to sellers of second-hand tanks as well as new tanks.

(d) *Underground storage tank.* The Agency received many comments requesting clarification on the statutory definition of underground storage tank. Several commenters suggested that the Agency provide guidance on what is a "tank" and what is "connected piping." Other commenters requested EPA to clarify its intent regarding the following exclusions for tanks: tanks situated in an underground area; liquid traps; flow-through process tanks; pits; and tanks used for storing heating oil for consumptive use on the premises where stored. Several commenters suggested EPA consider a de minimus exemption for small storage tanks.

The Agency recognizes the need for guidance on the terms discussed above. The inclusion of such definitions in the final rulemaking would require proposal, solicitation of comments, and in-depth consideration of the implications of each definition with regard to future rulemakings under Subtitle I. Because the Agency needs time to study the exclusions before it defines these terms, however, EPA has chosen to define such terms when it promulgates technical standards in 1987. The Agency is aware that some tanks may eventually not qualify as underground storage tanks regulated under Subtitle I when the definitions are refined. In the meantime, owners are advised that, until these issues are clarified, the failure to notify will be at their own risk. EPA does not regard the submission of this notification as an admission of ownership for the purpose of this program or for any future regulatory program under Subtitle I. Likewise, failure to notify does not relieve an owner of obligations that are imposed under the statute or under future rulemakings.

4. Notification responsibilities for sellers of tanks and depositors of regulated substances.

In the preamble to the proposed rule, EPA suggested several methods by which a tank seller or depositor of regulated substances could inform the owner, operator, or purchaser of an underground storage tank of the owner's notification responsibilities. These methods included leaving a copy of the EPA notification form with the owner or operator, printing the notification requirements on the shipping papers, or providing a description of the notification requirements on the invoice. The Agency solicited comment from persons who deposit regulated substances into tanks and tank sellers on the kind of guidance that would be helpful to them in communicating the notification requirements to the appropriate persons.

Many commenters agreed with the methods recommended by the Agency and felt that it is essential that persons who deposit regulated substances and tank sellers be given the flexibility to decide how their responsibilities might best be carried out. One commenter also suggested that notification could be in the form of mailing certified letters to the owners or operators advising them of the notification requirements. Other commenters requested that EPA provide standardized wording for use with delivery tickets or invoices and recommended this language be included in an appendix to the final rule.

Several commenters requested clarification on whether a depositor must inform an owner or operator each time product is deliverd during the 18-month notification period or whether a one-time notification complies with the requirements of Section 9002. Other commenters pointed out that there is no guarantee that operators who receive notices from depositors will pass that information on to the owner. They suggested that EPA require an operator who is served notice by the supplier or tank seller to submit such notice to the owner within a specified amount of time.

The Agency would like to reiterate its belief that there are a number of acceptable methods that depositors could use to notify the tank owner or operator of the owner's notification responsibility, including mailing of a certified letter to owners or operators.

EPA also believes there should be a number of acceptable methods available to a tank seller to fulfill his responsibility to inform the tank purchaser of the owner's notification obligations. Thus, EPA does not intend to use this rule to prescribe, restrict, or prohibit any particular method.

In response to the comment that standard language be used by depositors and sellers in notifying owners, EPA agrees that unless EPA recommends such language, there may be inaccuracies or deficiencies in the notice provided. Accordingly, Appendix III sets forth suggested language to be used for a one-time notification letter and for a statement on shipping tickets and invoices.

In response to the comment requesting clarification on the adequacy of a one-time notice by depositors, EPA believes that notifying an owner or operator once during the 18-month period is sufficient.

The Agency has considered the issue of forwarding the advisory notice from the operator to the owner. EPA has determined, however, that it does not have the authority under section 9002 to impose such a requirement on operators.

5. Implementation of the notification requirements.

The Agency received many comments on EPA's intended use of the existing toll-free RCRA/Superfund Hotline to assist tank owners in completing the notification form. Several commenters were concerned that, in view of the large number of newly regulated small businesses, the Agency would receive many questions. This additional burden could overload the existing hotline, rendering it ineffective. To rectify this situation, a number of commenters suggested a separate hotline for the UST program. They stated that if a toll free telephone number were used, it should be a number separate from the existing RCRA/Superfund Hotline.

The Agency has evaluated the need for a separate hotline and has determined that it will augment the resources for the existing hotline rather than create a separate service. EPA believes that this decision is appropriate given that State agencies will be the primary points of contact concerning the notification requirements and form for owners of underground storage tanks.

C. The Notification Form

The majority of commenters endorsed EPA's decision to adopt a simple notification form that is limited to the

information required by the 1984 RCRA Amendments. Many commenters stated that the form is straightforward and can be easily completed. Others recommended that EPA adopt the proposed forms but with minor modifications and additions.

The following paragraphs discuss the comments EPA received on the proposed forms and the Agency's response to these comments.

1. General Instructions.

EPA received a number of comments concerning the general instructions for the proposed forms. Many of these comments were editorial. Others concerned the definitions of "underground storage tank" and "owner." One commenter believed that the statutory language to define these terms may be too technical for small entities to understand. The Agency has already responded to comments concerning definitions in Section III(A)(3) of this preamble.

Several commenters recommended that the instructions on the forms should indicate that owners are not expected to expend extensive time and resources to retrieve the necessary data.

Congress provided in Section 9002 that owners of tanks taken out of service submit information "to the extent known" rather than require owners of tanks taken out of service to expend extensive time and resources to retrieve the necessary data (e.g., going beyond available documents and contacting previous owners to determine the age of tanks, construction materials, etc.). Congress made no such provision, however, for current owners of tanks. Thus, current owners of underground storage tanks in use or that will be brought into use in the future are expected to take any available steps to provide the necessary information about their tanks. In recognition, however, that there may be situations where it is impossible for current owners to obtain all the necessary data to complete the form, the Agency has provided owners the option of indicating "unknown" as an answer. In a situation where no actual record exists, an owner may provide a response based on reasonable estimates, rather than indicate the answer is unknown.

One commenter stated that the instructions for the out-of-service tanks are not acceptable. The commenter suggested that the Agency clarify whether all the information requested is to be accurate as of the time the tank was taken out of service, or whether some of the information is to be current as of the date of notification. For example, is the name of the facility to be what it was at the time the tank was taken out of service (Jones Service Station) or what it is now (perhaps a parking lot)?

Because the primary purpose of the notification program is to assist States in determining where underground storage tanks are located and what regulated substances they contain, EPA believes that informaton on both the previous and current owners should be noted in this situation. Providing only the name of the owner at the time the tank was taken out of service could be misleading as the above example suggests. Requiring information on both previous and current owners provides a greater degree of certainty of knowing what the tanks contained (or may still contain) and where they are located. In an effort to help States distinguish between current and former owners, EPA has provided boxes on the form to indicate whether the respondent is a "current" or "former" owner.

Several commenters recommended that EPA reword the penalty statement in the instructions. Evidence of deliberate failure to notify or knowing submission of false information is the statutory standard, they stated, and the sentence should be modified to comply with the statute. EPA has adopted the language of the penalty statement as it appears in the statute. The additions suggested by the commenters would significantly change the meaning of the statute, and such alterations are not within the Agency's authority.

2. Format.

Many commenters suggested that EPA combine the two forms into one form. This would result in less paperwork for tank owners and serve to minimize confusion. It would also reduce the printing costs and simplify administrative handling by the State agencies processing the information. The Agency agrees with the commenters and has combined the information requirements of the two proposed forms into a single, two-sided form.

Other format changes suggested by commenters have been adopted and include: (1) Eliminating all Federal agency logos, names, and mailing addresses so that State or local logos and addresses can be inserted; (2) adding a space for total number of tanks being reported; and (3) reducing the number of lines for specific tanks. EPA also removed the preprinted tank numbers from the form in response to a comment that photocopies of the form must be altered for facilities with more than eight tanks, and in response to the desire expressed by some commenters to use existing company tank identification numbers in lieu of preassigned, sequential numbers.

Several commenters requested that EPA provide coding lists for materials of construction, external protection, and substance stored to make the form more amenable to a computerized data-processing system. EPA has consulted statisticians concerning this suggestion and on the basis of their analyses, has decided that the probability for error is greater with coded responses than with direct indication of choice.

3. Specific Line Items.

Name and Address of the Facility. One State commenter requested that EPA change the heading on the form from "name and address of the facility" to "location of tanks." Accordingly, the Agency has made this requested modification for clarity. The Agency has also modified the location address block so that the owner may now provide the name of the company site identifier as an alternative to the facility name. The owner is also required to provide the street address (or, in rural areas, the name or route number of the State road) as well as the city where the tanks are located. A number of commenters requested that the Agency include a space for county name and zip code so that batch reports of tank facilities may be printed. In response to this comment, the Agency has included such requirements on the final form.

Several State commenters suggested that tank location should be specified by some universal locater system such as township, range and section number, universal transverse meridians, or latitude and longitude. They suggested that this requirement would be particularly useful outside of metropolitan areas. Another State commenter suggested that facility locations, particularly in rural areas, should reference municipal tax maps. They pointed out that the location of a facility is often difficult to describe because of the lack of street numbers and names.

EPA recognizes that sometimes street addresses alone are not sufficient and that inclusion of the information suggested above could add considerable precision to determining the location of tanks. The Agency has decided not to require such information, however, because it would complicate the form and would require owners to undertake additional effort by researching tax records, deeds and mortgages. EPA believes this additional effort is not warranted.

Owner of Tank. Elsewhere in this preamble tank ownership is discussed. EPA recognizes that because of the varied nature of ownership interests in real property (particularly for gasoline-

marketing operations) there are many cases where tank ownership is uncertain. One commenter recommended that EPA change the heading in Item 3 on the proposed form to read "owner of tank and owner of property." The commenter pointed out that the property owner may not own the tank and may not be aware that the lessee has installed an underground storage tank on his property. These comments have prompted EPA to add a box that can be checked in cases where ownership of the tank is uncertain.

Contact Person. In response to comments, EPA would like to clarify that the contact person for the facility is the person responsible for the day-to-day monitoring of the tank. The contact person may be the owner or the owner's authorized representative. In recognition that employees are more subject to change than are their job titles, EPA has modified the form to include a space for the job title of the contact persons. By so doing, inquiries can be directed to a particular position, even if the position is no longer held by the same individual.

Type of Owner. EPA has revised Item 5 ("Type of Owner") to provide for identification of State or local government-owned tanks, federally-owned tanks, and privately-owned tanks. The form requires the owner to provide a federal facility General Services Administration (GSA) identification number for Federal tanks, to assist Federal agencies that may want to ascertain the status of their tanks. In an effort to simplify the form, information concerning the "type of owner" is now included in Section 1, "Ownership of the Tanks."

For State Use Only. One State commenter requested that EPA provide space on the notification form so that States may attach a form serial or accounting number identification. The Agency agrees and has changed the form accordingly to facilitate the identification of those owners who may file subsequent notifications and to facilitate automated data processing.

Information on Tanks.—(a) *Age.* A number of commenters remarked that many owners do not know the age of their tanks. Accurate information on the age of tanks or when the tanks were last used may be even more difficult or impossible to obtain. In consideration of these comments, the Agency now requests owners to provide an estimate of the age of their tanks rather than specifying the exact age of their tanks.

(b) *Material of Construction.* In the proposal, EPA listed only steel and fiberglass reinforced plastic tanks for specific identification in the notification form. EPA has since determined that there may be tanks that are partially in-ground or above-ground that satisfy the underground storage tank definition. In addition, review of the comments indicates that some devices, such as sumps, which typically may not be considered tanks by the owner, may also meet the definition of underground tank contained in section 9001(1). Many of these devices are constructed of concrete. Thus, in the final notification form, EPA has added "concrete" to the list of tank construction materials. This addition does not necessarily mean that all sumps or concrete tanks are underground storage tanks. It will still be up to the owner to determine if he owns a tank that satisfies the statutory definition of "underground storage tank."

(c) *Corrosion Protection.* EPA received many comments concerning types of internal and external corrosion protection systems. On the proposed forms, owners are required to specify whether the tank is internally protected with a lining or whether it is unlined. One commenter requested that the Agency define the kinds of tank linings considered to be internal protection.

Other commenters directed their remarks toward external protection systems. For example, several commenters requested that the term "coating" be clarified and defined. One commenter recommended that the Agency revise the instruction concerning this to indicate that *all* appropriate boxes should be checked. The commenter stated that it is common for a tank to be both coated and wrapped or have some form of cathodic protection plus a coating.

EPA defines internal lining as any material that is applied over the inside surface of the tank. Many types of materials are used for this purpose, such as polyesters, epoxies, and ceramics. On the notification form, the Agency asks only that the owner indicate whether or not the tank is internally lined. The owner is not required to specify the type of lining.

In regard to external protection systems, the term "coating" means any material that is applied over the outside surface of the tank. Types of coatings commonly used include asphalt, coal tar epoxy, and fiberglass reinforced plastic (FRP). On today's form, EPA requires the owner to indicate the kind of external protection system used on the tank. The Agency has listed fiberglass reinforced plastic coating to the list of types of external corrosion protection because it is one of the more common methods of corrosion protection. Other coatings are generally supplemented with cathodic protection. EPA has also modified the instruction concerning external protection so that the owner can now indicate whether the tank is equipped with more than one protection system.

(d) *Type of Substance Stored.* On the proposed forms, owners are asked to identify which of two categories of substances the tank contains: CERCLA hazardous substances or petroleum. If the tank is storing petroleum, the owner is asked to indicate which type (i.e., gasoline, diesel, or kerosene). If the tank is storing a CERCLA hazardous substance, the owner had to provide the name of the hazardous substance or the Chemical Abstracts Service (CAS) registry number.

Several commenters questioned the Agency's classification of petroleum substances. One commenter did not believe there is any need to distinguish between diesel and kerosene petroleum substances and suggested grouping these along with heating oil into a single category of distillates. Several commenters believed that the Agency should distinguish the types of gasoline stored in a tank (i.e., regular, unleaded, premium) because the type of gasoline is related to the issue of product compatibility with tanks. One commenter also suggested that the Agency expand the choices beyond those discussed above to include used oil, aviation gas, jet fuel, and gasohol.

EPA has considered these comments and has decided not to combine petroleum substances into a single category of distillates because EPA believes the substances are sufficiently different to warrant obtaining information about them individually. On the other hand, the Agency has determined that it is not necessary to distinguish the types of gasoline stored. Listing gasoline by type does not provide useful information concerning substance compatibility with tanks because different brands of the same type of gasoline can vary in formulation. Likewise, the Agency has allowed for the reporting of alcohol blends with gasoline under the "gasoline" category. In an effort to keep the form simple, the Agency has restricted its list of type of petroleum substance stored to generic classes.

EPA has added "used oil" to the list of choices because it is one of the most commonly stored regulated substances. The Agency has determined that if used oil is eventually listed as a hazardous waste under Subtitle C of RCRA, the Agency would have jurisdiction under both Subtitle C and Subtitle I to regulate used oil. This position is based on the fact that the exclusion for hazardous

wastes under Subtitle I applies to CERCLA substances (Section 9001(2)(A)). It does not apply to petroleum substances that are identified in section 9001(2)(B). The technical standards that will apply to used oil tanks will be promulgated in the future. In the meantime, notification under Subtitle I is required for used oil and for any petroleum hazardous waste that is not currently regulated as a hazardous waste under Subtitle C of RCRA.

Several commenters addressed the identification of CERCLA hazardous substances. In the preamble to the proposed rule, EPA suggested that owners contact the RCRA/Superfund Hotline at (800) 424-9346 if they were unsure whether the chemicals stored in their tanks were CERCLA hazardous substances. EPA also stated that the Agency could provide interested persons with a list of such substances upon request.[3]

One commenter stated that in situations where a commercially available product (which contains CERCLA hazardous substances) is being stored in an underground storage tank, readily available chemical identification information should suffice for identifying the "substance type" on the notification, such as information from material safety data sheets required by the Occupational Safety and Health Administration. The Agency believes that the "regulatory synonyms" identified in Table 302.4 of the Reportable Quantity regulation (50 FR 13475, April 4, 1985) may be used in the notification form. The use of trade names, however, may not be used since the exact chemical constituents of any particular product generally are not readily available to the State or local agencies.

A commenter who referred to the list of CERCLA hazardous substances noted that it contains both commercial chemicals and discarded commercial chemical products. The commenter requested that EPA clarify which of these substances would be subject to the notification requirements. Every substance on the CERCLA list is a regulated substance unless it is a hazardous waste regulated under Subtitle C. This means some waste streams on the CERCLA list are not regulated substances for the purposes of Subtitle I. On the other hand, commercial products that become Subtitle C hazardous wastes when discarded or when they are intended to be discarded, are regulated substances under Subtitle I until they are discarded or intended to be discarded as wastes.

In the preamble to the proposed rule, EPA solicited comment regarding what is the most appropriate indication of stored CERCLA hazardous substance when there is a mixture of chemicals in one tank. The Agency proposed that the owner indicate the substance of greatest quantity in the mixture.

The majority of commenters stated that it is sufficient to report only the major component present in the mixture. They also stated that, because many industry products are complex mixtures containing potentially large numbers of hazardous substances, it would be difficult and very expensive to list all products stored. One State commenter stated that his agency's ADP system would not have the capability to include information on more than one substance per tank.

Several commenters argued that all substances should be identified so that the potential environmental threat from a tank could be determined. Other commenters stated that, although listing all the substances in the mixture would be an unnecessary burden, EPA's proposal to list the substance of greatest quantity would not accurately reflect the tank's contents. One commenter recommended that all major substances present in volumes of 10 percent or greater be identified. Another commenter stated that EPA should provide a space for a product description, the CERCLA substance of greatest quantity, and the concentration of the substance.

Other commenters stated that using toxicity as one basis for notification is inappropriate because the degree of toxicity of a substance is unrelated to its potential to leak from an underground storage tank. One commenter stated that the Agency should not require tank owners to list the substance that is the most toxic because few owners possess the technical or scientific expertise to evaluate the relative toxicities of materials in the mixture.

The Agency has carefully considered these comments and recognizes that, while more detailed information may be needed to respond to an actual tank leak, this greater level of detail is unnecessary for development of a general tank inventory, which is the primary objective of this notification effort. The data supplied under this initial notification effort should not be viewed as the sole source of information to be used for emergency responses. Therefore, the notification form continues to require the owner to indicate only the CERCLA hazardous substance of greatest quantity in a mixture. Where a tank is used to store more than one substance during a year, the Agency requires that only the most typical use or use of greatest quantity during the year be identified on the notification form.

Certification. In the instructions for the proposed notification form, EPA stated that the form must be signed and certified by the owner or authorized representative of the facility. The Agency defined authorized representative as "a person responsible for the overall operation of the facility, as for example, a plant manager or superintendent, or a person of equivalent responsibility." A number of commenters disagreed with this definition, arguing that the certification should be restricted to an officer or other official representative of the owner, and not permit the signature by a mere employee.

In response to these comments, EPA would like to clarify its definition of authorized representative: it is a person who is authorized by the owner to sign the notice.

One commenter requested that, for companies with many tanks or multiple locations, certification be allowed in a cover letter rather than on the notification form itself so that the owner would not have to sign hundreds of certifications. In response to this comment, the Agency has modified the form to take into account locations with many tanks. Thus, the certification statement and the signature line have been moved to the first page of the form. Owners are permitted to sign one form, if it is part of a series of notification forms for several tanks at one location. We have rejected the commenter's suggestion, however, to permit certification by cover letter for owners of tanks at more than one location. To permit such certification could result in separation of the certifications from the forms and present a problem in data management and storage of the forms.

There may be instances when the notifier is not an owner or his authorized representative but some other interested party. In such cases, the notifier should indicate this on the form by crossing out the word "owner" under the certification and substituting the word "notifier."

4. Additional data requests.

Elsewhere in this preamble, the Agency discussed its rationale for limiting the information required in the notification form to the in items specified in Section 9002. As we have explained earlier, in response to comments EPA has added information

[3] The list of CERCLA hazardous substances was published in the Federal Register on April 4, 1985 (50 FR 13546).

requirements concerning tank closure and piping.

A number of commenters also requested that EPA provide space for the owner's identification of tanks (e.g., number, code name, location). In particular, one commenter stated that for large facilities having several buildings, such identifiers may be critical as tanks containing the same material may be located at more than one building. As its response to these comments, EPA has eliminated the prenumbering found on the proposed forms and has designated that space for such identifiers.

EPA received many comments, including six from States, requesting that the Agency provide for updating of information whenever significant changes occur at the site. These changes could include the installation or replacement of tanks or piping, permanent removal of a tank from operation, and changes in the chemical substance(s) being stored. Several commenters stated the notification form would be a much more effective management and enforcement tool if the owner were required to update a tank's status as it changes.

Other commenters believed that tank notifications should be made on a one-time-only basis because a continual notification system could be resource intensive and yield little additional useful information.

EPA recognizes that the accuracy of the underground storage tank data compiled from the notifications submitted under Section 9002 will not remain current unless updated to incorporate future changes, but believes that Section 9002 does not provide EPA authority to require owners to update their notices in the future. To compensate for this limitation, however, EPA provided a place on the form to indicate whether the notification is an initial or an amended report, so that States that may opt to require updates of the information received in the original notification can do so using EPA's form. The addition of this block imposes no additional Federal information requirements on the tank owner.

D. Other Comments

The Agency also received a number of comments concerning the following subjects: (1) Jurisdiction for the Subtitle I program on Indian lands; and (2) EPA's role in communicating the notification requirements to the regulated community.

Several commenters requested clarification as to how EPA would handle notification of tanks located on Indian lands. The Agency believes that Subtitle I does not provide States the authority to assert jurisdiction over underground storage tanks on Indian reservations or other lands held in trust for Indian peoples. Some States may have such authority by treaty or an act of Congress other than Subtitle I. Nevertheless, Section 9002 imposes a Federal requirement on all underground storage tank owners to provide notification to the State or local agencies designated under Section 9002(b). This is an obligation under Federal law, not State law, and applies to Indians in the same way it applies to any other "person" who is an owner of an underground storage tank. Accordingly, Indian tank owners must provide notification to the appropriate agencies listed in Appendix II. In States that do not have jurisdiction to assert State laws over Indian tribes or individual Indians, however, Indians cannot be required by such States to use State forms. In such States, Indians will be deemed to have complied with Section 9002 if they use the Federal form, but such form must be sent to the appropriate State or local agencies listed in Appendix II. The notification form has been amended to include a box that should be checked if a tank is located on Indian reservations or other trust lands.

Other commenters requested clarification of EPA's role in the implementation of State notification programs. Two State commenters recommended that EPA conduct a national or regional advertising campaign to inform tank owners of their requirements to notify. One of these States also said that EPA should assist States with regional mailings of general underground storage tank information to all permit holders.

EPA plans to provide a notification handbook to the States to aid in implementing and informing tank owners of their notification programs.

IV. The Final Notification Form

As was stated earlier in this preamble, Section 9002 was included in Subtitle I to provide States with some basic information about underground storage tanks within their jurisdictions. This information could be used to establish State programs aimed at preventing, detecting, and correcting leaks from these tanks. Owners are encouraged by EPA to maintain records of the data they submit to the designated State agencies.

EPA attempted to produce a notification form that is easy to complete and that fulfills the requirements of Section 9002. The format is designed to simplify the completion of the form (i.e., in most cases, answers may be provided by checking a box). The Agency has thus attempted to minimize the burden upon all tank owners, the majority of whom own small businesses.

A. Information Included in the Form

Appendix I sets forth the form to be used by owners of underground storage tanks. The following paragraphs provide details concerning the information requirements of this form.

The owner of an underground storage tank must give his name, address, and phone number. The owner must also provide information concerning a contact person; i.e., an individual who is responsible to him for monitoring the day-to-day operation of the tank. This information should include such persons name, title, address, and phone number. In addition, the owner is required to provide information on the location of his tank and the status of the tank, (whether it is currently in use, temporarily out of use, or permanently out of use).

For underground storage tanks in use or that are brought into use after May 8, 1986, EPA requires owners to estimate the age of the tank and to indicate its capacity in gallons. With respect to the type of tank, EPA has characterized type to mean materials of construction and internal and external corrosion protection, if any. The owner is required to indicate whether the tank is constructed of steel, fiberglass reinforced plastic, or concrete. If the tank is not constructed of these materials, the owner is asked to specify the material. Listed in the form are several types of corrosion protection systems. The owner must specify the kind of internal and external protection system with which the tank is equipped. The owner is also required to provide information on piping.

Concerning the use of the tank, the owner must identify which of two categories of substances the tank contains: CERCLA hazardous substances or petroleum. If the tank is storing a hazardous substance, the owner must provide the name of the CERCLA chemical or the Chemical Abstracts Service (CAS) registry number. When a mixture of several hazardous substances is stored in one tank, the owner must specify the name of the substance of greatest quantity. If the tank is used to store different hazardous substances at different times, the owner must specify the name of the substance typically stored or stored in greatest quantity during the year immediately preceding the submission

of the notice. If a tank is storing petroleum, the owner is required to indicate the type of petroleum that is stored.

For underground storage tanks taken out of use permanently after January 1, 1974 (but still in the ground), the owner is required to provide the same information as discussed above. In addition, the owner must estimate the date of last use and the quantity of substance remaining in the tank. The owner must also indicate whether the tank was filled with inert material, such as sand or concrete. If the tank is taken out of the ground prior to May 8, 1986, notification is not required.

B. Copies of the Form

EPA is providing States with a camera-ready copy of the notification form. Owners of underground storage tanks should contact the appropriate designated State agency that is implementing the notification program to determine if the State has copies of the form or is using its own State form. (Appendix II provides a list of the designated State agencies.)

V. Confidentiality Provisions

EPA received several comments concerning the confidentiality provisions that were discussed in the preamble to the proposed regulation. Commenters were concerned that confidentiality may not be adequately protected in States that do not effectively implement the underground storage tank regulations. Several commenters recommended that EPA strengthen the confidentialty provisions to provide assurance to the regulated community that legitimate proprietary information will be adequately safeguarded.

Because the information reported in the notification forms will be sent to a designated State or local agency, not to EPA, the information will not be subject to Federal public disclosure laws. The Agency cannot, of course, interfere with State confidentiality provisions. Owners of underground storage tanks who seek protection from disclosure should, therefore, contact the appropriate State office for information on applicable confidentiality provisions.

National Costs for the Notification Requirements

EPA received a number of comments on the Agency's estimated costs to tank owners to meet the notification requirements.

Some commenters disagreed with the Agency's assumption that an average facility was comprised of three tanks. One representative of the chemical industry stated that a more typical facility would have ten to several hundred tanks; another commenter estimated that a utility company may have as many as 600 tanks at one facility. Commenters argued that because the Agency has underestimated the number of tanks at a facility, it has significantly understated the costs of the notification requirements. One commenter stated that as a result of underestimating the number of tanks at large facilities, the costs to a large facility could be underestimated by a factor of ten to twenty. Should this be the case, the commenter argued that the regulations would be classified as a major rule.

Although the Agency agrees that some facilities do have more than three tanks per facility (e.g., large chemical companies), the majority of facilities with tanks used for petroleum (e.g., gas stations) and specialty chemical products are unlikely to have more than three tanks. The Agency believes that a typical facility has three tanks. EPA recognizes, of course, that for facilities with a significantly larger number of tanks, the costs could be underestimated; the number of these facilities is not great, however, and, therefore, the total national costs of the regulation will not increase significantly. In addition, large facilities that have computer capabilities for monitoring the contents of their tanks may be able, through negotiations with States, to substitute computer printouts for the EPA or State notification forms. This will reduce the cost to these facilities both in data retrieval and in notification costs.

A number of commenters stated that the Agency underestimated the average time required per facility to complete the notification from. Because tanks may be used for mixtures of products or for more than one product over a year, identifying all the products included in the tank would take more than 30 minutes per facility. Commenters stated that for facilities with tanks taken out of service since 1974, it would take much longer than 30 minutes to obtain the necessary information, especially for facilities that have been sold. If the Agency required detailed information on the internal lining of the tank and external corrosion protection (information similar to that required on the California notification form), it could take significantly longer than 30 minutes to complete the from. Commenters' estimates of the time required ranged from 30 minutes to 2 hours per tank and form several hours to 8 hours per facility.

In response to these comments, the Agency points out that the final notification form, as modified in response to comments, should take less time to fill out than the forms previously proposed. First, the Agency is specifying that the notification form include only information on the most predominant chemical constituent stored in the tank over the past year. For tanks containing mixtures, the form now includes a box indicating that the tank contains a mixture of regulated substances. Owners, will not, therefore, be required to identify all the different constituents in the tank. Second, EPA is not requiring extensive information on the internal and external characteristics of the tank that could increase the amount of time required to complete the form.

EPA is requiring owners of tanks taken out of service to provide the information requested on the form only "to the extent known." Thus, these owners need not contact all previous owners to obtain the notification information. This is consistent with the assumptions EPA used to estimate the time required to complete the form and that the Agency presented in the proposed rule.

The Agency has assumed that an owner of a facility that has three tanks will require 30 minutes to complete the notification form. This includes the time necessary to read the instructions, delegate responsibility for completing the form, retrieve information, complete the form, submit it for management review, and to do the necessary clerical work. It should be possible for an owner of a large facility to supply the information in about eight hours, especially if the facility has computer capabilities for data retrieval.

The Agency also received comments challenging EPA's estimated hourly salary rate. The commenters argued that a person with considerable expertise would be needed to complete the notification form, especially if detailed information on the tank's liner and external materials were required. The Agency disagrees with this comment because detailed technical information is not requested on the form. Only information that is readily available is expected. Thus, the Agency continues to maintain that the average estimate of $15 per hour is a reasonable estimate.

Finally, one commenter challenged the Agency's assumption that notification costs for product distributors would range from $50 to $100. This commenter argued that it would be significantly more expensive to account for the costs of collecting State forms, printing, and driver training, especially if a distributor

has clients in many different States with different State forms.

The preamble to the proposed rule stated that a depositor must "reasonably notify" the tank owner or operator of his notification obligations. Approaches that the Agency considers appropriate for notifying the tank owner or operator include providing the tank owner with a copy of the notification form (or the required State form) *or* printing the notification requirements on the shipping papers that accompany the shipment or on the invoice itself or writing a one-time letter to the owners.

The Agency estimated the notification costs of $50 for depositors and tank sellers. This assumes that the tank owner will need about two hours of managerial and clerical time to comply with the notification requirements. This translates into a combined hourly rate of $25, including benefits and overhead. This cost is for preparing a cover letter and obtaining notification forms, or for preparing a standard notice that would be distributed at the time of transactions. The $100 estimate includes a follow-up letter after the initial notification.

In developing the costs for depositors, the Agency assumed that the distributor would choose the least-cost option. Therefore, a large distributor with clients in many different States would most likely choose to include the notification requirements on the shipping papers or invoices rather than collect and distribute notification forms for each of the applicable States. Thus, the costs to the distributor would involve only the costs of printing the notice on the invoice.

Although EPA continues to consider its per facility notification cost to be reasonable estimates, EPA has revised the population estimate in light of new information. The Agency has undertaken more thorough research of the facilities subject to the Subtitle I requirements in support of the technical standards that the Agency will be proposing. This research indicates that there is a maximum of 500,000 facilities that have petroleum tanks. The Agency expects chemical product tank facilities to compose no more than 20 percent of the total underground storage tank facility population. Therefore, the Agency is revising the underground storage tank population estimate from 1.2 million facilities to about 600,000 facilities. The Agency still assumes that 90 percent of these facilities have three tanks apiece. The remaining 10 percent are large facilities with 10 tanks apiece.

EPA has concluded that the notification requirements do not impose a significant economic burden on members of the affected population. (See Sections VII and IX for additional information on the economic impact of this rule.)

VII. Compliance With Executive Order 12291

Executive Order 12291 [46 FR 13193, February 9, 1981] requires that a regulatory agency determine whether a new regulation will be "major" and, if so, that a Regulatory Impact Analysis be conducted. A major rule is defined as a regulation that is likely to result in:

(1) An annual effect of the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, and local Government agencies, or geographic regions; or

(3) 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.

Since today's rulemaking does not result in any of the above effects, it does not meet the definition of a major regulation. Accordingly, the Agency is not conducting a Regulatory Impact Analysis.

This rulemaking has been submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

VIII. Paperwork Reduction Act

Pursuant to section 3504(h) of the Paperwork Reduction Act of 1980, the reporting and recordkeeping provisions of today's final rule have been approved by OMB and the approval number is 2050–0049. to comments by OMB and the public regarding the reporting and recordkeeping provisions of the rule.

IX. Regulatory Flexibility Act

The Regulatory Flexibility Act requires that Federal agencies prepare regulatory flexibility analyses assessing the impacts of proposed rules on entities such as small businesses, small organizations, and small governmental jurisdictions. Such an analysis is not required, however, when the head of an agency certifies that a proposed rule will not have a significant economic impact on a substantial number of small entities.

EPA considers the information required by these rules to be the minimum necessary to administer the notification program effectively. Since most of the requested information is readily accessible, little time should be needed to prepare the notification response. Any additional economic impact on the public resulting from implementation of this regulation is expected to be negligible since notification is required only once, and is primarily an administrative procedure. Accordingly, I certify that these proposed rules, if promulgated, would not have a significant impact on a substantial number of small entities.

X. List of Subjects in 40 CFR Part 280

Administrative practice and procedure, Underground storage tanks, Hazardous materials, Hazardous waste, Water pollution control, Confidential business information.

Dated: November 5, 1985.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations, Part 280 is amended as follows:

PART 280—UNDERGROUND STORAGE TANK REGULATIONS

(1) The authority cite for Part 280 continues to read as follows:

Authority: 42 U.S.C. §§ 6991, 6992, and 6996.

(2) Section 280.1 is amended by adding the following definitions in alphabetical order:

§ 280.1 Definitions and Exemptions.

"Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank.

"Owner" means (a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and (b) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before discontinuation of its use.

* * * * *

(3) Section 280.3 is added to read as follows:

§ 280.3 Notification requirements.

(a) On or before May 8, 1986, each owner of an underground storage tank currently in use must submit, in the form prescribed in Appendix I of this section, a notice of the existence of such tank to the State or local agency or department designated in Appendix II of this section to receive such notice.

(b) On or before May 8, 1986, each owner of an underground storage tank taken out of operation after January 1, 1974 (unless the owner knows that such

tank has been removed from the ground) must submit, in the form prescribed in Appendix I of this section, a notice of the existence of such tank to the State or local agency or department designated in Appendix II of this section to receive such notice.

(c) Any owner who brings an underground storage tank into use after May 8, 1986, must, within 30 days of bringing such tank into use, submit, in the form prescribed in Appendix I of this section, a notice of the existence of such tank to the State or local agency or department designated in Appendix II of this section to receive such notice.

(d) In States where State law, regulations, or procedures require owners to use forms that differ from those set forth in Appendix I of this section to fulfill the requirements of this section, the State forms may be submitted in lieu of the forms set forth in Appendix I of this section. If a State requires that its form be used in lieu of the form presented in this regulation, such form must meet the requirements of Section 9002.

(e) Owners required to submit notices under paragraphs (a) through (c) of this section must provide notices to the appropriate agencies or departments identified in Appendix II of this section for each tank they own. Owners may provide notice for several tanks using one notification form, but owners who own tanks located at more than one place of operation must file a separate notification form for each separate place of operation.

(f) Notices required to be submitted under paragraphs (a) through (c) of this section must provide all of the information indicated on the prescribed form (or appropriate State form) for each tank for which notice must be given.

(g) Beginning on December 9, 1985 through May 9, 1987 any person who deposits regulated substances in an underground storage tank must make reasonable efforts to notify the owner or operator of such tank of the owner's obligations under paragraphs (a) through (c) of this section.

(h) Beginning 30 days after the Administrator issues new tank performance standards pursuant to RCRA section 9003(e), any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owner's notification obligations under paragraphs (a) through (c) of this section.

(i) Paragraphs (a) through (c) of this section do not apply to tanks for which notice was given pursuant to section 103(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

BILLING CODE 6560-50-M

APPENDIX I to §280.3

Notification for Underground Storage Tanks

FORM APPROVED
OMB NO. 2050-0068
APPROVAL EXPIRES 6-30-88

STATE USE ONLY

I.D. Number

Date Received

GENERAL INFORMATION

Notification is required by Federal law for all underground tanks that have been used to store regulated substances since January 1, 1974, that are in the ground as of May 8, 1986, or that are brought into use after May 8, 1986. The information requested is required by Section 9002 of the Resource Conservation and Recovery Act, (RCRA), as amended.

The primary purpose of this notification program is to locate and evaluate underground tanks that store or have stored petroleum or hazardous substances. It is expected that the information you provide will be based on reasonably available records, or, in the absence of such records, your knowledge, belief, or recollection.

Who Must Notify? Section 9002 of RCRA, as amended, requires that, unless exempted, owners of underground tanks that store regulated substances must notify designated State or local agencies of the existence of their tanks. Owner means

(a) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and

(b) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before the discontinuation of its use.

What Tanks Are Included? Underground storage tank is defined as any one or combination of tanks that (1) is used to contain an accumulation of "regulated substances," and (2) whose volume (including connected underground piping) is 10% or more beneath the ground. Some examples are underground tanks storing: **1.** gasoline, used oil, or diesel fuel; and **2.** industrial solvents, pesticides, herbicides or fumigants.

What Tanks Are Excluded? Tanks removed from the ground are not subject to notification. Other tanks excluded from notification are:

1. farm or residential tanks of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

2. tanks used for storing heating oil for consumptive use on the premises where stored;

3. septic tanks;

4. pipeline facilities (including gathering lines) regulated under the Natural Gas Pipeline Safety Act of 1968, or the Hazardous Liquid Pipeline Safety Act of 1979, or which is an intrastate pipeline facility regulated under State laws;

5. surface impoundments, pits, ponds, or lagoons;

6. storm water or waste water collection systems;

7. flow-through process tanks;

8. liquid traps or associated gathering lines directly related to oil or gas production and gathering operations;

9. storage tanks situated in an underground area (such as a basement, cellar, mineworking, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor.

What Substances Are Covered? The notification requirements apply to underground storage tanks that contain regulated substances. This includes any substance defined as hazardous in section 101 (14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), with the exception of those substances regulated as hazardous waste under Subtitle C of RCRA. It also includes petroleum, e.g., crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).

Where To Notify? Completed notification forms should be sent to the address given at the top of this page.

When To Notify? 1. Owners of underground storage tanks in use or that have been taken out of operation after January 1, 1974, but still in the ground, must notify by May 8, 1986. **2.** Owners who bring underground storage tanks into use after May 8, 1986, must notify within 30 days of bringing the tanks into use.

Penalties: Any owner who knowingly fails to notify or submits false information shall be subject to a civil penalty not to exceed $10,000 for each tank for which notification is not given or for which false information is submitted.

INSTRUCTIONS

Please type or print in ink all items except "signature" in Section V. **This form must by completed for each location containing underground storage tanks.** If more than 5 tanks are owned at this location, photocopy the reverse side, and staple continuation sheets to this form.

Indicate number of continuation sheets attached ☐

I. OWNERSHIP OF TANK(S)

Owner Name (Corporation, Individual, Public Agency, or Other Entity)

Street Address

County

City State ZIP Code

Area Code Phone Number

Type of Owner *(Mark all that apply ☒)*

☐ Current ☐ State or Local Gov't ☐ Private or Corporate

☐ Former ☐ Federal Gov't (GSA facility I.D. no. _____) ☐ Ownership uncertain

II. LOCATION OF TANK(S)

(If same as Section 1, mark box here ☐)

Facility Name or Company Site Identifier, as applicable

Street Address or State Road, as applicable

County

City (nearest) State ZIP Code

Indicate number of tanks at this location ☐

Mark box here if tank(s) are located on land within an Indian reservation or on other Indian trust lands ☐

III. CONTACT PERSON AT TANK LOCATION

Name (If same as Section I, mark box here ☐) Job Title Area Code Phone Number

IV. TYPE OF NOTIFICATION

☐ Mark box here only if this is an amended or subsequent notification for this location.

V. CERTIFICATION (Read and sign after completing Section VI.)

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete.

Name and official title of owner or owner's authorized representative	Signature	Date Signed

CONTINUE ON REVERSE SIDE

EPA Form 7530-1(11-85)

Owner Name (from Section I) _____ Location (from Section II) _____ Page No. ____ of ____ Pages

VI. DESCRIPTION OF UNDERGROUND STORAGE TANKS *(Complete for each tank at this location.)*

Tank Identification No. (e.g., ABC-123), or Arbitrarily Assigned Sequential Number (e.g., 1,2,3...)	Tank No.	Tank No.	Tank No.	Tank No.	Tank No.
1. Status of Tank *(Mark all that apply ☒)*					
Currently in Use	☐	☐	☐	☐	☐
Temporarily Out of Use	☐	☐	☐	☐	☐
Permanently Out of Use	☐	☐	☐	☐	☐
Brought into Use after 5/8/86	☐	☐	☐	☐	☐
2. Estimated Age (Years)					
3. Estimated Total Capacity (Gallons)					
4. Material of Construction *(Mark one ☒)*					
Steel	☐	☐	☐	☐	☐
Concrete	☐	☐	☐	☐	☐
Fiberglass Reinforced Plastic	☐	☐	☐	☐	☐
Unknown	☐	☐	☐	☐	☐
Other, Please Specify	_____	_____	_____	_____	_____
5. Internal Protection *(Mark all that apply ☒)*					
Cathodic Protection	☐	☐	☐	☐	☐
Interior Lining (e.g., epoxy resins)	☐	☐	☐	☐	☐
None	☐	☐	☐	☐	☐
Unknown	☐	☐	☐	☐	☐
Other, Please Specify	_____	_____	_____	_____	_____
6. External Protection *(Mark all that apply ☒)*					
Cathodic Protection	☐	☐	☐	☐	☐
Painted (e.g., asphaltic)	☐	☐	☐	☐	☐
Fiberglass Reinforced Plastic Coated	☐	☐	☐	☐	☐
None	☐	☐	☐	☐	☐
Unknown	☐	☐	☐	☐	☐
Other, Please Specify	_____	_____	_____	_____	_____
7. Piping *(Mark all that apply ☒)*					
Bare Steel	☐	☐	☐	☐	☐
Galvanized Steel	☐	☐	☐	☐	☐
Fiberglass Reinforced Plastic	☐	☐	☐	☐	☐
Cathodically Protected	☐	☐	☐	☐	☐
Unknown	☐	☐	☐	☐	☐
Other, Please Specify	_____	_____	_____	_____	_____
8. Substance Currently or Last Stored in Greatest Quantity by Volume *(Mark all that apply ☒)*					
a. Empty	☐	☐	☐	☐	☐
b. Petroleum					
Diesel	☐	☐	☐	☐	☐
Kerosene	☐	☐	☐	☐	☐
Gasoline (including alcohol blends)	☐	☐	☐	☐	☐
Used Oil	☐	☐	☐	☐	☐
Other, Please Specify	_____	_____	_____	_____	_____
c. Hazardous Substance	☐	☐	☐	☐	☐
Please Indicate Name of Principal CERCLA Substance	_____	_____	_____	_____	_____
OR					
Chemical Abstract Service (CAS) No.	_____	_____	_____	_____	_____
Mark box ☒ if tank stores a mixture of substances	☐	☐	☐	☐	☐
d. Unknown	☐	☐	☐	☐	☐
9. Additional Information (for tanks permanently taken out of service)					
a. Estimated date last used (mo/yr)	/	/	/	/	/
b. Estimated quantity of substance remaining (gal.)	_____	_____	_____	_____	_____
c. Mark box ☒ if tank was filled with inert material (e.g., sand, concrete)	☐	☐	☐	☐	☐

APPENDIX II to §280.3

List of Agencies Designated to Receive Notifications

Alabama (EPA Form)
Alabama Department of Environmental Mgmt.
Ground Water Section/Water Division
1751 Federal Drive
Montgomery, Alabama 36130

Alaska (EPA Form)
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811
907/465-2653

American Samoa (EPA Form)
Executive Secretary
Environmental Quality Commission
Office of the Governor
American Samoan Government
Pago Pago, American Samoa 96799
Attention: UST Notification

Arizona (EPA Form)
Attention: UST Coordinator
Arizona Department of Health Services
Environmental Health Services
2005 N. Central
Phoenix, Arizona 85004

Arkansas (EPA Form)
Arkansas Department of Pollution Control and Ecology
P.O. Box 9583
Little Rock, Arkansas 72219
501/562-7444

California (State Form)
Ed Anton
California Water Resources Control Board
P.O. Box 100
Sacramento, California 95801
916/445-9552

Colorado (EPA Form)
Kenneth Mesch, Section Chief
Colorado Department of Health
Waste Management Division
Underground Tank Program
4210 East 11th Avenue
Denver, Colorado 80220
303/320-8333 Ext. 4364

Connecticut (State Form)
Hazardous Materials Management Unit
Department of Environmental Protection
State Office Building
165 Capitol Avenue
Hartford, Connecticut 06106

Delaware (State Form)
Division of Air and Waste Management
Department of Natural Resources and Environmental Control
P.O. Box 1401
89 Kings Highway
Dover, Delaware 19903
302/736-5409

District of Columbia (EPA Form)
Attention: UST Notification Form
Department of Consumer and Regulatory Affairs
Pesticides and Hazardous Waste Management Branch
Room 114
5010 Overlook Avenue, S.W.
Washington, D.C. 20032

Florida (State Form)
Florida Department of Environmental Regulation
Solid Waste Section
Twin Towers Office Building
2600 Blair Stone Road
Tallahassee, Florida 32301
904/487-4398

Georgia (EPA Form)
Georgia Department of Natural Resources
Environmental Protection Division
Underground Storage Tank Program
3420 Norman Berry Drive
Hapeville, Georgia 30354

Guam (State Form)
James B. Branch, Administrator
Guam Environmental Protection Agency
P.O. Box 2999
Agana, Guam 96910
Overseas Operator (Commercial Call 646-8863)

Hawaii (EPA Form)
Chief, Noise and Radiation Branch
Hawaii Department of Health
591 Ala Moana Boulevard
Honolulu, Hawaii 96801
808/548-4129

Idaho (EPA Form)
Underground Storage Tank Coordinator
Water Quality Bureau
Idaho Department of Health & Welfare
Division of Environment
450 W. State Street
Boise, Idaho 83720
208/334-4251

Illinois (EPA Form)
Underground Storage Tank Coordinator
Division of Fire Prevention
Office of State Fire Marshal
3150 Executive Park Drive
Springfield, Illinois 62703-4599

Indiana (EPA Form)
Division of Land Pollution Control, UST Program
Indiana State Board of Health
P.O. Box 7015
Indianapolis, Indiana 46207
317/243-5060

Iowa (State Form)
Iowa Department of Water, Air and Waste Management
900 East Grand
Des Moines, Iowa 50319
515/281-8692

Kansas (EPA Form)
Office of Environmental Geology
Kansas Department of Health & Environment
Forbes Field, Building 740
Topeka, Kansas 66620
913/862-9360 Ext. 221

Kentucky (State Form)
Natural Resources Cabinet
Division of Waste Management, Attention: Vicki Pettus
18 Reilly Road
Frankfort, Kentucky 40601
502/564-6716

Louisiana (State Form)
Patricia L. Norton, Secretary
Louisiana Department of Environmental Quality
P.O. Box 44066
Baton Rouge, Louisiana 70804
504/342-1265

Maine (State Form)
Attention: Underground Tanks Program
Bureau of Oil & Hazardous Material Control
Department of Environmental Protection
State House — Station 17
Augusta, Maine 04333
207/289-2651

Maryland (EPA Form)
Science and Health Advisory Group
Office of Environmental Programs
201 West Preston Street
Baltimore, Maryland 21201

Massachusetts (EPA Form)
UST Registry, Department of Public Safety
1010 Commonwealth Avenue
Boston, Massachusetts 02215
617/566-4500

Michigan (EPA Form)
Ground Water Quality Division
Department of Natural Resources
Box 30157
Lansing, Michigan 48909

Minnesota (State Form)
Underground Storage Tank Program
Division of Solid and Hazardous Wastes
Minnesota Pollution Control Agency
1935 West County Road, B-2
Roseville, Minnesota 55113

Mississippi (EPA Form)
Department of Natural Resources
Bureau of Pollution Control
P.O. Box 10385
Jackson, Mississippi 39209

Missouri (EPA Form)
Gordon Ackley, UST Coordinator
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

Montana (EPA Form)
Solid and Hazardous Waste Bureau
Department of Health and Environmental Science
Cogswell Building, Room B201
Helena, Montana 59620

Nebraska (EPA Form)
Nebraska State Fire Marshal
P.O. Box 94677
Lincoln, Nebraska 68509-4677

Nevada (EPA Form)
Attention: Underground Storage Tanks
Division of Environmental Protection
Department of Conservation and Natural Resources
Capitol Complex
201 S. Fall Street
Carson City, Nevada 89710
800/992-0900 Ext. 4670

New Hampshire (EPA Form)
Water Supply and Pollution Control Commission
Hazen Drive
P.O. Box 95
Concord, New Hampshire 03301
Attention: UST Registration
603/271-3503

New Jersey (State Form)
Underground Storage Tank Coordinator
Department of Environmental Protection
Division of Water Resources (CN-029)
Trenton, New Jersey 08625
609/292-0424

New Mexico (EPA Form)
New Mexico Environmental Improvement Division
Ground Water/Hazardous Waste Bureau
P.O. Box 968
Sante Fe, New Mexico 87504
505/827-2933 or 505/827-2918

New York (EPA Form)
Bulk Storage Section
Division of Water
Department of Environmental Conservation
50 Wolf Road, Room 326
Albany, New York 12233-0001
518/457-4351

North Carolina (EPA Form)
Division of Environmental Mgmt./Ground Water Section
Dept. of Natural Resources & Community Development
P.O. Box 27687
Raleigh, North Carolina 27611
919/733-5083

North Dakota (State Form)
Division of Hazardous Waste Mgmt. and Special Studies
North Dakota Department of Health
Box 5520
Bismarck, North Dakota 58502-5520

Northern Mariana Islands (EPA Form)
Chief
Division of Environmental Quality
P.O. Box 1304
Commonwealth of Northern Mariana Islands
Saipan, CM 96950
Overseas Operator: 6984
Cable Address: GOV. NMI Saipan

Ohio (State Form)
State Fire Marshal's Office, UTN
Department of Commerce
8895 E. Main Street
Reynoldsburg, Ohio 43068
State Hotline 800/282-1927

Oklahoma (EPA Form)
Underground Storage Tank Program
Oklahoma Corporation Comm.
Jim Thorpe Building
Oklahoma City, Oklahoma 73105

Oregon *
Underground Storage Tank Program
Hazardous and Solid Waste Division
Department of Environmental Quality
P.O. Box 1760
Portland, Oregon 97207
503/229-5788

Pennsylvania (EPA Form)
Pennsylvania Department of Environmental Resources
Bureau of Water Quality Management/Ground Water Unit
9th Floor, Fulton Building
P.O. Box 2063
Harrisburg, Pennsylvania 17120

Puerto Rico (EPA Form)
Director, Water Quality Control Area
Environmental Quality Board
Commonwealth of Puerto Rico
P.O. Box 11488
Santurce, Puerto Rico 00910
809/725-0717

Rhode Island (EPA Form)
UST Registration
Department of Environmental Management
204 Cannon Building
75 Davis Street
Providence, Rhode Island 02908
401/277-2234

South Carolina (State Form)
Attention: Susana Workman
Groundwater Protection Division
South Carolina Dept. of Health and Environmental Control
2600 Bull Street
Columbia, South Carolina 29201
803/758-5213

South Dakota (EPA Form)
Office of Water Quality
Department of Water and Natural Resources
Joe Foss Building
Pierre, South Dakota 57501

Tennessee (EPA Form)
Terry K. Cothron, Director
Division of Ground Water Protection
Tennessee Department of Health and Environment
150 Ninth Avenue, North
Nashville, Tennessee 37219-5404
615/741-7206

Texas (EPA Form)
Underground Storage Tank Program
Texas Water Commission
P.O. Box 13087
Austin, Texas 78711

Utah (EPA Form)
Kenneth L. Alkema
Division of Environmental Health
P.O. Box 45500
Salt Lake City, Utah 84145-0500

Vermont (State Form)
Underground Storage Tank Program
Vermont AEC/Waste Management Division
State Office Building
Montpelier, Vermont 05602
802/828-3395

Virginia (EPA Form)
Russell P. Ellison, III, P.G.
Virginia Water Control Board
P.O. Box 11143
Richmond, Virginia 23230-1143
804/257-6685

Virgin Islands (EPA Form)
205(J) Coordinator
Division of Natural Resources Management
14 F Building 111, Watergut Homes
Christianstead, St. Croix, Virgin Islands 00820

Washington (State Form)
Earl W. Tower, Supervisor
Department of Ecology, M/S PV-11
Management Division, Solid and Hazardous Waste
Olympia, Washington 98504-8711
206/459-6316

West Virginia (EPA Form)
Attention: UST Notification
Solid and Hazardous Waste/Ground Water Branch
West Virginia Department of Natural Resources
1201 Greenbriar Street
Charleston, West Virginia 25311

Wisconsin (State Form)
Bureau of Petroleum Inspection
P.O. Box 7969
Madison, Wisconsin 53707
608/266-7605

Wyoming (EPA Form)
Water Quality Division
Department of Environmental Quality
Herschler Building, 4th Floor West
122 West 25th Street
Cheyenne, Wyoming 82002
307/777-7781

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* May be using a State form. Owners should consult EPA to determine whether such form is in compliance with Section 9002. -3-

BILLING CODE 6560-50-C

Appendix III to § 280.3

Statement for Shipping Tickets and Invoices

Note.—A new Federal law (the Resource Conservation and Recovery Act (RCRA), as amended (PL 98–616)) requires owners of certain underground storage tanks to notify designated State or local agencies by May 8, 1986 of the existence of their tanks. Notifications for tanks brought into use after May 8, 1986 must be made within 30 days. Consult EPA's regulations, issued on ——, 1985, to determine if you are affected by this law.

One-Time Notification Letter

Dear Customer: A new Federal law directs the Environmental Protection Agency (EPA) to develop a comprehensive regulatory program for underground storage tanks. As part of the new law, owners of certain underground tanks used to store petroleum or hazardous substances must notify designated State or local agencies of the existence of their tanks by May 8, 1986. This includes owners of tanks currently used to store such substances and owners of tanks taken out of operation after January 1, 1974, but still in the ground. Owners who bring tanks into use after May 8, 1986, must notify within 30 days.

The purpose of the notification program is to assist EPA and the States in locating and evaluating underground storage tanks. Enclosed is a copy of EPA's regulations concerning owners of underground storage tanks, and a notification form.

Please review the regulations to determine if you are affected by the notification requirements. A list of the addresses of the State or local agencies designated to receive the notifications is contained in the discussion to the regulations.

[FR Doc. 85–26778 Filed 11–7–85; 8:45 am]

BILLING CODE 6560–50–M

Federal Register

Friday
November 8, 1985

Part VII

Department of Justice

Office of Juvenile Justice and Delinquency Prevention

Guidelines for Implementation of S. 1195 by Executive Departments and Independent Establishments of the United States Government; Notice of Preliminary Guidelines

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Guidelines for Implementation of S. 1195 by Executive Departments and Independent Establishments of the Government of the United States

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of Preliminary Guidelines.

SUMMARY: Section 1(a) of S. 1195, Pub. L. 99-87, 99 Stat. 290, August 9, 1985, amends Chapter 32 of title 39, United States Code, to authorize every Federal department and independent establishment, and the United States Congress, to use official mail to aid in the location and recovery of missing children. 39 U.S.C. 3220(a)(1) directs the Office of Juvenile Justice and Delinquency Prevention (OJJDP), after consultation with appropriate public and private agencies, to prescribe general guidelines under which penalty mail may be used to assist in the location and recovery of missing children.

39 U.S.C. 3220(a)(2), in turn, authorizes and requires each executive department and independent establishment of the Government of the United States to prescribe regulations under which penalty mail sent by such departments and establishments may be used in conformance with the OJJDP guidelines. This notice provides preliminary guidelines pursuant to 39 U.S.C. 3220(a)(1) within the 90-day timeframe established by Section 2(a) of S. 1195..

FOR FURTHER INFORMATION CONTACT: Michelle Easton, Missing Children's Program Coordinator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Room 1110, Washington, DC 20531, telephone (202) 724-7655.

SUPPLEMENTARY INFORMATION: The passage of S. 1195 reflects an increasing public concern with the problem of missing and exploited children. The Missing Children's Assistance Act of 1984, added as title IV of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, by the Comprehensive Crime Congrol Act of 1984 (Pub. L. 98-473, October 12, 1984), recognized the problem and provided a Federal coordination and assistance role in combating this interstate problem. The Missing Children's Assistance Act authorized and directed the establishment and support of a National center to serve as a clearinghouse for information and to provide direct assistance in locating missing children. The National Center for Missing and Exploited Children (National Center) was created to carry out these functions.

One activity which the National Center has undertaken in its first year of operation is the dissemination of photographs and biographical information on hundreds of missing children. The National Center has established criteria for obtaining parent or custodian consent, determining which photographs are to be printed, and for what duration. Provision has also been made for timely recalling and withdrawal from general circulation of photographs of children who have been found.

This National Center activity has been successful, particularly in the private sector. ABC-TV has aired pictures of missing children weekly on its *Good Morning America* Program. CBS is airing one missing child per week on prime time TV as a Public Service Announcement. Efforts using milk cartons, grocery bags, mailing labels, bottle colars, and other means have been established and continue. The American Gas Association, for example, places two pictures of missing children in monthly billings that go to 54 million homes per month. Currently, the National Center is servicing over 315 various organizations and publications with missing children's photos and biographical information.

The objective of S. 1195 is to supplement and expand upon these efforts by authorizing the use of official U.S. Government penalty and Congressional Franked mail to assist in the location and recovery of missing children. Section 1(a) of the Act authorizes the use of official mail in the location and recovery of missing children by adding a new section 3220 to title 39 of the United States Code. Subsection (a) of the new section 3220 of title 39 provides for the establishment of guidelines and regulations for the use of penalty mail by executive departments and independent establishments of the Federal government.

Subsection (a)(1) of the new section 3220 of title 39 directs the Office of Juvenile Justice and Delinquency Prevention (OJJDP), after consultation with appropriate public and private agencies, to prescribe general guidelines under which penalty mail may be used to assist in the location and recovery of missing children. This subsection provides that the guidelines shall provide information relating to—

"(A) the form and manner in which materials and information relating to missing childen (such as biographical data and pictures, sketches, or other likenesses) may be included in penalty mail;

"(B) appropriate sources from which such materials and information may be obtained;

"(C) the procedures by which such materials and information may be obtained; and

"(D) any other matter which the Office considers appropriate.

Preliminary guidelines in these four areas are set forth below. The guidelines are designated as preliminary because, although they provide general guidance in the development of agency regulations under subsection (a)(2) of the new section 3220 of title 39, OJJDP plans to expand the consultation process with respect to area (A) above. In this way, OJJDP hopes to explore with agencies such as GSA, GPO, the U.S. Postal Service, and the various executive departments and independent establishments, a variety of options that are designed to result in a maximum use of missing children information in penalty mail yet be cost-effective in terms of existing fiscal and staff resources. OJJDP intends to hold at least one public hearing to obtain further input from public and private agencies who have ideas, suggestions, or concerns to offer. Written comments and suggestions will also be welcome. Additional guidance and information that will assist in the implementation of S. 1195 will then be published in the **Federal Register** and directed to agency contact persons.

As noted, subsection (a)(2) of 39 U.S.C. 3220 requires each executive department and independent establishment of the Government of the United States to prescribe regulations under which penalty mail sent by such department or establishment may be used in conformance with the guidelines prescribed by OJJDP. While S. 1195 as passed by the Senate required that 50 percent of the penalty mail sent by each executive branch department and establishment contain photographs and biographies of missing children, the final bill provided each department and establishment with the flexibility to determine how their official mail can best be utilized to achieve the important objectives of the bill. In written comments and testimony, certain executive departments had indicated that a large portion of their official mail is sent overseas or intra-agency. Consequently, Congress determined that each department and establishment should exercise its sound discretion to ensure that use of its official mail to distribute information on missing children is both cost-effective and in furtherance of the primary objective of

the bill: to locate and return missing children.

Section 1(b) of the Act adopts the definition of "missing child" provided by section 403(1) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended:

> The term "missing child" means any individual less than 18 years of age whose whereabouts are unknown to such individual's legal custodian if—
>
> (A) the circumstances surrounding such individual's disappearance indicate that such individual may possibly have been removed by another from the control of such individual's legal custodian without such custodian's consent; or
>
> (B) the circumstances of the case strongly indicate that such individual is likely to be abused or sexually exploited;

Under this definition, a missing child may fall under one of three basic categories:

(1) Kidnapped by a nonfamily member;

(2) kidnapped by a noncustodial family member; and

(3) runaway or throwaway under the circumstances set forth in paragraph (B) of the definition.

Section 2(a) of the Act provides that OJJDP shall prescribe the general guidelines described in section 3220 not later than 90 days after enactment (November 7, 1985) and section 2(b) that each department and establishment shall prescribe its implementing regulations not later than 180 days after enactment (February 5, 1986).

Section 3 of the Act requires that OJJDP submit, within two years from the date of passage of the Act, a written report to the Congress to include—

(1) An assessment of the effectiveness with which authority provided by section 3220 of title 39, United States Code, has (during the period covered by the report), been used, insofar as such authority was subject to guidelines prescribed by OJJDP;

(2) recommendations as to whether the authority under such section should, insofar as such authority was subject to such guidelines, be extended beyond the termination date otherwise applicable under section 5; and

(3) any other information which OJJDP considers appropriate.

Finally, section 5 contains a sunset provision for the Act, the OJJDP guidelines, and the implementing regulations, providing that they shall cease to be effective two and one-half years after the date of enactment of S. 1195. Because of this "sunset" provision, it is imperative that Federal departments and independent establishments provide full and timely information to OJJDP, as requested under Section D of the guidelines, in order to assist in the preparation of the report required under section 4, above.

In forumulating the guidelines that follow, OJJDP has consulted with representatives of the U.S. Postal Service, the General Services Administration, and the National Center for Missing and Exploited Children.

Guidelines for Implementation of S. 1195

A. Form and Manner in Which Materials and Information Relating to Missing Children May Be Included in Penalty Mail

Departments and independent establishments and their subunits (hereinafter "agencies") can choose from a variety of *types* of penalty mail which may include (on or inside) pictures and biographical data related to missing children. These include:

1. Standard letter-size envelopes (4¼" x 9½").

2. Document-size envelopes (9½" x 12", 9½" x 12½", 10" x 13").

3. Other envelopes (misc. size).

4. Self-mailers and other publications (newsletters, bulletins, etc.).

In using these types of penalty mail, there are options available with respect to the *manner* in which pictures and biographical data related to missing children may be printed or presented:

1. *Printed* on envelopes at the time they are initially printed with agency identifying information.

2. *Overprinted* on existing agency envelopes.

3. Presented through printed *inserts* that are placed in envelopes along with other agency mailing material.

4. Presented through *stickers* that are printed and placed on envelopes prior to mailing.

5. Printed as part of the content of *self-mailers* such as agency newsletters, bulletins, etc.

In considering these tyes of penalty mail and the options for the manner of presentation of photographs and biographical data on missing children, there are a number of matters which need to be taken into account by implementing agencies:

1. Restrictions on placement of information on standard size envelopes.

2. Restrictions on the "shelf-life" of missing children information.

3. Agency procedures for obtaining and using penalty mail envelopes.

4. The types of mailings utilized by the agency, their frequency, and audience (addressee).

5. Agency procedures for the routine collection, sorting, and dissemination of penalty mail.

First, the U.S. Postal Service has established recommended standards for the placement of address, return address, and penalty indicia on letter-size mail. When agencies follow these standards by not placing other information in the areas specified by the Postal Service, the efficient processing of letter-size mail by automated optical character readers (OCRs) and bar code sorters (BCSs) is furthered. Following the Postal Service standards for letter-size envelopes results in the availability of an area approximately 1¾" x 4" on the front of the envelope for the placement of a photograph and biographical information on a missing child. This space is available for printing, overprinting or for the use of missing child stickers.

Consequently, agency regulations implementing these guidelines should provide that missing children information will not be placed in the areas specified on the letter-size envelope facsimile set forth in Appendix A by the designations "Penalty Indicia", "OCR Read Area", "Bar Code Read Area", and "Return Address". Missing children information may, however, be placed on standard letter-size envelopes in the area specified as available on the front of the letter size envelope facsimile or on the back.

Second, under its Missing Children Picture Selection Procedure (S.1195) (Appendix B), the National Center for Missing and Exploited Children will ensure that all camera-ready and other photographic and biographical materials to be disseminated for use by executive departments and independent establishments of government: (1) Have been properly released by the parent(s) or guardian of the missing child; and (2) are current. In addition, the "shelf-life" of printed penalty mail material is to be limited to *three months* for all missing child cases. This means that the receiving agency must provide for the removal of all printed penalty mail envelopes and other materials from circulation or other use by the agency (i.e.: use or destroy) within a three-month period from the date the National Center receives information or notice that a child has been recovered or that parent(s) or guardian permission to use the child's photograph and biographical information has been withdrawn. The National Center will immediately notify each designated agency contact person, in writing, of the need to withdraw penalty mail envelopes and other materials related to a particular child from circulation.

Third, the size and structure of a department or independent

establishment and its envelope ordering, storage, and dissemination practices and procedures, coupled with the shelf-life constraints noted above, will impact an agency's choices from among the range of possible options and procedures that are to be established by agency regulation for the printing or placement of missing children information on penalty mail envelopes and other materials.

Fourth, agencies who use mass mailings to members of the public, particularly where such mailings are monthly or otherwise regularly scheduled, are in a position to target this mail for the inclusion of missing children material. Whether envelope printing, overprinting, or the use of inserts is the most practical and cost-effective method of presenting the informational material will need to be evaluated. An agency which is highly automated and uses machinery to "stuff" envelopes that are cut and printed as part of the same mailing operation, would need to consider both an envelope printing option and an insert option. An agency which does no mass mailings but sends a variety of mailed materials to members of the public should consider all available options to determine which type best suits its needs.

Fifth, agency procedures for the collection, sorting, and information that is selected. For example, where individual offices address mail to the public and seal envelopes which have not been printed or overprinted with missing children information prior to agency mail pick-up, it may be possible to provide these offices with inserts or stickers to insert in or attach to penalty mail prior to pick-up and mailing. In other agencies, this could be done as a part of the mail room operation.

OJJDP has concluded as a result of its consultation with the National Center on the implementation of S. 1195 that sketches and other likenesses of missing children are not sufficiently reliable to justify their use. Instead, photographs which were reasonably current as of the time of the child's disappearance (or perhaps in the future those which have been updated to reflect the missing child's current age through computer enhancement techniques) offer a more reliable guide to identification. They will, therefore, be the only acceptable form of visual media or pictorial likeness used on or in penalty mail.

The National Center will, as provided under C. below, provide camera-ready copy of photographs and biographical data on missing children in a variety of formats. All such materials provided by the National Center are approved for agency penalty mail use. In addition, agencies may have occasion to request photographs and biographical data on missing children selected by the National Center under its procedure in order to prepare their own camera-ready copy. In such case, the National Center may, at its option, require the inclusion of specific biographical data or subject the agency's print proofs to review and approval prior to their use by the agency.

In preparing and implementing regulations based on these guidelines, agencies are encouraged to give priority to penalty mail that is addressed to members of the public and that will be received within the United States, its territories and possessions. Use of photographs and biographical information on or in penalty mail envelopes that are addressed inter- or intra-agency or overseas is not likely to be productive or cost-effective. However, use of such information in inter- and Intra-agency publications and other media which will be widely disseminated to and viewed by agency employees is encouraged. For example, the U.S. Postal Service, in conjunction with the National Association of Letter Carriers, recently announced a coordinated, voluntary effort to locate missing children through the monthly publication of missing children's photographs in Postal Service and Union publications. Under this new "Child Alert" program, pictures and biographical information on missing children have been published in the *Postal Bulletin*, *Postal Life*, and a variety of Union publications.

B. Appropriate Sources From Which Missing Children Materials and Information May Be Obtained

OJJDP has determined that, because of its Washington, DC location, extensive files of missing children information, and national toll-free telephone number, the National Center for Missing and Exploited Children shall be designated as the exclusive source from which missing children materials shall be otained for implementation of S. 1195 by Federal departments and independent establishments.

Materials and information related to the general implementation of S. 1195 and the Missing Children Program may be obtained from OJJDP or the National Center.

Pictures and biographical information will, as noted, be available in camera-ready copy in a variety of sizes and formats appropriate to the type and manner of missing children information uses determined to be most appropriate by each agency. The National Center will use its Missing Children Picture Selection Procedure (Appendix B) to select, each month, a missing child or children who are appropriate subjects for broad distribution of photographs and biographical information. In addition to providing photographic and biographical information, the camera-ready copy will request that individuals who have information regarding the child or children call the National Center's toll-free hotline telephone number (1-800-843-5678).

The contact person at the National Center will be: David L. Shapiro, Program Director, National Center for Missing and Exploited Children, 1835 K Street, NW., Suite 700, Washington, DC 20006. Telephone: (202) 634-7161.

C. Procedures by Which Materials and Information May Be Obtained

The National Center will have general information on the program available immediately and will respond to questions from agencies at any time. The National Center will have the camera-ready copy available for distribution to agencies beginning in January, 1986.

Orders for camera-ready copy or other photographic and biographical material may be placed periodically by the Federal department or independent establishment contact(s) specified in the regulations published in the **Federal Register** pursuant to 39 U.S.C. 3220(a)(2) as provided in D. below. The National Center will develop and distribute an appropriate order form for this purpose.

D. Other Matters

1. Each Federal department and independent establishment of the Government of the United States publishing regulations pursuant to 39 U.S.C. 3220(a)(2) shall, at a minimum, provide the following information in their regulation:

(a) Information as to whether the department or establishment is publishing a single regulation to be effective department or establishment-wide, whether it is authorizing subunits of the agency to establish their own regulation to implement S. 1195 and, if so, identifying information, including the designated contact person, for each such subunit.

(b) A plan, taking into consideration the information provided in these guidelines, for the department or establishment to maximize the use of missing children photographs and biographical information in the agency's penalty mail. Such plan shall establish appropriate procedures for identifying additional opportunities to use photographs and biographical data on

missing children in agency penalty mail, contain an estimate of the percentage of agency penalty mail which will contain such information once it is fully implemented, and estimate the first year cost of the program.

2. Each Federal department and independent establishment shall submit to OJJDP, by June 30, 1987, a report on its experience in implementation of S. 1195, the OJJDP Guidelines, and the department or estsablishment's implementing regulation. The report shall cover the period from the date of publication of implementing regulations through March 31, 1987 and shall detail:

(a) The department or establishment's experience in implementation, including problems encountered, successful and or innovative methods adopted to use missing children photographs and information on or in penalty mail, the estimated number of pieces of penalty mail containing such information, and the percentage of total agency penalty mail, domestic penatly mail, and domestic penalty mail directed to members of the public which number represents.

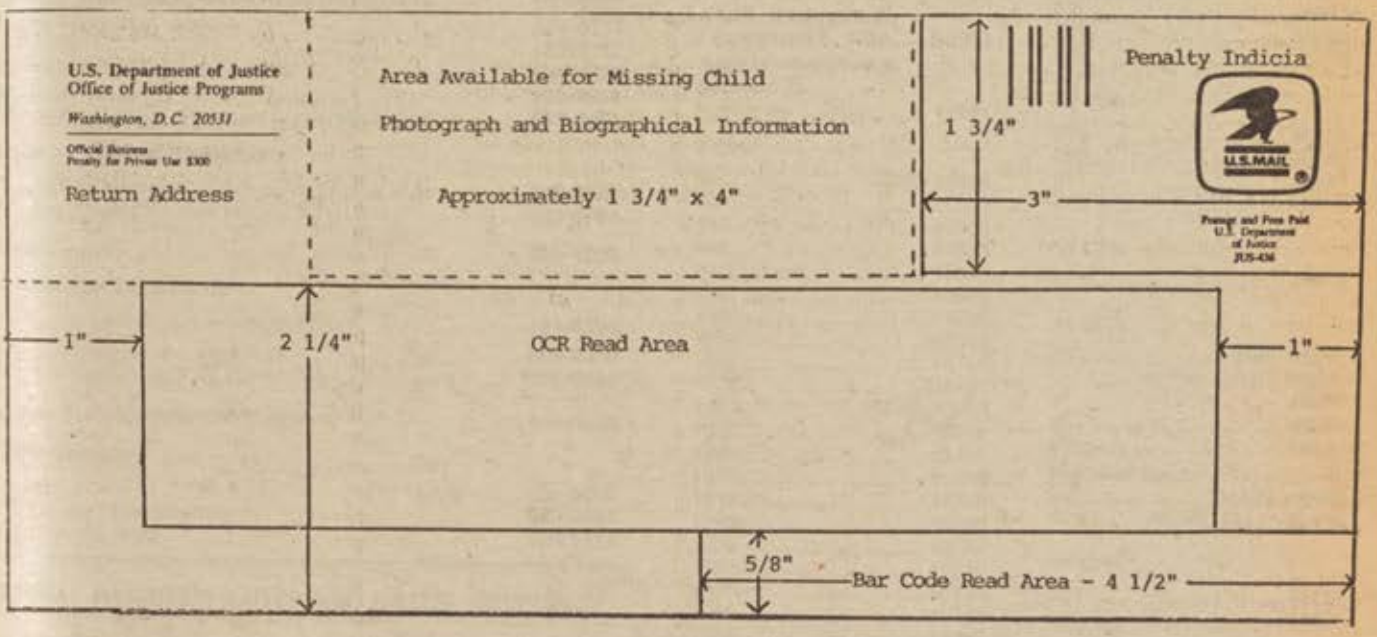
(b) The estimated total cost to implement the program, with supporting detail.

(c) Recommendations for changes in the program which would make it more effective.

3. Each Federal department and independent establishment shall specify, in its regulation, the name, address and telephone number of an individual who shall act as the point of contact for matters related to program and regulation implementation. In addition, where subunits are authorized to promulgate regulations, each such subunit shall specify a designated contact person.

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.



Appendix A—Area Available for Missing Child Information on Standard Letter-Size Envelope Under U.S. Postal Service Guidelines

Note.—Drawing is *not* to scale.

Appendix B:

National Center for Missing and Exploited Children

Missing Children Picture Selection Procedure (S. 1195)

The procedure that follows is utilized by the National Center for compilation and selection of missing children's pictures and biographical information under S. 1195. It assists in basing judgements on facts and making more consistent the way in which missing children are selected. All selectins of missing children under this procedure are subject to the approval of the Deputy Director of the National Center.

1. Children selected shall represent a broad cross-spectrum of the entire country by sex, race, age and geographical region.

2. There shall be a current N.C.I.C. Missing Person File entry on EACH CHILD selected and for noncustodial parental kidnapping cases, priority will be given to cases were a U.F.A.P. warrant has been issued.

3. There shall be on file at the National Center ALL pertinent bio-information considered standard for the Center's 800-Hotline system to handle sightings, particularly including an original photograph of the child and signed parental permission forms. (1-800-843-5678)

4. Priority shall be given children never used before in high volume mail applications in order to assure fairness; children selected having been used before in high volume mail applications shall receive lower priority.

5. Priority shall be given to cases occuring most recently and to cases in which there have been substantial active leads and investigational contact with/through the National Center's 800-Hotline system and its Technical Advisors.

6. All procedure items will be re-checked monthly. A telephone call to the parent(s) or guardian of each child selected for printing and to the law enforcement officer/agent having case responsibility will be made during the week before initial printing of camera-ready copy as well as another N.C.I.C. check. "Shelf-life" of printed penalty mail material shall be limited to three months for all children selected under the S. 1195 procedure.

7. In the event that a missing child is located or permission to continue dissemination of photographic and biographical information is withdrawn, the Center will immediately notify all designated Federal contacts of this fact so that all materials related to such child can be used or withdrawn within 90 days from the date of notification.

[FR Doc. 85-26697 Filed 11-7-85; 8:45 am]

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Federal Register

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Friday, November 8, 1985

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S.J. Res. 145/Pub. L. 99–142

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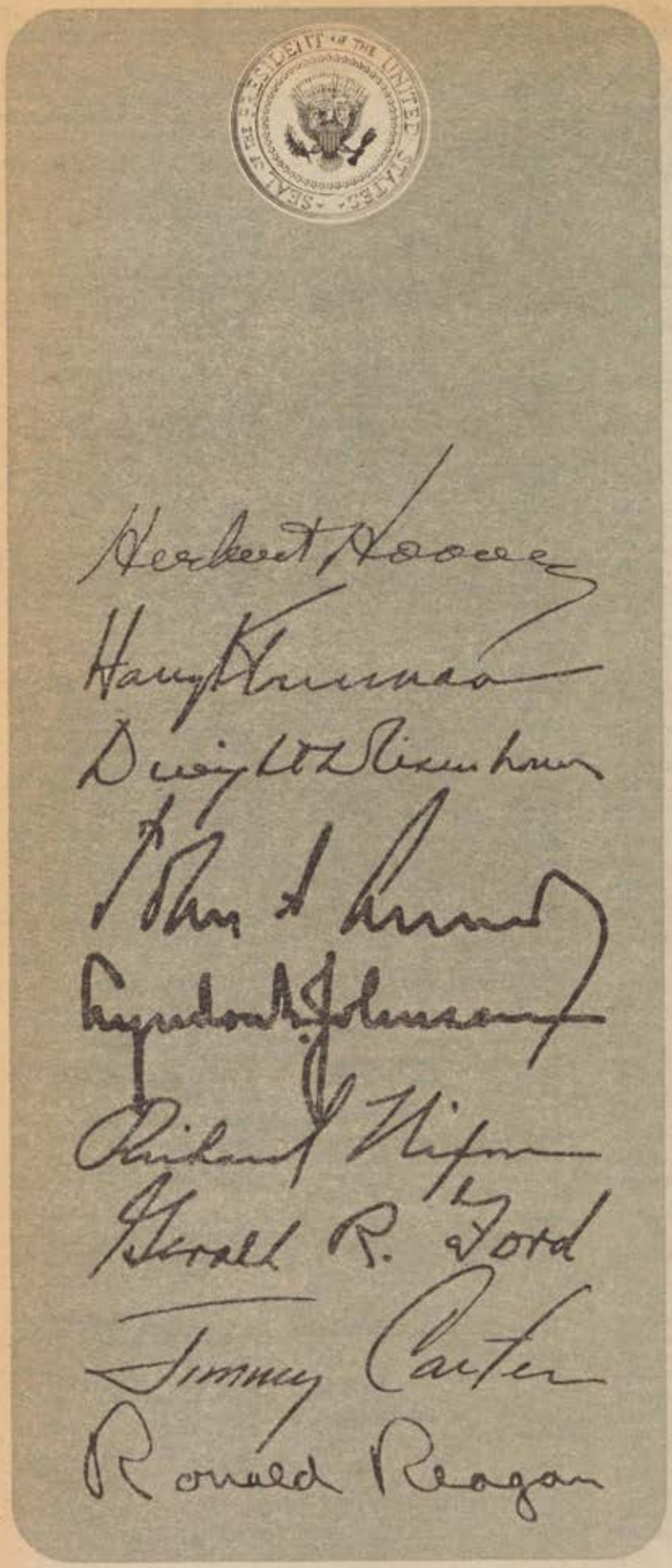

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