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Federal Register

Monday
February 25, 1985

Selected Subjects

Air Pollution Control

Environmental Protection Agency

Authority Delegations (Government Agencies)

Small Business Administration

Bridges

Coast Guard

Drugs

Food and Drug Administration

Grain

Federal Grain Inspection Service

Historic Preservation

National Park Service

Marine Safety

Coast Guard

Marketing Agreements

Agricultural Marketing Service

Nuclear Materials

Nuclear Regulatory Commission

Public Lands—Recreation

Land Management Bureau

Seizures and Forfeitures

Immigration and Naturalization Service

Supplemental Security Income (SSI)

Social Security Administration

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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.

Selected Subjects

Tobacco

Commodity Credit Corporation

Vessels

Coast Guard

Water Supply

Environmental Protection Agency

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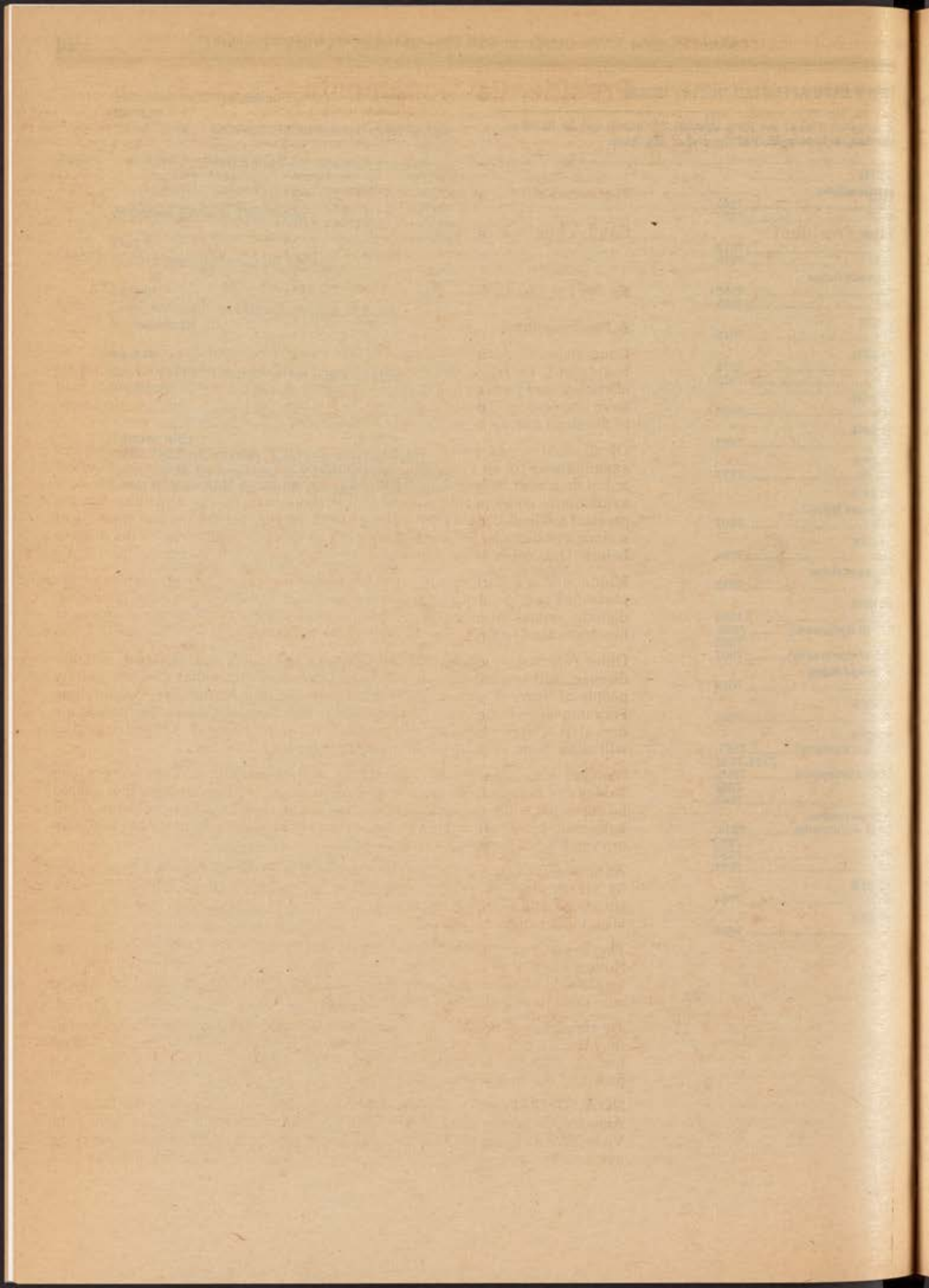
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Presidential Documents

Title 3—

Proclamation 5304 of February 21, 1985

The President

Save Your Vision Week, 1985

By the President of the United States of America

A Proclamation

Good vision is a priceless treasure. Our ability to see the print in a book, the beauty of a sunset, and the faces of our loved ones is a gift that should be cherished and protected. Yet each year many Americans lose vision that could have been saved. To halt this tragic waste, we must make more people aware of the steps that all of us can take to safeguard our vision.

Of all sight-saving precautions, the most important is to have regular eye examinations by an eye care professional. Such check-ups are more valuable today than ever before. Thanks to vision research, effective treatment is now available to many people whose sight is threatened by eye disorders. But the greatest medical benefits generally go to those who get the earliest warning of serious eye disease. For them, there may be an opportunity to stop the disease before it has caused significant visual loss.

Middle age is a particularly good time for a person to take advantage of the protection that regular eye examinations can offer. This is because glaucoma, diabetic retinal disease, and several other disorders that are major causes of blindness tend to strike during the middle years of life.

Older Americans, too, should have regular eye check-ups. Cataract, macular disease, and a number of other age-related conditions that can rob elderly people of their vision are detectable by means of a routine eye examination. For many older Americans, learning of the existence of a visual problem is the first step toward obtaining the medical treatment or special visual aids that will allow them to go on leading active, independent lives.

Children also have much to gain from eye examinations. Even very young babies can benefit from discovery of an unsuspected eye problem that should be corrected while the child is still small. Some childhood eye problems, if left untreated, can cause a child to be needlessly handicapped at school and play or even lead to permanent visual loss.

An important concern for people of all ages is protecting the eye from injury. By wearing safety glasses, goggles, or face shields in all hazardous work situations and recreational activities, we can dramatically reduce the toll of visual loss caused by injuries.

There is yet another way for citizens to help improve the eye health of our Nation. Each of us can sign an organ donation card and carry it at all times to insure that after death our eyes are used for vision research and for people who must have a cornea transplant in order to see again.

To encourage people to consider how important their eyesight is and what they can do to preserve it, the Congress, by joint resolution approved December 20, 1963 (77 Stat. 629, 36 U.S.C. 169a), has requested the President to proclaim the first week in March of each year as "Save Your Vision Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week beginning March 3, 1985, as Save Your Vision Week. I urge all Americans to participate in this observance by making eye care and eye safety an important part of their lives. Also, I invite eye care

professionals, the communications media, and all public and private organizations committed to the goal of sight conservation to join in activities that will make Americans more aware of the steps they can take to protect their vision.

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

Ronald Reagan

[FR Doc. 85-4597

Filed 2-21-85; 11:41 am]

Billing code 3195-01-M

Presidential Documents

Proclamation 5305 of February 21, 1985

Duty Reductions on High Technology Products

By the President of the United States of America

A Proclamation

1. Pursuant to section 308 of the Trade and Tariff Act of 1984 (Pub. L. 98-573; 98 Stat. 2948, 3013) and section 128 of the Trade Act of 1974 (19 U.S.C. 2138), I have, through my duly empowered representative, entered into an agreement with Japan to achieve the negotiating objectives under section 104A(c) of the Trade Act of 1974 (19 U.S.C. 2114A). In order to obtain those objectives, in particular the maximum openness with respect to international trade and investment in high technology products, I have determined that the reduction to zero of existing column 1 duties provided for in the items of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) listed in section 128 is appropriate.

2. Accordingly, I have determined that the agreement should be implemented and duty-free treatment should be afforded to certain articles enumerated in section 128, effective on or after March 1, 1985. Furthermore, I authorize the United States Trade Representative (USTR), or his designee, on behalf of the United States of America, to modify the TSUS in order to make duty-free treatment effective for the remaining articles set forth in section 128.

3. Pursuant to section 604 of the Trade Act of 1974 (19 U.S.C. 2483), I have determined that technical corrections are necessary in order to implement modifications to the TSUS made by Proclamation 5291 of December 28, 1984 (50 F.R. 223), modifying duties on certain articles used in civil aircraft and on globes. Certain new items in the TSUS created in the Annex to that Proclamation must be redesignated to eliminate numbering conflicts resulting from the redesignation of other provisions by the Trade and Tariff Act of 1984.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including but not limited to sections 128 and 604 of the Trade Act of 1974 and section 308 of the Trade and Tariff Act of 1984, do proclaim that:

(1) Items 687.72, 687.74, 687.77, 687.81, and 687.85 in part 5 of schedule 6 of the TSUS are modified by striking out, from the column entitled "Rates of Duty 1" for each item, the duty rate "4.2% ad val." and inserting in such column for each item the duty rate "Free". These modifications shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after March 1, 1985.

(2) Item 687.70 in part 5 of schedule 6 of the TSUS is modified by striking out, from the column entitled "Rates of Duty 1" for such item, the duty rate "4.2% ad val." and inserting in such column for such item the duty rate "Free". This modification shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after a date determined by the USTR and published in the **Federal Register** which is after the effective date of legislation making technical corrections in section 128 of the Trade and Tariff Act of 1984.

(3) The USTR is hereby authorized to make any other modifications of the TSUS in order to make duty-free treatment effective for the remaining articles covered by section 128.

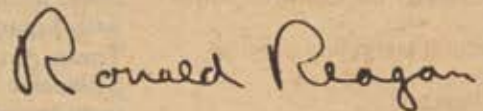
(4) The Annex to Proclamation 5291 is modified—

(a) by striking out, in the modification numbered 16, the item numbers "708.09" and "708.10" and inserting in lieu thereof "708.10" and "708.12", respectively; and

(b) by striking out, in the modification numbered 17, the item numbers "708.29" and "708.30" and inserting in lieu thereof "708.30" and "708.32", respectively.

These modifications are effective on or after December 28, 1984.

IN WITNESS WHEREOF, I have hereunto set my hand this 21st day of February, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.



[FR Doc. 85-4714

Filed 2-22-85; 10:50 am]

Billing code 3195-01-M

Rules and Regulations

Federal Register

Vol. 50, No. 37

Monday, February 25, 1985

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 6, Amdt. 34]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action lowers the minimum size requirements for domestic shipments of Florida white seedless grapefruit and for imports of white seedless grapefruit from 3 $\frac{1}{16}$ inches to 3 $\frac{1}{8}$ inches minimum diameter. This action also lowers the minimum size requirements for domestic shipments of Florida Temple oranges and tangelos from 2 $\frac{1}{16}$ inches to 2 $\frac{1}{8}$ inches minimum diameter. The change in minimum size of such fruit recognizes the size composition of the available fruit supply, the effects of the January 1985 freeze in the production area in Florida, and current and prospective demand conditions for these fruits.

EFFECTIVE DATE: February 20, 1985.

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

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

This amendment is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

This action is based upon recommendations and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida white seedless grapefruit, as hereinafter provided, will tend to effectuate the declared policy of the act. It is further found that regulation of Temple oranges and tangelos, as hereinafter provided, will tend to avoid a disruption of the orderly marketing of those commodities and be in the public interest. This action was unanimously recommended by the Citrus Administrative Committee.

Florida Citrus Regulation 6 was issued on a continuing basis subject to modification, suspension or termination upon recommendation by the committee and approval by the Secretary. The committee meets prior to and during each season to consider recommendation for modification, suspension or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the act.

The minimum size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to revise the size requirements applicable to fresh shipments of Florida white seedless grapefruit, Temple oranges, and tangelos in recognition of the current and prospective supply and demand for such fruit. The relaxation in

size requirements recognizes the effects of the January 1985 freeze in Florida which has reduced the supplies of these fruits. This action is necessary to permit shipment of the remaining supply of marketable fruit to meet demand.

Under section 8e of the act (7 U.S.C. 608e-1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Thus, the size requirement for imported white seedless grapefruit will also change to conform to the size requirement for domestic shipments of Florida white seedless grapefruit.

It is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared purposes of the act. This amendment relieves restrictions on shipments of white seedless grapefruit, Temple oranges, and tangelos. Handlers have been apprised of such provisions and the effective date and require no additional time to comply herewith.

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

PART 905—[AMENDED]

Accordingly, the provisions of § 905.306 are amended by revising the following entry in Table I, paragraph (a), applicable to domestic shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
White seedless grapefruit	2/20/85 to 8/18/85	Improved No. 2 (external)	3 $\frac{1}{8}$

TABLE I—Continued

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
		U.S. No. 1 (internal)	
	On and after 8/19/85	Improved No. 2 (external)	3% ₁₆
		U.S. No. 1 (internal)	
Templis	2/20/85 to 8/18/85	U.S. No. 1	2% ₁₆
	On and after 8/19/85	U.S. No. 1	2% ₁₆
Tangelos	2/20/85 to 8/18/85	U.S. No. 1	2% ₁₆
	On and after 8/19/85	U.S. No. 1	2% ₁₆

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

Dated: February 20, 1985.

Thomas R. Clark,

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

[FR Doc. 85-4561 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1464

Tobacco Loan Program Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the tobacco loan program regulations which are found at 7 CFR 1464.5 to indicate that, with respect to the 1981 and prior crops only, if the proceeds from the sales of tobacco pledged by tobacco associations as collateral for Commodity Credit Corporation (CCC) price support loans exceed the loan amount and related costs, such gains shall be distributed by the associations to the producers who received such loans. This amendment to the tobacco loan program regulations is made for the purpose of clarification only.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT: Jay S. Poole, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, 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.

The title and number of the Federal Assistance Program to which this rule applies are: Commodity Loan and Purchases; 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

As a result of enactment of the No Net Cost Tobacco Program Act of 1982, the regulations governing the tobacco loan program were amended to provide, in part, that the net gains realized from each of the 1982 and subsequent crops of tobacco pledged as collateral for CCC price support loans shall be retained by CCC to offset any losses sustained by CCC under its loan agreements with a tobacco association, or to reduce the outstanding balance of any price support loan made by CCC to the association. (See 7 CFR 1464.10). However, the regulations found at 7 CFR 1464.5 provide that the net proceeds from sales of tobacco pledged as collateral for CCC price support loans will be applied to the loan account for such crop until the loan principal, together with any applicable costs, are

repaid. After the loan principal and any applicable costs are paid to CCC, any remaining net proceeds are to be considered as "net gains" and the tobacco association is required to distribute such gains to the producers who pledged the tobacco as collateral for CCC price support loans. Because questions have been raised as to the applicability of these provisions of the regulations to the distribution of net gains to tobacco producers, it has been determined that § 1464.5 should be amended to clarify that only the net gains from sales of tobacco pledged as collateral for CCC price support loans in 1981 and prior crop years shall be distributed by CCC as specified by § 1464.5.

Since the provisions of this final rule make no substantive change but merely clarify existing regulations, it has been determined that no further public rulemaking is required. Accordingly, this rule shall become effective upon the date of publication in the Federal Register.

List of Subjects in 7 CFR Part 1464

Price support programs, Tobacco, Warehouses.

Final Rule

PART 1464—[AMENDED]

Accordingly, 7 CFR 1464.5 is amended by revising the fifth sentence to read as follows:

§ 1464.5 Interest rate and general provisions.

*** With respect to the 1981 and prior crops, if the proceeds from the sale of loan collateral of any crop exceed (a) the amount of the loan plus all fees, handling charges, operating costs and interest; and (b) any amount due CCC under a barter transfer agreement entered into between CCC and the association, such excess shall constitute "net gains" and shall be distributed in cash by the association to the producers who placed the tobacco under loan unless other disposition is approved by CCC. ***

Authority: Secs. 106, 106A, 74 Stat. 6, as amended, 96 Stat. 197, as amended (7 U.S.C. 1445, 1445-1).

Signed in Washington, D.C. on February 20, 1985.

Everett Rank,

Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 85-4537 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 274

Seizure and Forfeiture of Vehicles; Vessels and Aircraft

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule revises the monetary limitations in the regulations applicable to civil and criminal forfeitures. These increases are necessary to comply with the recently enacted Comprehensive Act of 1984, Pub. L. 98-473, and the Trade and Tariff Act of 1984, Pub. L. 98-573.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: 633-3291.

For Specific Information: Paul Virtue, Assistant General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: 633-2656.

SUPPLEMENTARY INFORMATION: The recent enactments of the Comprehensive Act of 1984, Pub. L. 98-473, 98 Stat. 1837, and the Trade and Tariff Act of 1984, Pub. L. 98-573, 98 Stat. 2948, revised certain dollar limitations applicable to civil and criminal forfeitures. The amendments increasing the monetary limitations in the current regulations will allow a more efficient administration of Service forfeiture procedures.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because these monetary increases are mandated by law.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant impact on a substantial number of small entities. This order is not a major rule with the definition of section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 274

Administrative practice and procedure, Aircraft, Conveyances, Law enforcement, Motor vehicles, Penalties, Seizure and forfeitures, Vessels.

Accordingly, Chapter 1 of Title 8 is amended to read as follows:

PART 274—SEIZURE AND FORFEITURE OF VEHICLES, VESSELS, AND AIRCRAFT

§ 274.9 [Amended]

1. In § 274.9, paragraph (a) is amended by removing the amount "\$10,000" and inserting in its place the amount of "\$100,000".

2. In § 274.10, paragraphs (a) and (c) are revised to read as follows:

§ 274.10 Judicial forfeiture upon claim and bond.

(a) Any person claiming ownership of a seized conveyance may obtain judicial review by filing a claim within 20 days of the date of first publication of the notice of seizure, alleging that the conveyance was improperly seized, and posting bond to cover all the costs and expenses of the proceedings if forfeiture is denied. The bond in the sum of the lesser of \$2,500 or ten percent of the value of the property, but in no event less than \$250 must be in cash, certified check, or on Form I-837 (Bond of Claimant of Seized Conveyance for Costs of Court), if the surety is approved by the regional commissioner. The bond must be made payable to the Immigration and Naturalization Service and will be maintained in the custody of the regional commissioner. The regional commissioner may waive the bond requirement in the manner provided by Waiver of fees in § 103.7(c)(1) of this chapter.

(c) The filing of a claim and the posting of bond does not entitle the claimant to possession of the vehicle but does stop the summary forfeiture proceedings. Upon conclusion of the action, the regional commissioner shall disburse the money to pay costs up to the amount of the bond and shall return any additional sum to the obligor.

§ 274.11 [Amended]

3. Section 274.11 is amended by removing the amount "\$10,000" and inserting in its place the amount of "\$100,000".

§ 274.12 [Amended]

4. Section 274.12 is amended by removing the amount "\$10,000" and inserting in its place the amount of "\$100,000".

§ 274.21 [Amended]

Section 274.21 is amended by removing the amount of "\$50,000" and inserting in its place the amount of "\$150,000".

(Secs. 103 and 274 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1324))

Dated: February 8, 1985.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 85-4470 Filed 2-22-85; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70 and 74

Amended Material Control and Accounting Requirements for Special Nuclear Material of Low Strategic Significance

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its material control and accounting (MC&A) requirements for licensees possessing and using quantities larger than one effective kilogram of special nuclear material of low strategic significance. These amendments reform the MC&A regulations for fuel cycle facilities by establishing a grading of requirements between those applicable to low enriched uranium (LEU) and those applicable to more strategically significant forms of special nuclear material. These amendments will make the regulations more consistent with the low strategic significance of this material and will result in a significant reduction in costs for the affected licensees. Emphasis has been given to performance requirements rather than prescriptive requirements to allow licensees to select the most cost-effective ways to satisfy NRC requirements for LEU of low strategic significance.

EFFECTIVE DATE: March 27, 1985.

FOR FURTHER INFORMATION CONTACT:

Dr. W.B. Brown, Chief, Fuel Facility Safeguards Licensing Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4043.

SUPPLEMENTARY INFORMATION:

Background

A new 10 CFR Part 74 is created which will eventually contain all the domestic MC&A regulatory requirements. As other existing MC&A requirements, which are currently found in Part 70, "Domestic Licensing of Special Nuclear Material," are revised

they will be moved to Part 74. This will place the MC&A requirements in a format similar to Part 73, "Physical Protection of Plants and Materials." Specific safeguards program requirements will be found in Parts 73 and 74 with the general license requirements being retained in Part 70.

Seven low enriched uranium fuel fabrication and recovery facilities will follow the new Part 74. These seven facilities, who are authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance, are Babcock and Wilcox Co., Lynchburg, Virginia; Combustion Engineering, Inc., Windsor, Connecticut and Hematite, Missouri; Exxon Nuclear Co., Inc., Richland, Washington; General Electric Co., Wilmington, North Carolina; Westinghouse Electric Corp., Columbia, South Carolina; and the LEU scrap recovery operations at Nuclear Fuel Services, Inc., Erwin, Tennessee. All other current licensees subject to safeguards requirements in 10 CFR Part 70 will continue to follow Part 70 until the provisions of Part 70 applicable to them are transferred to Part 74. Any such transfer will be accomplished by public notice in the **Federal Register**.

The goal of this rule is to reduce the MC&A regulatory requirements for LEU licensees to a level that is consistent with the safeguards risk associated with the low strategic significance of LEU. Under the current regulations, the major differences in the MC&A requirements for LEU and Strategic Special Nuclear Material (SSNM) are a longer inventory period and a higher de minimis inventory difference action threshold for LEU. The bulk of the other current requirements are essentially the same for LEU and SSNM.

On December 14, 1982, the Nuclear Regulatory Commission published proposed amendments to 10 CFR Part 70, on which this final rule is based, in the **Federal Register** (47 FR 55951). A discussion of safeguards risk associated with LEU can be found in that **Federal Register** Notice. Interested parties were invited to submit written comments and suggestions regarding the proposed amendments. Comments were received from four licensees, three private citizens, one professional group, one consulting firm, several NRC groups, and the Department of State, which coordinated comments from the Executive Branch.

Changes Made to Proposed Amendments to 10 CFR Part 70

1. The general reporting requirements for MC&A have been deleted from Part 70 and moved to a new Part 74. The

previously proposed § 70.60 has been redesignated § 74.31.

2. The definition of "goal quantity" and reference to that quantity have been deleted. Licensees subject to Part 74 are required to detect losses of specified quantities of SNM. These loss detection quantities will be determined by the NRC on a site-by-site basis.

3. The first performance objective in the new § 74.31(a)(1) has been reworded.

4. The words "and use" have been added to the first sentence of § 74.31(a).

5. Licensees subject to § 74.31 are explicitly exempted from the recordkeeping requirements of § 70.51(b).

6. Explicit requirements have been added that the accounting records be based on measured values and that values with significant measurement bias be corrected.

7. The first sentence of the requirements for current knowledge of items has been rephrased for clarity.

8. Some definitions from Part 70 have been added to § 74.4.

9. The language in § 70.57 now explicitly shows that it does not apply to special nuclear material of low strategic significance.

10. Other minor changes have been made throughout the amendments.

Discussion of Changes Made

(1) In the current rule structure, the MC&A requirements have been interspersed among the safety and general licensing requirements of 10 CFR Part 70. These MC&A requirements are being moved to a new Part 74 of 10 CFR to avoid confusion with the safety requirements in Part 70, to allow the requirements to be presented in a more orderly manner, and to be consistent with the use of Part 73 for physical protection requirements. The MC&A requirements remaining in §§ 70.51, 70.57, and 70.58 apply to special nuclear material (SNM) of moderate strategic significance, strategic special nuclear material, and special categories of licensees possessing SNM of low strategic significance who are currently not required to have an approved MC&A plan. Performance-oriented regulations for these classes of licensees will be added to Part 74 as they become final and will eventually replace the MC&A requirements in Part 70.

(2) As indicated in the supplementary information accompanying the publication of the proposed amendments, comments were solicited from the Department of State. As a result of these comments, the term "goal quantity" has been dropped to avoid any confusion between the International

Atomic Energy Agency's (IAEA) use of the term "significant quantities" when addressing a national level threat and the NRC's use of "goal quantity" when addressing our domestic level threat. Further, in keeping with the IAEA's inspection approach, the NRC will establish quantities for loss detection on a site-by-site basis. Guidelines for this process will be provided in the Acceptance Criteria for the LEU Reform Amendments.

(3) When the term "goal quantity" was dropped, the first general performance objective of § 74.31(a)(1) was reworded.

(4) The requirements of § 74.31 are not intended to apply to licensees who merely possess and store sealed containers of SNM. Thus, the phrase "and use" was added to the first sentence of § 74.31(a) to make that section only applicable to licensees who process the SNM in some manner.

(5) For licensees using SNM of low strategic significance in a quantity greater than one effective kilogram, the recordkeeping requirements in § 74.31(d) apply in lieu of the requirements in § 70.51(b). In response to the comments, this is now made more explicit.

(6) The wording of the amendments, as proposed, raises some question as to whether licensees continue to be required to make measurements of the material they possess and to correct for biases in the measurement systems. To make this clearer, two new capability statements were added. These new statements require that material values on record be based on measurements and that biases in the measurement systems be estimated and corrected for when they are significant.

(7) The first sentence of the capability statement dealing with current knowledge was reworded to avoid confusion which resulted over how the 14-day criterion was to be applied. The 14-day period is to be used to determine when an item must formally be entered into the record system for tracking items.

(8) The list of definitions in § 74.4 has been expanded to include appropriate ones from Part 70. More definitions will be added as the MC&A requirements for the other classes of SNM are moved to Part 74. Concerning terminology, Part 74 reflects the terms the Commission now prefers when referring to certain MC&A and statistical concepts. However, the language in Part 70 has not been changed. As the requirements for the other classes of SNM are revised and added to Part 74, the new terms will be used. The definitions in § 74.4 cross reference the existing Part 70 definitions

where changes in terms have been made.

(9) A commenter suggested that § 70.57 be amended to exclude special nuclear material of low strategic significance. While this exclusion is implied in the amendment to § 70.58(a), § 70.57(b) was also amended to make it more explicit.

The Following Comments Did Not Result in Changes to the Proposed Amendments

(1) Several commenters made the assumption that the current knowledge requirement for items (proposed § 70.60(c)(4), now § 74.31(c)(6)) was only needed to assess losses of a goal quantity (e.g., 500 kg of uranium-235) or more, and thus, would not need to be sensitive to losses of less than a goal quantity of items.

The stated MC&A objectives in § 74.31(a) (2) and (3), "Resolve indication of missing material and aid in the investigation and recovery of missing material," give no specific quantity of material. A system which has no better discrimination capability than a goal quantity will not be very helpful in resolving any known thefts of smaller amounts. A current knowledge capability is needed to aid the NRC and other Federal and local authorities in determining the credibility of claims of material theft. NRC needs information to facilitate this type of determination in order to properly execute its legal responsibility to protect the public health and safety. If such a claim were true, the NRC needs to have a good estimate of the amount and form of the material involved. Also, if a theft has occurred, the NRC must be able to determine if corrective action is required.

(2) Commenters suggested that an amendment similar to that made to § 70.58(a) should be made for § 70.51 (i.e., exclude all SNM of low strategic significance).

A blanket exclusion was not appropriate because some classes of SNM of low strategic significance (those excluded from § 74.31) are still subject to parts of § 70.51 as they were in the past. In response to the comments, § 70.51(b) is being amended to exclude licensees subject to § 74.31. The other paragraphs of § 70.51 not being amended are of a minor nature and no explicit exclusion from them is considered to be necessary.

(3) Commenters suggested the removal of the phrase "unless otherwise required to satisfy Part 75" from the inventory requirement of § 74.31(c)(5).

This phrase was retained because of concerns expressed by the Department

of State and certain NRC groups. Part 75 contains the requirements necessary to satisfy the agreement between the United States and the International Atomic Energy Agency. It was always the intent that the more restrictive requirements of Part 75 would take precedence over those of Parts 70 and 74. Making this explicit in the amendments has no net effect on the licensee.

Use and Availability of Acceptance Criteria

In preparing the plan required by § 74.31(b), it is suggested that the licensee/applicant utilize both the rule and the acceptance criteria. The rule is written in general, performance-oriented language to give the licensee/applicant flexibility in designing a cost-effective system which makes best use of site-specific features. The purpose of the acceptance criteria document is to provide an explanation and amplification of the required, basic performance-oriented system capabilities in § 74.31, and to suggest the information that a typical licensee/applicant would include in a comprehensive plan. The acceptance criteria were developed from the viewpoint that conventional measures, as utilized today, may continue to be employed by the licensee/applicant. It should be noted that the NRC acknowledges that the licensee/applicant is free to use alternative measures to comply with the requirements of § 74.31. In this regard, the NRC also recognizes that various aspects in the acceptance criteria may not be applicable. Single copies of the Acceptance Criteria for the LEU Reform Amendments may be obtained from: Dr. W.B. Brown, Chief, Fuel Facility Safeguards Licensing Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory Analysis

The Commission has prepared a regulatory analysis of this final regulation. The analysis examines the cost saving and rationale for this regulatory action versus maintaining the status quo. The analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW., Washington, DC. Single copies of the analysis may be obtained from: Dr. W.B. Brown, Chief, Fuel Facility Safeguards Licensing Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Environmental Impact

The material control and accounting requirements for licensees possessing and using quantities larger than one effective kilogram of special nuclear material of low strategic significance will be amended in two major ways.

1. Certain safeguards related record keeping and reporting requirements now found in Part 70 are moved to a new Part 74 in order to separate the safety requirements of Part 70 from safeguards requirements.

2. Material control and accounting regulatory requirements for low enrichment uranium licensees will be reduced to a level that is consistent with the safeguards risk associated with the low strategic significance of LEU. The major differences in the MC&A requirements are a longer interval between physical inventories and a larger de minimis quantity for the inventory-difference action threshold.

Pursuant to 10 CFR 51.22(c)(3) (ii) and (iii) a categorical exclusion is granted for amendments to Commission regulations which relate to recordkeeping and reporting requirements. The proposed amendments described in Paragraph 1 above, meet the eligibility criteria for this categorical exclusion. Accordingly, no environmental impact statement or environmental assessment need be prepared in connection with the issuance of these amendments.

For the following reasons the Commission has also determined not to prepare an environmental impact statement for the amendments described in paragraph 2 above, and in accordance with 10 CFR 51.32 and 51.34 finds that the proposed amendments have no significant impact on the environment:

1. The proposed rule will not result in changes in the licensees' processes or manufacturing procedures and therefore will not affect or alter any releases of effluents to the environment.

2. The proposed rule will allow the licensees' the flexibility to change certain measurement procedures to meet performance criteria set forth in the rule. Measurement procedures have no environmental significance.

3. The proposed rule will affect seven low enrichment uranium fuel fabrication and recovery facilities, all of which have undergone individual NEPA review.

The environmental assessment upon which the foregoing determination is based is included in the Regulatory Analysis for this rulemaking action, and is available for public inspection at the NRC Public Document Room, 1717 H Street NW, Washington, D.C. Single

copies of the environmental assessment and finding of no significant impact are available from Dr. W.B. Brown, Chief, Fuel Facility Safeguards Licensing Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4185.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget Approval No. 3150-0009 (for Part 70) and No. 3150-0123 (For Part 74).

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission hereby certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule affects seven facilities that fabricate low enriched fuel, and is expected to result in an estimated savings for the industry on the order of \$3.9 million per year. The facilities include Babcock and Wilcox Company, Lynchburg, Virginia; Combustion Engineering, Inc., Hematite, Missouri, and Windsor, Connecticut; Exxon Nuclear Company, Inc., Richland, Washington; General Electric Company, Wilmington, North Carolina; Westinghouse Electric Corporation, Columbia, South Carolina; and the LEU scrap recovery operations at Nuclear Fuel Services, Inc., Erwin, Tennessee. These companies are dominant in their service areas and do not fall within the definition of "small entities" set forth in the Regulatory Flexibility Act or by the Small Business Administration in 13 CFR Part 121.

List of Subjects

10 CFR Part 70

Accounting, Hazardous materials-transportation, Material control and accounting, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

10 CFR Part 74

Accounting, Material control and accounting, Nuclear materials, Penalty, Reporting and recordkeeping requirements, Special nuclear material.

Under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the

following amendments to 10 CFR Part 70 and a new 10 CFR Part 74 are published by the NRC as a document subject to codification.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 70 is revised to read as follows:

Authority: Secs. 51, 53, 161, 182, 183, 68 Stat. 929, 930, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2201, 2232, 2233, 2282); sec. 201, as amended, 202, 204, 206, 88 Stat. 1242, as amended, 1244, 1245, 1246 (42 U.S.C. 5841, 5842, 5845, 5846).

Section 70.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 70.21(g) also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Section 70.31 also issued under sec. 57d, Pub. L. 93-377, 88 Stat. 475 (42 U.S.C. 2077). Sections 70.36 and 70.44 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 70.61 also issued under secs. 186, 187, 68 Stat. 955 (42 U.S.C. 2236, 2237). Section 70.62 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 70.3, 70.19(c), 70.21(c), 70.22(a), (b), (d)-(k), 70.24(a) and (b), 70.32(a)(3), (5) and (6), (d), and (i), 70.36, 70.39(b) and (c), 70.41(a), 70.42(a) and (c), 70.56, 70.57(b), (c), and (d), 70.58(a)-(g)(3), and (h)-(j) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 70.7, 70.20a(a) and (d), 70.20b(c) and (e), 70.21(c), 70.24(b), 70.32(a)(6), (c), (d), (e), and (g), 70.36, 70.51(c)-(g), 70.56, 70.57(b) and (d), 70.58(a)-(g)(3) and (h)-(j) are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 70.20b(d) and (e), 70.38, 70.51(b) and (i), 70.52, 70.53, 70.54, 70.55, 70.58(g)(4), (k), and (l), 70.59, and 70.60(b) and (c) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 70.4, paragraphs (x), (y), (z), and (aa) are added to read as follows:

§ 70.4 Definitions.

(x) "Strategic special nuclear material" means uranium-235 (contained in uranium enriched to 20 percent or more in the U²³⁵ isotope), uranium-233, or plutonium.

(y) "Formula quantity" means strategic special nuclear material in any combination in a quantity of 5000 grams or more computed by the formula, grams = (grams contained U²³⁵ + 2.5 grams U²³³ + grams plutonium).

(z) "Special nuclear material of moderate strategic significance" means:

(1) Less than a formula quantity of strategic special nuclear material but more than 1000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U²³⁵ isotope) or more than 500 grams of uranium-233 or plutonium or in a combined quantity of

more than 1000 grams when computed by the equation, grams = (grams contained U²³⁵) + 2 (grams U²³³ + grams plutonium); or

(2) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U²³⁵ isotope).

(aa) "Special nuclear material of low strategic significance" means:

(1) Less than an amount of special nuclear material of moderate strategic significance, as defined in § 70.4(z)(1), but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U²³⁵ isotope) or 15 grams of uranium-233 or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = (grams contained U²³⁵) + (grams plutonium) + (grams U²³³); or

(2) Less than 10,000 grams but more than 1000 grams of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U²³⁵ isotope); or

(3) 10,000 grams or more of uranium-235 (contained in uranium enriched above natural but less than 10 percent in the U²³⁵ isotope).

3. In § 70.22, paragraph (b) is revised to read as follows:

§ 70.22 Contents of applications.

(b) Each application for a license to possess at any one time and location special nuclear material in a quantity exceeding one effective kilogram of special nuclear material and to use such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation, and as sealed sources, shall contain a full description of the applicant's program for control of and accounting for special nuclear material which will be in the applicant's possession under license, to show how compliance with the requirements of § 70.58 or § 74.31 of this chapter, as applicable, will be accomplished.

4. In § 70.32, paragraph (c)(1) is revised to read as follows:

§ 70.32 Conditions of licenses.

(c)(1) Each license authorizing the possession at any one time and location of special nuclear material in a quantity exceeding one effective kilogram of special nuclear material, and the use of such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part

50 of this chapter and those involved in a waste disposal operation and in sealed sources, shall contain and be subject to a condition requiring the licensee to maintain and follow (i) the program for control and accounting for special nuclear material and fundamental material controls described pursuant to §§ 70.22(b), 70.58(f), or 74.31(b) of this chapter, as appropriate; (ii) the measurement control program for special nuclear material control and accounting described pursuant to § 70.57(c), or § 74.31(b) of this chapter, as appropriate; and (iii) such other material control procedures as the Commission determines to be essential for the safeguarding of special nuclear material and providing that the licensee shall make no change which would decrease the effectiveness of the material control and accounting program prepared pursuant to §§ 70.22(b), 70.58(f), 70.51(g), or § 74.31(b) of this chapter, and the measurement control program prepared pursuant to § 70.57(c) or § 74.31(b) of this chapter without the prior approval of the Commission. A licensee desiring to make such changes shall submit an application for amendment to its license pursuant to § 70.34.

5. In § 70.51, an introductory text to paragraph (b) is added and the introductory text of paragraph (e) is revised to read as follows:

§ 70.51 Material balance, inventory, and records requirements.

(b) Licensees subject to the recordkeeping requirements of § 74.31 of this chapter are exempt from the requirements of § 70.51(b)(1) through (5). Otherwise:

(e) Each licensee who is authorized to possess at any one time special nuclear material in a quantity exceeding one effective kilogram of strategic special nuclear material, or special nuclear material of moderate strategic significance, and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter or those involved in a waste disposal operation; as sealed sources; or as reactor irradiated fuels involved in research, development, and evaluation programs in facilities other than irradiated fuel reprocessing plants, shall:

6. In § 70.52, paragraph (b) is revised to read as follows:

§ 70.52 Reports of accidental criticality or loss or theft or attempted theft of special nuclear material.

(b) Each licensee who possesses 1 gram or more of contained uranium-235, uranium-233, or plutonium shall report any theft or attempted theft according to the requirements set out in § 74.11 of this chapter.

7. Section 70.53 is revised to read as follows:

§ 70.53 Material status reports.

(a) (1) Each licensee who is authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall complete and submit material balance reports as required by § 74.13(a)(1) of this chapter.

(2) Any licensee who is required to submit routine material status reports pursuant to § 75.35 of this chapter shall follow the requirements set out in § 74.13(a)(2) of this chapter.

(b) Each licensee subject to the requirements of § 70.51(e) shall follow the requirements set out in § 74.13(b) of this chapter.

8. Section 70.54 is revised to read as follows:

§ 70.54 Nuclear material transfer reports.

(a) Each licensee who transfers and each licensee who receives special nuclear material shall follow the requirements set out in § 74.15(a) and (b) of this chapter.

(b) Any licensee who is required to submit inventory change reports on DOE/NRC Form-741 pursuant to § 75.34 of this chapter shall follow the requirements set out in § 74.15(c) of this chapter.

9. In § 70.57, the introductory text of paragraph (b) is revised to read as follows:

§ 70.57 Measurement control program for special nuclear materials control and accounting.

(b) In accordance with § 70.58(f), each licensee who is authorized to possess at any one time and location strategic special nuclear material, or special nuclear material of moderate strategic significance, in a quantity exceeding one effective kilogram and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed

pursuant to Part 50 of this chapter, those involved in a waste disposal operation, or as sealed sources, shall establish and maintain a measurement control program for special nuclear materials control and accounting measurements. Each program function shall be identified and assigned in the licensee organization in accordance with § 70.58(b)(2), and functional organizational relationships shall be set forth in writing in accordance with § 70.58(b)(3). The program shall be described in a manual which shall contain the procedures, instructions, and forms prepared to meet the requirements of this paragraph, including procedures for the preparation, review, approval, and prompt dissemination of any program modifications or changes. The licensee's program shall include the following:

10. In § 70.58, paragraph (a) is revised to read as follows:

§ 70.58 Fundamental nuclear material controls.

(a) Each licensee who is authorized to possess at any time and location strategic special nuclear material, or special nuclear material of moderate strategic significance, in a quantity exceeding one effective kilogram, and to use such special nuclear material except those uses involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter and those involved in a waste disposal operation, and as sealed sources, shall establish, maintain, and follow written material control and accounting procedures in compliance with the fundamental nuclear material control requirements specified in paragraphs (b) through (k) of this section and such other controls as the Commission determines to be essential for the control of and accounting for special nuclear material.

11. A new Part 74 is added to read as follows:

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

Subpart A—General Provisions

Sec.

74.1 Purpose.

74.2 Scope.

74.4 Definitions.

- Sec.
 74.5 Interpretations.
 74.6 Communications.
 74.7 Specific exemptions.
 74.8 Information collection requirements:
 OMB approval.

Subpart B—General Reporting

- 74.11 Reports of loss or theft or attempted theft of special nuclear material.
 74.13 Material status reports.
 74.15 Nuclear material transfer reports.

Subpart C—Special Nuclear Material of Low Strategic Significance

- 74.31 Nuclear material control and accounting for special nuclear material of low strategic significance.

Subpart D—Special Nuclear Material of Moderate Strategic Significance

- 74.41 [Reserved]

Subpart E—Formula Quantities of Strategic Special Nuclear Material

- 74.51 [Reserved]

Subpart F—Enforcement

- 74.81 Inspections.
 74.82 Tests.
 74.83 Violations.

Authority: Secs. 53, 57, 161, 182, 183, 68 Stat. 930, 932, 948, 953, 954, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2201, 2232, 2233, 2282); secs. 202, 206, 88 Stat. 1244, 1246 (42 U.S.C. 5842, 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 74.31, 74.81, and 74.82 are issued under secs. 161b and 161i, 68 Stat. 948, 949, as amended (42 U.S.C. 2201(b), 2201(i)); and §§ 74.11, 74.13, and 74.15 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Subpart A—General Provisions

§ 74.1 Purpose.

(a) This part has been established to contain the requirements of the control and accounting of special nuclear material at fixed sites and for documenting the transfer of special nuclear material. General reporting requirements as well as specific requirements for certain licensees possessing special nuclear material of low strategic significance are included. The specific control and accounting requirements for other licensees are contained in §§ 70.51, 70.57, and 70.58 of this chapter.

(b) The general conditions and procedures for the submittal of a license application for the activities covered in this part are detailed in § 70.22 of this chapter.

§ 74.2 Scope.

(a) The general requirements of this part apply to each person licensed pursuant to Part 70 or 72 of this chapter, who possesses special nuclear material in a quantity greater than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof;

or who transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium.

(b) In addition, specific control and accounting requirements are included for certain licensees who possess and use special nuclear material of low strategic significance.

(c) Specific control and accounting requirements for special nuclear material of moderate strategic significance, formula quantities of strategic special nuclear material, and miscellaneous categories of licensees who possess special nuclear material of low strategic significance are contained in §§ 70.51, 70.57, and 70.58 of this chapter.

§ 74.4 Definitions.

As used in this part:

Act means the Atomic Energy Act of 1954 (68 Stat. 919), including any amendments thereto.

Active inventory means the sum of additions to inventory, beginning inventory, ending inventory, and removals from inventory, after all common terms have been excluded. Common terms are any material values which appear in the active inventory calculation more than once and come from the same measurement.

Commission means the Nuclear Regulatory Commission or its duly authorized representatives.

DOE means the U.S. Department of Energy or its duly authorized representatives.

Effective kilograms of special nuclear material means:

(1) For plutonium and uranium-233 their weight in kilograms;

(2) For uranium with an enrichment in the isotope U^{235} of 0.01 (1 percent) and above, its element weight in kilograms multiplied by the square of its enrichment expressed as a decimal weight fraction; and

(3) For uranium with an enrichment in the isotope U^{235} below 0.01 (1 percent), its element weight in kilograms multiplied by 0.0001.

Formula quantity means strategic special nuclear material in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U^{235}) + 2.5 (grams U^{233} + grams plutonium).

Government agency means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America, which is an instrumentality of the United States, or any board, bureau, division, service, office, officer, authority, administration,

or other establishment in the executive branch of the Government.

High enriched uranium means uranium enriched to 20 percent or greater in the isotope uranium-235.

Inventory difference (ID) means the quantity obtained by subtracting ending inventory (EI) and removals (R) from beginning inventory (BI) and additions to inventory (A). Mathematically,

$$ID = BI + A - EI - R.$$

ID is sometimes also referred to as "material unaccounted for" (MUF) in this chapter.

Low enriched uranium means uranium enriched below 20 percent in the isotope uranium-235.

Measurement includes sampling and means the determination of mass, volume, quantity, composition or other property of a material where such determinations are used for special nuclear material control and accounting purposes.

Measurement system means all of the apparatus, equipment, instruments and procedures used in performing a measurement.

Person means:

(1) Any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency other than the Commission or the Department of Energy, except that the Department of Energy shall be considered a person within the meaning of the regulations in this part to the extent that its facilities and activities are subject to the licensing and related regulatory authority of the Commission pursuant to section 202 of the Energy Reorganization Act of 1974 (88 Stat. 1244), any state or any political subdivision of or any political entity within a state, any foreign government or nation or political subdivision of any such government or nation, or other entity; and

(2) Any legal successor, representative, agent, or agency of the foregoing.

Physical inventory means determination on a measured basis of the quantity of special nuclear material on hand at a given time. The methods of physical inventory and associated measurements will vary depending on the material to be inventoried and the process involved.

Source material means source material as defined in section 11z. of the Act and in the regulations contained in Part 40 of this chapter.

Special nuclear material means:

(1) Plutonium, uranium-233, uranium enriched in the isotope U^{233} or in the isotope U^{235} , and any other material

which the Commission, pursuant to the provisions of section 51 of the Atomic Energy Act of 1954, as amended, determines to be special nuclear material, but does not include source material; or

(2) Any material artificially enriched by any of the foregoing, but does not include source material.

Special nuclear material of low strategic significance means:

(1) Less than an amount of special nuclear material of moderate strategic significance, but more than 15 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U^{235} isotope) or 15 grams of uranium-233 or 15 grams of plutonium or the combination of 15 grams when computed by the equation, grams = grams contained U^{235} + grams plutonium + grams U^{233} ; or

(2) Less than 10,000 grams but more than 1,000 grams of uranium-235 (contained in uranium enriched to 10 percent or more, but less than 20 percent in the U^{235} isotope); or

(3) 10,000 grams or more of uranium-235 contained in uranium enriched above natural, but less than 10 percent in the U^{235} isotope.

Special nuclear material of moderate strategic significance means:

(1) Less than a formula quantity of strategic special nuclear material but more than 1,000 grams of uranium-235 (contained in uranium enriched to 20 percent or more in the U^{235} isotope) or more than 500 grams of uranium-233 or plutonium or in a combined quantity of more than 1,000 grams when computed by the equation, grams = (grams contained U^{235}) + 2 (grams U^{233} + grams plutonium); or

(2) 10,000 grams or more of uranium-235 (contained in uranium enriched to 10 percent or more but less than 20 percent in the U^{235} isotope).

Strategic special nuclear material means uranium-235 (contained in uranium enriched to 20 percent or more in the U^{235} isotope), uranium-233, or plutonium.

§ 74.5 Interpretations.

Except as specifically authorized by the Commission in writing, no interpretations of the meaning of the regulations in this part by any officer or employee of the Commission other than a written interpretation by the General Counsel will be recognized as binding on the Commission.

§ 74.6 Communications.

Any communication or report concerning the regulations in this part and any application filed under these

regulations may be submitted to the Commission as follows:

(a) By mail addressed to—Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(b) By delivery in person to the Commission offices at—

(1) 1717 H Street NW., Washington, DC; or

(2) 7915 Eastern Avenue, Willste Building, Silver Spring, MD.

§ 74.7 Specific exemptions.

The Commission may, upon application of any interested person or upon its own initiative, grant such exemptions from the requirements of the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

§ 74.8 Information collection requirements: OMB approval.

(a) The Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under Control No. 3150-0123.

(b) The approved information collection requirements contained in this part appear in §§ 74.11, 74.13(b) and 74.31 (b), (c), and (d).

(c) This part contains information collection requirements in addition to those approved under the control number specified in paragraph (a) of this section. These information collection requirements and the control numbers under which they are approved are as follows:

(1) In § 74.15, DOE/NRC Form-741 is approved under Control No. 3150-0003.

(2) In § 74.13, DOE/NRC Form-742 is approved under Control No. 3150-0004.

(3) In § 74.13, DOE/NRC Form-742C is approved under Control No. 3150-0058.

Subpart B—General Reporting

§ 74.11 Reports of loss or theft or attempted theft of special nuclear material.

Each licensee who possesses 1 gram or more of contained uranium-235, uranium-233, or plutonium shall report immediately to the appropriate NRC Regional Office listed in Appendix A of Part 73 of this chapter by telephone and telegraph, mailgram, or facsimile any loss or theft or other unlawful diversion of special nuclear material which it is licensed to possess, or any incident in which an attempt has been made or is

believed to have been made to commit a theft or unlawful diversion of special nuclear material in accordance with the procedures in § 73.71 of this chapter. This requirement does not pertain to measured discards or inventory difference quantities.

§ 74.13 Material status reports.

(a) (1) Each licensee who is authorized to possess at any one time and location special nuclear material in a quantity totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, shall complete and submit to the Commission (on DOE/NRC Form-742, Material Balance Report) material balance reports concerning special nuclear material received, produced, possessed, transferred, consumed, disposed of, or lost by the licensee. The licensee also shall prepare (on DOE/NRC Form-742C, Physical Inventory Listing) a statement of the composition of the ending inventory, which shall be submitted to the Commission as an attachment to each material balance report. All such reports shall be made as of March 31 and September 30 of each year and filed within thirty (30) days after the end of the period covered by the report. The Commission may permit a licensee to submit such reports at other times when good cause is shown. In preparing and submitting the reports described in this paragraph, the licensee shall comply with the printed instructions for completing the particular form.

(2) Any licensee who is required to submit routine material status reports pursuant to § 75.35 of this chapter (pertaining to implementation of the US/IAEA Safeguards Agreement) shall prepare and submit such reports only as provided in that section (instead of as provided in paragraph (a)(1) of this section).

(b) Each licensee subject to the requirements of § 70.51(e) of this chapter shall submit a report, in accordance with paragraph (b)(1) or (b)(2) of this section, to the appropriate NRC Regional Office listed in Appendix A of Part 73 of this chapter, with a copy to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 calendar days after the start of each ending physical inventory required by § 70.51(e)(3).

(1) If the inventory difference exceeded both

(i) Twice the standard error of the estimated measurement uncertainty associated with the inventory difference, and

(ii) 200 grams of plutonium or U^{233} , 300 grams of high enriched uranium or uranium-235 contained in high enriched uranium, or 9000 grams of uranium-235 contained in low enriched uranium, a statement of the probable reasons for the excessive inventory difference and corrective actions taken or planned; and

(2) If for any material twice the standard error of the estimated measurement uncertainty associated with the inventory difference exceeds any applicable limits specified in § 70.51(e)(5) or approved pursuant to § 70.51(e)(6) of this chapter, a statement of the probable reasons for the excessive standard error and the actions taken or planned with respect to controlling the standard error within applicable limits.

§ 74.15 Nuclear material transfer reports.

(a) Each licensee who transfers and each licensee who receives special nuclear material shall complete and distribute a Nuclear Material Transaction Report on DOE/NRC Form-741. This should be done in accordance with the printed instructions for completing the form whenever the licensee transfers or receives a quantity of special nuclear material of 1 gram or more of contained uranium-235, uranium-233, or plutonium.

(b) Each licensee who receives 1 gram or more of contained uranium-235, uranium-233, or plutonium from a foreign source shall:

(1) Complete both the supplier's and receiver's portion of DOE/NRC Form-741;

(2) Perform independent tests to assure the accurate identification and measurement of the material received, including its weight and enrichment; and

(3) Indicate the results of these tests on the receiver's portion of the form.

(c) Any licensee who is required to submit inventory change reports on DOE/NRC Form-741 pursuant to § 75.34 of this chapter (pertaining to implementation of the US/IAEA Safeguards Agreement) shall prepare and submit these reports only as provided in that section (instead of as provided in paragraphs (a) and (b) of this section).

Subpart C—Special Nuclear Material of Low Strategic Significance

§ 74.31 Nuclear material control and accounting for special nuclear material of low strategic significance.

(a) General performance objectives. Each licensee who is authorized to possess and use more than one effective kilogram of special nuclear material of low strategic significance, excluding

sealed sources, at any site or contiguous sites subject to control by the licensee, other than a production or utilization facility licensed pursuant to Part 50 of this chapter, or operations involved in waste disposal, shall implement and maintain a Commission approved material control and accounting system that will achieve the following objectives:

(1) Confirm the presence of special nuclear material;

(2) Resolve indications of missing material; and

(3) Aid in the investigation and recovery of missing material.

(b) Implementation dates. Each licensee subject to the requirements of paragraph (a) of this section shall:

(1) No later than August 26, 1985, submit a fundamental nuclear material control plan describing how the requirements of paragraph (c) of this section will be met; and

(2) No later than December 23, 1985, or 60 days after the plan submitted pursuant to paragraph (b)(1) of this section is approved, whichever is later, implement the approved plan.

(c) System Capabilities. To meet the general performance objectives of § 74.31(a), the material control and accounting system must include the capabilities described in paragraph (c) (1) through (8) of this section. The licensee shall:

(1) Establish, document, and maintain a management structure which assures clear overall responsibility for material control and accounting functions, independence from production responsibilities, separation of key responsibilities, and adequate review and use of critical material control and accounting procedures;

(2) Establish and maintain a measurement system which assures that all quantities in the material accounting records are based on measured values;

(3) Follow a measurement control program which assures that measurement bias is estimated and significant biases are eliminated from inventory difference values of record;

(4) In each inventory period, control total material control and accounting measurement uncertainty so that twice its standard error is less than the greater of 9 kilograms of U^{235} or 0.25 percent of the active inventory, and assure that any measurement performed under contract is controlled so that the licensee can satisfy this requirement;

(5) Unless otherwise required to satisfy Part 75 of this chapter, perform a physical inventory at least every 12 months and, within 60 days after the start of the inventory, reconcile and adjust the book inventory to the results

of the physical inventory, and resolve, or report an inability to resolve, any inventory difference which is rejected by a statistical test which has a 90 percent power of detecting a discrepancy of a quantity of uranium-235 established by NRC on a site-specific basis;

(6) Maintain current knowledge of items when the sum of the time of existence of an item, the time to make a record of the item, and the time necessary to locate the item exceeds 14 days. Store and handle, or subsequently measure, items in a manner so that unauthorized removals of substantial quantities of material from items will be detected. Exempted are items individually containing less than 500 grams of U^{235} up to a total of 50 kilograms of U^{235} , solutions with a concentration of less than 5 grams of U^{235} per liter, and items of waste destined for burial or incineration;

(7) Resolve, on a shipment basis and when required to satisfy Part 75 of this chapter, on a batch basis, shipper/receiver differences that exceed both twice the combined measurement standard error for that shipment and 500 grams of U^{235} ; and

(8) Independently assess the effectiveness of the material control and accounting system at least every 24 months, and document management's action on prior assessment recommendations.

(d) Recordkeeping. Each licensee shall establish records that will demonstrate that the requirements of paragraph (c) of this section have been met and maintain these records for at least 3 years, unless a longer retention time is required by Part 75 of this chapter.

Subpart D—Special Nuclear Material of Moderate Strategic Significance

§ 74.41 [Reserved]

Subpart E—Formula Quantities of Strategic Special Nuclear Material

§ 74.51 [Reserved]

Subpart F—Enforcement

§ 74.81 Inspections.

(a) Each licensee shall afford to the Commission at all reasonable times opportunity to inspect special nuclear material and the premises and facilities wherein special nuclear material is used, produced, or stored.

(b) Each licensee shall make available to the Commission for inspection, upon reasonable notice, records kept by the licensee pertaining to its receipt, possession, use, acquisition, import,

export, or transfer of special nuclear material.

(c) (1) In the case of fuel cycle facilities where nuclear reactor fuel is fabricated or processed, each licensee shall upon request by the Director, Office of Inspection and Enforcement, provide rent-free office space for the exclusive use of Commission inspection personnel. Heat, air conditioning, light, electrical outlets, and janitorial services shall be furnished by each licensee. The office shall be convenient to and have full access to the facility, and shall provide the inspector both visual and acoustic privacy.

(2) For a site with a single fuel facility licensed pursuant to Part 70 of this chapter, the space provided shall be adequate to accommodate a full-time inspector, a part-time secretary, and transient NRC personnel. It will be generally commensurate with other office facilities at the site. A space of 250 square feet either within the site's office complex or in an office trailer or other on-site space is suggested as a guide. For sites containing multiple fuel facilities, additional space may be requested to accommodate additional full-time inspector(s). The office space that is provided shall be subject to the approval of the Director, Office of Inspection and Enforcement. All furniture, supplies, and communication equipment will be furnished by the Commission.

(3) The licensee shall afford any NRC resident inspector assigned to that site, or other NRC inspectors identified by the Regional Administrator as likely to inspect the facility, immediate unfettered access, equivalent to access provided regular plant employees, following proper identification and compliance with applicable access control measures for security, radiological protection, and personal safety.

§ 74.82 Tests.

Each licensee shall perform, or permit the Commission to perform, any tests that the Commission deems appropriate or necessary for the administration of the regulations in this part, including tests of:

- (a) Special nuclear material;
- (b) Facilities where special nuclear material is utilized, produced, or stored; and
- (c) Other equipment and devices used in connection with the production, utilization, or storage of special nuclear material.

§ 74.83 Violations.

An injunction or other court order may be obtained prohibiting any

violation of any provisions of the Atomic Energy Act of 1954, as amended, or Title II of the Energy Reorganization Act of 1974, or any regulation or order issued thereunder. A court order may be obtained for the payment of a civil penalty imposed pursuant to section 234 of the Act for violation of sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act, or section 206 of the Energy Reorganization Act of 1974, or any rule, regulation, or order issued thereunder, or any term, condition, or limitation of any license issued thereunder, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued thereunder may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

Dated at Washington, DC, this 20th day of February 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 85-4522 Filed 2-22-85; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Federal Credit Union Ownership of Fixed Assets

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final Rule—Confirmation of Office of Management and Budget Control Number.

SUMMARY: NCUA has received Office of Management and Budget (OMB) approval of its information collection requirements in its regulation governing federal credit unions' (FCU) investment in fixed assets. An OMB control number has been assigned to the collection requirements.

ADDRESS: National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Charles W. Filson, Director, Office of Programs, or Louis P. Acuna, Director, Department of Supervision and Examination. Telephone (202) 357-1142 and (202) 357-1065, respectively.

EFFECTIVE DATE: February 1, 1985.

SUPPLEMENTARY INFORMATION: On Friday, December 28, 1984, the final rule entitled "FCU Ownership of Fixed Assets" was published in the *Federal Register* (49 FR 50365) (12 CFR 701.36). In

the preamble of the final rule, a statement was included which indicated that the information collection requirements contained in the rule were being submitted to OMB for approval. OMB approval of the information collection requirements found in § 701.36 (Amended) was obtained on February 1, 1985. The approval is valid through September 30, 1987. The OMB control number assigned to the information collection requirements is 3133-0040. Section 795.1 of the NCUA Regulations (12 CFR 795.1) lists current OMB control numbers. The control number for § 701.36 is already listed as the control number for the regulation prior to its December 1984 revision. Therefore, § 795.1 need not be amended.

Dated: February 19, 1985.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 85-4473 Filed 2-22-85; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2—Amdt. 40]

Delegations of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Administrator has approved delegation of authority changes effected by a reorganization of the Seattle, Washington Regional Office as proposed by the Regional Administrator in that office. The changes, to accommodate the reorganization, include abolishing the positions of Assistant Regional Administrator for Minority Small Business and Capital Ownership Development (ARA/MSB/COD) and Assistant Regional Administrator for Procurement and Technology Assistance (ARA/P&TA); combining the divisional staffs of those abolished positions headed by a new position of Assistant Regional Administrator for Minority Enterprise and Procurement Assistance (ARA/ME&PA); and establishing a new staff Business Development Specialist position. The Business Development Specialist, and additionally the Senior Contract Specialist, are delegated Call Contract Program authority in the new organizational structure.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Information Resources Management Branch, Small Business

Administration, 1441 L Street NW., Washington, D.C. 20416. Telephone No. (202) 653-8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 are not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedures, Organization and functions (Government agencies).

* For the reasons set forth in the preamble and pursuant to authority in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3-2 is amended as set forth below:

- 1. Part VI, Section A, paragraph 1., subparagraph c. is revised and a new subparagraph d. is added as follows:
 - c. Assistant Regional Administrator/P&TA, except Reg. X.
 - d. Assistant Regional Administration ME&PA, Reg. X only.
- 2. Part VI, Section A, paragraph 2., subparagraph c. is revised and a new subparagraph d. is added as follows:
 - c. Assistant Regional Administrator/P&TA, except Reg. X.
 - d. Assistant Regional Administrator/ME&PA, Reg. X only.
- 3. Part VII, Section A, paragraph 1., subparagraph c. is revised, paragraphs (d)-(h) are redesignated as paragraphs (g)-(k), and new paragraphs (d), (e), and (f) are added to read as follows:
 - c. Assistant Regional Administrator/MSB/COD, except Reg. X.
 - d. Assistant Regional Administrator/ME&PA, Reg. X only.
 - e. Business Development Specialist, R/O, Reg. X only.
 - f. Senior Contract Specialist, R/O, Reg. X only.
 - g. Chief, Business Development, R/O, Reg. VII only.
 - h. District Director.
 - i. Deputy District Director.
 - j. Assistant District Director/MSB/COD.
 - k. Financial/Management Assistance Officer, Minneapolis, MN. D/O only.
- 4. Part IX, Section B, paragraph 2., subparagraph c. is changed, existing subparagraph d. is redesignated as e. and a new subparagraph d. is added as follows:
 - c. Assistant Regional Administrator/P&TA, except Reg. X.
 - d. Assistant Regional Administrator/ME&PA, Reg. X only.

e. Chief, Procurement and Technical Assistance, Reg. II only.

Dated: February 14, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-4474 Filed 2-22-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 250

[Docket No. 83-0059]

Nitroglycerin for Human Use; Revocation of Packaging and Labeling Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is revoking its regulation establishing packaging and labeling requirements for nitroglycerin for human use. This regulation is no longer necessary because it has become duplicative and obsolete.

EFFECTIVE DATE: March 27, 1985.

FOR FURTHER INFORMATION CONTACT: Richard L. Arkin, Center for Drugs and Biologics (HFN-364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-8490.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 11, 1984 (49 FR 24031), FDA proposed to revoke 21 CFR 250.300, which established packaging and labeling requirements for nitroglycerin for human use. The proposal described actions taken by the agency and by the United States Pharmacopeial Convention, Inc. (U.S.P.C.), since 1973, when the rule was published, which have rendered the rule unnecessary and duplicative.

The proposal also discussed the availability of after-market nitroglycerin containers, which allow patients the convenience of carrying a small emergency supply of sublingual nitroglycerin tablets on their person. The agency's present policy of permitting the sale of after-market nitroglycerin containers is inconsistent with the requirement that labeling for original nitroglycerin containers state that tablets be kept in the original container.

Revoking 21 CFR 250.300, in addition to removing unnecessary and duplicative requirements, will correct this regulatory inconsistency. Further, as stated in the proposal, FDA also has consulted with U.S.P.C. concerning this inconsistency so that U.S.P.C. could

make an appropriate revision in the "United States Pharmacopeia" (U.S.P.) monograph. U.S.P.C. published such a labeling revision to the nitroglycerin monograph in the "First Supplement to USP XXI/NF XVI" on November 1, 1984. This labeling change became official January 1, 1985.

Revocation of 21 CFR 250.300 has no effect on the current duties and obligations of manufacturers of nitroglycerin tablets or of dispensing pharmacists because of FDA's current good manufacturing practice regulations and the packaging and labeling requirements for nitroglycerin tablets set forth in the U.S.P.

The agency allowed interested persons 60 days to comment on the proposal. The agency received only one comment. That comment, which was from a State board of pharmacy, supported the proposal. The agency, therefore, is revoking 21 CFR 250.300.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by the Order. The agency has not received any new information or comments that would alter this determination.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that this action will have no significant impact on a substantial number of small entities. FDA has not received any new information or comments that would alter its previous determination.

The agency has determined pursuant to 21 CFR 25.24(d)(13) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 250

Drugs.

PART 250—SPECIAL REQUIREMENTS FOR SPECIFIC HUMAN DRUGS

Subpart E—[Removed]

§ 250.300 [Removed]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502,

505, 701(a), 52 Stat. 1049-1051 as amended, 1052-1053 as amended, 1055 (21 U.S.C. 351, 352, 355, 371(a)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 250 is amended by removing Subpart E—Special Packaging Requirements, consisting of § 250.300 *Nitroglycerin for human use; packaging and warnings.*

Effective date. This rule will become effective March 27, 1985.

(Secs. 501, 502, 505, 701(a), 52 Stat. 1049-1051 as amended, 1052-1053 as amended, 1055 (21 U.S.C. 351, 352, 355, 371(a)))

Dated January 28, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-4453 Filed 2-22-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

(CGD11 85-03)

Marine Event: Parker Enduro

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the "Parker Enduro". This event will be held on 2 and 3 March 1985, on the Colorado River. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective on 2 March 1985 and terminate on 3 March 1985.

FOR FURTHER INFORMATION CONTACT:

LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, 400 Oceanate Boulevard, Long Beach, California 90822, Tel: (213) 590-2331.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 45 days from the date of publication. Following normal rule making procedures would have been impracticable. The application to hold this event was not received until 14 January 1985, and there was not sufficient time to publish proposed rules in advance of the event or to provide for a delayed effective date.

Nevertheless, interested persons wishing to comment may do so by submitting written views, data, or arguments. Commenters should include their name and address, identify this

notice (CGD11 85-03) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The regulations may change in light of comments received.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District, Project Officer, and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Regulation

The Parker Area Chamber of Commerce "Parker Enduro" will be conducted on 2 and 3 March 1985, at Lake Moovalya, Arizona from LaPaz Country Park, Roadrunner Resort to approximately 1/2 mile south of Bluewater Marina. This event will have 100 inboard and outboard jet ski boats 14 to 25 feet in length that could pose a hazard to navigation. Therefore, vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35-11-85-03 to read as follows:

§ 100.35-11-85-03 Parker Enduro, Colorado River, AZ

(a) *Regulated Area.* The following area may be closed intermittently to all vessel traffic. That portion of the Colorado River, starting at river mile 185 off Ah-Villa County Park, Parker, Arizona thence southerly along the natural flow of the river to river mile 179 (approximately 1/2 mile south of Bluewater Marina).

(b) *Effective Dates.* These regulations will be effective from 12:00 PM to 4:00 PM on 2 and 3 March 1985.

(c) *Special Local Regulations.* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in citation for failure to comply.

(3) All vessels in close proximity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary of the protection of life and property.

He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(33 U.S.C. 1233; 33 U.S.C. 1236); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: February 8, 1985.

F. P. Schubert,

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

[FR Doc. 85-4524 Filed 2-22-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

(CGD 08-85-03)

Drawbridge Operation Regulations; Lafourche Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule governing the Lafourche Bayou drawbridge, mile 58.2 at Raceland, Lafourche Parish, Louisiana published in the Federal Register on Tuesday, April 24, 1984, (49 FR 17450). This action is necessary to correct the highway number in the text of this regulation. This document makes no substantive change to the regulations.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Bridge Administrator, Eighth Coast Guard District (504) 589-2965.

SUPPLEMENTARY INFORMATION: On April 24, 1984 the Coast Guard published a final rule in the Federal Register (49 FR 17450) which completely reorganized 33 CFR Part 117 containing requirements relating to the use and operation of drawbridges across navigable waters of the United States. The revision was

designed to simplify the use of these regulations by grouping all of the general rules in a single subpart and by arranging the provisions pertaining to individual drawbridges alphabetically by state and waterway. The National Ocean Service recently pointed out that the highway number shown in the regulation governing the Lafourche Bayou drawbridge at waterway mile 58.2 at Raceland, Louisiana, is incorrect. This document has no economic consequences. It merely corrects the highway number, as designated by the Louisiana Department of Transportation and Development. Consequently, this action is considered to be non-major under Executive Order 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979). Since there is no economic impact, a full regulatory evaluation is unnecessary. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the Regulatory Flexibility Act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

Drafting Information

The drafters of this correction are Perry Haynes, project manager, and Steve Crawford, project attorney.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by revising § 117.465(a) to read as follows:

§ 117.465 Lafourche Bayou.

(a) The draws of the S3199 bridge, mile 58.2, and the Lafourche Parish bridge, mile 58.7, both at Raceland, and the S649 bridge, mile 66.1 at Lafourche, shall open on signal if at least six hours notice is given.

(33 U.S.C. 499; 49 CFR 1.46(c)(2); 33 CFR 1.05-1(g)(3))

Dated: February 15, 1985.

W. H. Stewart,

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

[FR Doc. 85-4527 Filed 2-22-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 08-84-09]

Drawbridge Operation Regulations; Terrebonne Bayou, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is changing the regulation governing the lift span bridge on LA 3087 over Terrebonne Bayou, mile 33.9, near Houma, Terrebonne Parish, Louisiana, by requiring that at least four hours advance notice be given for an opening of the draw from 5 p.m. to 9 a.m. and open on signal from 9 a.m. to 5 p.m. The bridge presently is required to open on 12 hours notice from 9 p.m. to 5 a.m. and on signal from 5 a.m. to 9 p.m. This change is being made because of infrequent requests for opening the draw during the advance notice period. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw from 5 p.m. to 9 a.m. and will still provide for the reasonable needs of navigation.

Additionally, this document corrects the regulation governing the operation of the bridge over Terrebonne Bayou, on LA 24 at Presquille, Louisiana, to show that this bridge is located at mile 31.3 and that the draw need not open for the passage of vessels.

EFFECTIVE DATE: This regulation becomes effective on March 27, 1985.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: On 26 December 1984, the Coast Guard published a proposed rule (49 FR 50055) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a Public Notice dated 3 January 1985. In each notice interested persons were given until 11 February 1985 to submit comments.

Drafting Information

The drafters of this regulation are Perry Haynes, project officer, and Steve Crawford, project attorney.

Discussion of Comments

There was one response to the Public Notice and the Federal Register. A comment of no objection was received from the Federal Emergency Management Agency.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that between 5 p.m. and 9 a.m. the bridge averaged only 11.7 openings per month (one opening every three days) in 1983. In 1982, for the same time period, the bridge averaged only 12 openings per month. These few vessels can reasonably provide four hours notice for a bridge opening by placing a collect call during normal working hours to the LDOTD Highway Office in Houma, Louisiana, telephone (504) 851-0900 and at any time to the LDOTD District Office in Lafayette, Louisiana, telephone (318) 233-7404. Scheduling their arrival at the appointed time would involve little or no additional expense to the mariners. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by revising § 117.505 (a) and (b) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.505 Terrebonne Bayou.

(a) The draw of the S24 bridge, mile 31.3 at Presquille, need not be opened for the passage of vessels.

(b) The draw of the S3087 bridge, mile 33.9 at Houma, shall open on signal; except that, from 5 p.m. to 9 a.m. the draw shall open on signal if at least four hours notice is given.

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

Dated: February 15, 1985.

W.H. Stewart,

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

[FR Doc. 85-4528 Filed 2-22-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

(COTP San Diego Regulation 85-04)

Security Zone Regulations; San Diego Bay, California, Pacific Ocean

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone around Coast Guard Air Station San Diego from February 15, 1985 through March 15, 1985. The security zone consists of the land area of Air Station San Diego and the water area within 100 yards (92 meters) of Air Station.

This security zone is established to secure the interests of the United States. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 1800 (Pacific Standard Time) on February 15, 1985. It terminates at 2359 (Pacific Standard Time) on March 15, 1985 unless sooner terminated by the Captain of the Port.

FOR FURTHER INFORMATION CONTACT: LT Steven P. Mojonier, USCG, C/O U.S. Coast Guard Captain of the Port, 2710 N. Harbor Drive, San Diego, CA 92101, Telephone (619) 293-5860.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM) was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to secure the interests of the United States.

Drafting Information

The drafters of this regulation are LT Steven P. Mojonier, project officer for the Captain of the Port, and LT Catherine McNally, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Regulation

The incident requiring this regulation involves an ongoing threat to the United States Coast Guard from various sources. During the period of this security zone, activities will take place which require positive protective measures. If these measures are not taken, significant loss to the Coast Guard could occur. The security zone is needed to safeguard Coast Guard Air Station San Diego from sabotage or other subversive acts, accidents, criminal actions, or other causes of a similar nature.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Part 165—[AMENDED]

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T1180 to read as follows:

§ 165.T1180 San Diego Bay, California—security zone.

(a) *Location.* Starting at a point on the boundary of Coast Guard Air Station San Diego in position 32°43' 37.2" N., 117°10'45.0" W. (Point A) for a place of beginning; thence easterly to 32°43'36.2" N., 117°10'41.5" W. (Point B); thence southerly to 32°43'27.8" N., 117°10'45.8" W. (Point C); thence westerly to 32°43'35.0" N., 117°11'07.6" W. (Point D); thence northerly to 32°43'43.0" N., 117°11'04.5" W. (Point E); thence easterly along the south side of North Harbor Drive to the place of beginning. Points B and C are marked with white and orange bouys. This security zone consists of the land area of Coast Guard Air Station San Diego and the water area within 100 yards (92 meters) of the Air Station.

(b) *Regulations.* In accordance with the general regulations in 165.33 of this Part, entry into the area of this zone is prohibited unless authorized by the Captain of the Port. Section 165.33 also contains other general requirements.

(50 U.S.C. 191; E.O. 10173; and 33 CFR 6.04-6)

Dated: February 15, 1985.

E.A. Harmes,

Commander, U.S. Coast Guard, Captain of the Port, San Diego, California.

[FR Doc. 85-4529 Filed 2-22-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

(COTP Miami, Florida Regulation CCGD7-85-08)

Safety Zone Regulations: Atlantic Ocean, one Mile South of Lake Worth Inlet, Florida.

AGENCY: Coast Guard, DOT.

ACTION: Emergency rules.

SUMMARY: The Coast Guard is establishing a safety zone around two anchor buoy's in position, latitude 26-47.1N, longitude 08002W, Atlantic Ocean, approximately one mile south of Lake Worth Inlet, Florida. The zone is needed to protect divers, swimmers, pleasure boaters, salvage personnel, and salvage

vessels working in the vicinity of the grounded M/V MERCEDES I.

EFFECTIVE DATES: This regulation becomes effective at 12:00 pm e.s.t. 8 February 1985. It terminates on 8 March 1985 at 12:00 pm e.s.t., or upon completion of salvage operations aboard the M/V MERCEDES I, which ever occurs first.

FOR FURTHER INFORMATION CONTACT:

Chief Petty Officer J. P. Burk, c/o Commanding Officer, U.S. Coast Guard, Marine Safety Office, Miami, FL 33130, Tel (305) 350-5691.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential hazards to pleasure boaters, divers, swimmers, M/V MERCEDES I, salvage vessels and crew.

Drafting Information

The drafter of this regulation is Chief Petty Officer J. P. Burk, project officer for the Captain of the Port, and LCDR K. E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The circumstances requiring this regulation occurred on 22 November 1984 when the M/V MERCEDES I, a cargo vessel of 196 feet in length, ran aground in position Latitude 26-47.1N, Longitude 080-02 W. The M/V MERCEDES I is aground on the beach, approximately one mile south of Lake Worth Inlet, Florida, an area often frequented by pleasure boaters, divers and swimmers. The wide spread publicity of the vessel grounding and associated salvage efforts, has attracted an influx of curious boaters to the grounding location, creating a safety hazard. In order to effectively and safely conduct salvage operations, a safety zone is established prohibiting entry within a 600 yard radius of the anchor buoy's located in the above position, unless authorized by the Captain of the Port, Miami, Florida.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended by adding a new § 165.T-07-08 to read as follows:

§ 165.T-07-08 Safety Zone: M/V MERCEDES I in position Latitude 26-47.1N, Longitude 080-02W, approximately one mile south of Lake Worth Inlet, Florida.

(a) *Location.* The following area is a Safety Zone: The waters around position Latitude 26-47.1N, Longitude 080-02W, extending for a clear radius of 600 yards in any direction.

(b) *Regulations.* (1) In accordance with the general regulation in § 165.33 of this part, entry into this zone is prohibited, unless authorized by the Captain of the Port.

(33 U.S.C. 1221 and 1231; 49 CFR 1.46; 33 CFR 165.30)

Dated: February 8, 1985.

R. N. Roussel,

Commander, U.S. Coast Guard, Captain of the Port Miami, Florida.

[FR Doc. 85-4530 Filed 2-22-85; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 78

Waiver of Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule establishes procedures under which the requirements of section 110 of the National Historic Preservation Act of 1966, as amended ("Act"), concerning Federal agency historic preservation responsibilities may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the National security. This action is necessary in order to comply with subsection 110(j) of the Act which authorizes the Secretary of the Interior to promulgate regulations implementing waiver procedures. The intended effect of this action is to provide for a process whereby the historic preservation responsibilities of Federal agencies can be modified during an emergency. These procedures apply only to requirements contained in section 110 of the Act.

EFFECTIVE DATE: March 27, 1985.

FOR FURTHER INFORMATION CONTACT: Lawrence E. Aten, Chief, Interagency Resources Division, National Park Service, United States Department of the Interior, Washington, D.C. 20240 (202-343-9500).

SUPPLEMENTARY INFORMATION: Section 110 of the Act specifies the responsibilities of Federal agencies in carrying out the purposes of the

National Historic Preservation Act of 1966. These agency responsibilities are to be carried out in accordance with the guidelines to be established by the Secretary of the Interior in consultation with the Advisory Council on Historic Preservation in accordance with section 101(f) of the Act.

Section 110(j) also requires the Secretary of the Interior to promulgate regulations under which the requirements of section 110 may be waived, either in whole or in part, in the event of a major natural disaster or imminent threat to national security. Section 110 reads as follows:

110(a)(1). "The heads of all Federal agencies shall assume responsibility for the preservation of historic properties which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each Federal agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties and the mission of the agency and the professional standards established pursuant to section 101(f), any preservation, as may be necessary to carry out this section."

110(a)(2). "With the advice of the Secretary and in cooperation with the State Historic Preservation Officer for the State involved, each Federal agency shall establish a program to locate, inventory, and nominate to the Secretary all properties under the agency's ownership or control by the agency, that appear to qualify for inclusion on the National Register in accordance with the regulations promulgated under section 101(a)(2)(A). Each Federal agency shall exercise caution to assure that any such property that might qualify for inclusion is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly."

110(b). "Each Federal agency shall initiate measures to assure that where, as a result of Federal action or assistance carried out by such agency, a historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records and that such records, then be deposited, in accordance with section 101(a), in the Library of Congress or with such other appropriate agency as may be designated by the Secretary, for future use and reference."

110(c). "The head of each Federal agency shall, unless exempted under section 214, designate a qualified official to be known as the agency's "preservation officer" who shall be responsible for coordinating that agency's activities under this Act. Each Preservation Officer may, in order to be considered qualified, satisfactorily complete an appropriate training program established by the Secretary under section 101(g)."

110(d). "Consistent with the agency's mission and mandates, all Federal agencies shall carry out agency programs and projects (including those under which any Federal assistance is provided or any Federal license,

permit, or other approval is required) in accordance with the purposes of this Act and give consideration to programs and projects which will further the purposes of this Act."

110(e). "The Secretary shall review and approve the plans of transferees of surplus federally owned historic properties not later than ninety days after his receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced."

110(f). "Prior to the approval of any Federal undertaking which may directly and adversely affect any National Historic Landmark, the head of the responsible Federal agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark, and shall afford the Advisory Council on Historic Preservation a reasonable opportunity to comment on the undertaking."

110(g). "Each Federal agency may include the costs of preservation activities of such agency under this Act as eligible project costs in all undertakings of such agency or assisted by such agency. The eligible project costs may also include amounts paid by a Federal agency to any State to be used in carrying out such preservation responsibilities of the Federal agency under this Act, and reasonable costs may be charged to Federal licensees and permittees as a condition to the issuance of such license or permit."

110(h). "The Secretary shall establish an annual preservation awards program under which he may make monetary awards in amounts not to exceed \$1,000 and provide citations for special achievements to officers and employees of Federal, State, and certified local governments in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the President of the United States to any citizen of the United States recommended for such award by the Secretary."

110(i). "Nothing in this Act shall be construed to require the preparation of an environmental impact statement where such a statement would not otherwise be required under the National Environmental Policy Act of 1969, and nothing in this Act shall be construed to provide any exemption from any requirement respecting the preparation of such a statement under such Act."

110(j). "The Secretary shall promulgate regulations under which the requirements of this section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security."

Although this rule for section 110(j) does not suggest measures or procedures for avoiding or minimizing harm to historic properties during a period when a waiver of section 110 responsibilities is in effect, the rule does require consideration of such measures and procedures by the Federal Agency Head. The Secretary of the Interior will provide further guidance in this regard in the Department of the Interior

publication, *Guidelines for Federal Agency Responsibilities Under Section 110 of the National Historic Preservation Act* being prepared in consultation with the Advisory Council on Historic Preservation. Agencies should note that any authorities, procedures, or delegations for carrying out responsibilities under section 106 of the Act are separate and distinct from the procedures set out here for section 110(j), and that exercise of the waiver authority of section 110(j) does not affect the agency's responsibilities under section 106.

Report No. 96-1457 of the Committee on Interior and Insular Affairs of the U.S. House of Representatives makes clear that the waiver is to be used only in "extreme circumstances." Furthermore, the Secretary of the Interior fully expects that the major natural disasters and imminent threats to the National security that will necessitate emergency action and the use of this waiver will be of such extraordinary magnitude and short term duration that normal administrative coordination and written communication between the Federal agency using the waiver and the Secretary of the Interior will not be feasible. It is expected that, in the vast majority of cases, the emergency period will have ended and the waiver expired within a few days of taking effect. The Secretary has, therefore, set forth a process whereby a waiver can be effected as soon as circumstances necessitate, but that normal coordination, consultation, and communication for cultural resource protection, as established in section 110, shall resume as soon thereafter as reasonably feasible. In rare cases, where emergency situations necessitating a waiver have a duration of more than a few days, a consultation process between the Federal agency and the Secretary is established. Moreover, in the event the waiver is proposed to continue for an extended period, the Secretary reserves the right to review this proposal and to terminate the waiver if appropriate.

Comments and Revisions

The following is a summary of the significant comments received by the National Park Service after the March 23, 1984 publication of the proposed rule (49 FR 10944), and revisions that have been incorporated into this final rule as a result of those comments. Four comment letters were received by the National Park Service.

It was suggested that the regulation specify that the waiver authority under the Act applies to the provisions in

section 110 only, the concern being that Federal agencies might infer that their responsibilities under section 106 of the Act can also be waived. Section 110 is now referenced in the title of the rule, and a statement of clarification has been added to § 78.1, Authorization.

Another comment suggested that the authority to waive the requirements in section 106 of the Act be included in this rule. Because the authority given to the Secretary under section 110(j) of the Act to "promulgate regulations under which the requirements of this section may be waived in whole or in part" clearly refers only to the requirements in section 110, this rule can only apply to section 110. The section 106 procedures of the Advisory Council on Historic Preservation are found in 36 CFR Part 800. The Council is publishing in this same issue of the *Federal Register* a notice concerning the application of section 106 in emergency situations.

In response to comments, definitions for "Federal Agency Head," "Major Natural Disaster," "Imminent Threat to the National Security," and "Secretary" have been added. As section 110 responsibilities generally are limited to agencies of the United States Government, the definition of Federal Agency Head does not include local officials legally delegated environmental review responsibilities under certain authorities of the Department of Housing and Urban Development.

It was suggested that language in the **SUPPLEMENTARY INFORMATION** section of the preamble referencing section 110 requirements could be misleading in that it restates the requirements found in the Act. To address this concern, section 110 has been added to this section verbatim.

According to one comment, the notice to the Secretary of the Interior by the Federal Agency Head making use of the waiver authority (§ 78.4, formerly § 78.3), should state whether the waiver applies agency-wide or just to specific offices of the agency. It is not anticipated that the Secretary of the Interior will need to be informed of such administrative details in light of the requirement that the agency narrow the scope of the waiver by identifying the geographic area to which the waiver applies.

In response to one suggestion, language has been added to § 78.5 (formerly § 78.3) whereby Federal Agency Heads shall consider the Secretary's recommendations "before deciding whether to continue, withdraw, or modify the waiver," if the waiver is still in effect at the time the Agency

receives the Secretary's recommendations.

It was suggested that the Federal Agency Head respond to the Secretary's recommendations, accepting those recommendations, or rejecting those recommendations with explanation. This provision has been added to § 78.5(b) but only applies if the waiver is still in effect at the time the Agency receives the Secretary's recommendations.

In response to comments, provision has been made for the Federal Agency Head to provide copies of notices to the Advisory Council on Historic Preservation and the appropriate State Historic Preservation Officer and to consider their comments. Both the Advisory Council and the States have long term planning and resource management responsibilities which may be affected by Federal Agency waivers under these regulations.

It was suggested that the Secretary retain the authority to terminate a waiver. Such a provision has been added to § 78.5(a) where the Secretary considers that the waiver "is inconsistent with the intent of the Act or these regulations for use of the waiver under extraordinary circumstances."

It was suggested that military agencies define national security situations during which coordination of waivers could take place between such agencies and the Secretary of the Interior. No such provision has been added. Although the Secretary recognizes the need to set clear parameters in such cases, it would not be feasible to characterize every possible "imminent threat to the National security." Nor would it be possible to characterize every "major natural disaster" or "emergency action." This rule, instead, attempts to clarify in the **SUPPLEMENTARY INFORMATION** section and in § 78.5(a) that the waiver is to be used only in "extraordinary circumstances." Furthermore, the rule defines the emergency action in response to a "major natural disaster" or "imminent threat to the National security" as being necessary "to the preservation of human life or property." Having outlined the spirit of the law and suggested a certain interpretation, the Secretary believes that Federal agencies must be afforded reasonable latitude if they are to effectively deal with emergency situations.

Consistent with this interpretation, § 78.3(a) states that a waiver under these regulations becomes effective immediately upon the determination by the Federal Agency Head that the waiver is necessary, and not at the time

of notice to the Secretary as in the proposed rule.

The Secretary has in this final rule provided a reasonable amount of time, 12 days, for the Federal Agency Head to provide notice of the waiver. For emergencies of a short term duration, this should allow ample time for the Agency to complete its emergency action and terminate the waiver before having to notify the Secretary. For rare emergencies of a long term duration, the emergency and the waiver may still be in effect at the time of notice. At the point, the Secretary would review the waiver and make recommendations, or, if appropriate, terminate the waiver.

Classification

In accordance with Executive Order 12291 we have determined that this rule is not "major". In accordance with the Regulatory Flexibility Act, we have determined that this rule will not have a significant economic effect on a substantial number of small entities. These rules do not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

List of Subjects in 36 CFR Part 78

Historic preservation.

The originator of these procedures is Stephen M. Sheffield, Interagency Resources Division, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-9500).

Dated: January 2, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Part 78 is added to 36 CFR to read as follows:

PART 78—WAIVER OF FEDERAL AGENCY RESPONSIBILITIES UNDER SECTION 110 OF THE NATIONAL HISTORIC PRESERVATION ACT

Sec.

78.1 Authorization.

78.2 Definitions.

Sec.

78.3 Federal Agency decision to waive responsibilities.

78.4 Federal Agency notice.

78.5 Review by the Secretary of the Interior.

Authority: National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

§ 78.1 Authorization.

Section 110 of the National Historic Preservation Act of 1966, as amended ("Act"), sets forth certain responsibilities of Federal agencies in carrying out the purposes of the National Historic Preservation Act of 1966. Subsection 110(j) authorizes the Secretary of the Interior to promulgate regulations under which the requirements in section 110 may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security. Waiver of responsibilities under section 110 does not affect an agency's section 106 responsibilities for taking into account the effects of emergency activities on properties included in or eligible for the National Register of Historic Places and for affording the Advisory Council on Historic Preservation an opportunity to comment on such activities.

§ 78.2 Definitions.

Federal Agency Head means the highest administrative official of a Federal agency, or designee.

Imminent Threat to the National Security means the imminence of any natural, technological, or other occurrence which, in determination of a Federal Agency Head, because of its size or intent, seriously degrades or threatens the national security of the United States such that an emergency action would be impeded if the Federal Agency were to concurrently meet its historic preservation responsibilities under section 110 of the National Historic Preservation Act, as amended.

Major Natural Disaster means any hurricane, tornado, storm, flood, high water, tidal wave, earthquake, volcanic eruption, landslide, snowstorm, fire, explosion, or other catastrophe, in any part of the United States which, in the determination of a Federal Agency Head, causes damage of sufficient severity and magnitude such that an emergency action is necessary to the preservation of human life or property, and that such emergency action would be impeded if the Federal Agency were to concurrently meet its historic preservation responsibilities under section 110 of the National Historic Preservation Act, as amended.

Secretary means Secretary of the Interior, or designee.

§ 78.3 Federal Agency decision to waive responsibilities.

(a) When a Federal Agency Head determines, under extraordinary circumstances, that there is an imminent threat of a major natural disaster or an imminent threat to the national security such that an emergency action is necessary to the preservation of human life or property, and that such emergency action would be impeded if the Federal Agency were to concurrently meet its historic preservation responsibilities under section 110 of the Act, that Federal Agency Head may immediately waive all or part of those responsibilities, subject to the procedures set forth herein and provided that the agency head implements such measures or procedures as are possible in the circumstances to avoid or minimize harm to historic properties.

(b) Waiver under § 78.3(a) shall not exceed the period of time during which the emergency circumstances necessitating the waiver exist.

(c) In no event shall a Federal Agency Head delay an emergency action necessary to the preservation of human life or property for the purpose of complying with the requirements in section 110 of the Act.

§ 78.4 Federal Agency notice.

(a) Federal Agency Heads making use of the waiver authority shall, within 12 days of the effective date of the waiver, notify the Secretary of the Interior, in writing, identifying:

(1) The major natural disaster or imminent threat to the national security necessitating the waiver and the emergency action taken;

(2) The period of effect of the waiver;

(3) Which provisions of section 110 have been waived;

(4) The geographic area to which the waiver applies; and

(5) The measures and procedures used to avoid or minimize harm to historic properties under the conditions necessitating the waiver.

(b) Information copies of the notice under § 78.4(a) shall be forwarded by the Federal Agency Head to the Advisory Council on Historic Preservation and the appropriate State Historic Preservation Officer.

§ 78.5 Review by the Secretary of the Interior.

(a) If the Secretary considers that all or part of the agency's decision as outlined under § 78.4(a) is inconsistent

with the intent of the Act or these regulations for use of the waiver under extraordinary circumstances, the Secretary shall notify the Agency Head and the Director of the Office of Management and Budget within 5 days of receipt of the Federal Agency notice under § 78.4(a) of termination of the waiver, or make appropriate recommendations for modifications of the waiver's use. Termination of a waiver by the Secretary is final.

(b) If the waiver is still in effect at the time the Federal Agency Head receives recommendations from the Secretary, the Agency Head shall consider the recommendations and any comments received from the Advisory Council and the State Historic Preservation Officer before deciding whether to continue, withdraw, or modify the waiver. The Federal Agency Head shall respond to recommendations received from the Secretary either accepting or rejecting those recommendations, and, where recommendations are rejected, explaining the reasons for such a decision. Information copies of such response shall be forwarded by the Federal Agency Head to the Advisory Council on Historic Preservation and the appropriate State Historic Preservation Officer.

(c) If the waiver is no longer in effect at the time the Federal Agency Head receives recommendations from the Secretary or comments from the Advisory Council or the State Historic Preservation Officer, the Federal Agency Head should consider such recommendations and comments in similar future emergencies.

[FR Doc. 85-4457 Filed 2-22-85; 8:45 am]
BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL-2779-7]

Approval and Promulgation of Implementation Plans; 1979 Plan Conditions for California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final rulemaking.

SUMMARY: This notice addresses 1979 plan conditions for California which have not yet been submitted to EPA and are past due. Specifically this notice takes final action to remove several 1979 plan conditions and to extend the due dates on certain other 1979 conditions of plan approval.

EFFECTIVE DATE: March 27, 1985.

ADDRESS: A copy of the comment received on the proposed rulemaking is available for public inspection during normal business hours at the EPA Region 9 Office.

FOR FURTHER INFORMATION CONTACT:

Thomas Rarick, Chief, State Implementation Plan Section, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105 (415) 974-7841, FTS: 454-7841.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 1984 (49 FR 26764) EPA proposed to extend the due dates on eleven 1979 California plan conditions and to remove two 1979 California plan conditions. Specifically EPA proposed to extend the due dates for five new source review (NSR) conditions (El Dorado, Placer, San Bernardino, San Joaquin, and Yolo-Solano Counties), four conditions pertaining to Kern County's ozone control strategy, and two conditions requiring volatile organic compound (VOC) rules (valves and flanges for Ventura County and cutback asphalt for Santa Barbara County). The two conditions proposed for removal require a revised carbon monoxide (CO) control strategy in Kern County and replacement measures equivalent to inspection and maintenance (I/M) in Kern County for CO. These two conditions are no longer germane to attainment of the CO standards since Kern County appears to be in attainment of the standards, as evidenced by eight quarters of violation-free CO data. However, the adoption and implementation of an inspection and maintenance program is necessary to meet the Kern County ozone plan condition requiring a revised demonstration of attainment.

For a detailed discussion of EPA's policy concerning unmet 1979 plan conditions, please refer to the June 29, 1984 proposed rulemaking notice.

Supplemental Revisions

The June 29, 1984 notice proposed to extend the due date on two less serious VOC conditions to August 1, 1984. On August 1, 1984 the California Air Resources Board (CARB) submitted Ventura County Rule 74.7 to EPA in fulfillment of one of the conditions. The other condition, requiring a cutback asphalt rule for Santa Barbara County, has not yet been addressed by a submittal from the State. Since the Ventura County rule has already been submitted to EPA and the August deadline for submittal of the Santa

Barbara cutback asphalt rule has passed, today's notice does not take final action to extend the due date for these two conditions. EPA will take action on Ventura County Rule 74.7 and the Santa Barbara deficiency in separate rulemaking actions.

Public Comment

EPA received one comment on its June 29, 1984 proposed rulemaking notice. Chevron USA, Incorporated commented on the four conditions relating to Kern County's ozone plan. In addition, Chevron commented on Kern County's new source review (NSR) condition which was not acted on in the June 29, 1984 proposal notice. The Kern County NSR condition has been addressed by a submittal from the CARB and will be acted on by EPA in a separate Federal Register notice.

Chevron's comment on the four Kern County ozone plan conditions focused on the need for a long term, comprehensive modeling study which would address the ozone nonattainment problem in the entire southern San Joaquin Valley. Chevron's letter did not object to the proposed extension of the conditions to February 24, 1985.

EPA Action

Today's notice takes final action to extend the due date to October 30, 1985 for the 1979 California plan conditions requiring revised NSR rules in El Dorado, Placer, San Bernardino, San Joaquin, and Yolo-Solano Counties. EPA may propose to further extend this date at a future time to be consistent with forthcoming national SIP requirements relating to the conformity of all NSR rules with EPA's revised permit program requirements (40 CFR 51.18, August 7, 1980).

Today's notice extends the due date to February 24, 1985 for the following 1979 Kern County ozone (O₃) plan conditions:

(1) A revised control strategy demonstrating attainment of the ozone standard;

(2) A revised demonstration of reasonable further progress (RFP);

(3) Revised emission reduction estimates (EREs) for control tactic SSI, "Steam Drive Controls," based on refined emission inventory estimates; and

(4) Emission estimates and adequate documentation of emissions from tertiary oil production operations for VOC emission sources.

The following 1979 Kern County CO plan conditions are removed by this notice:

(1) Revised attainment demonstration:

(2) Replacement measures for inspection and maintenance.

Today's notice also corrects administrative errors made in previous Federal Register notices on July 1, 1982, December 14, 1982 and February 28, 1984. The regulatory portion of the July 1, 1982 (47 FR 28617) notice of final rulemaking identified certain NSR and VOC conditions in Fresno County, Ventura County, and the Sacramento Metropolitan Area as being due 120 days from the date of publication of the notice. Today's notice more clearly indicates that these conditions were due on November 1, 1982. The December 14, 1982 (47 FR 55919) notice of final rulemaking inadvertently failed to remove the Kern County CO condition requiring further demonstration of emission reduction estimates for petroleum refineries. The February 28, 1984 (49 FR 7231) notice of final rulemaking inadvertently failed to remove the condition pertaining to Tulare County Rule 410.3, "Organic Solvent Degreasing Operations."

Regulatory Process

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

Under section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Authority: Sections 110, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7501 to 7508 and 7601(a)).

List of Subjects in 40 CFR Part 52

Air pollution control agency, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

Dated: February 12, 1985.

Lee M. Thomas,
Administrator.

PART 52—[AMENDED]

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

Subpart F—California

Section 52.232 is amended by:
Revising paragraphs (a)(5)(iii), (a)(10) introductory text, (a)(10)(i) introductory

text, (a)(11) introductory text, (a)(11)(i)(A) and (ii), (a)(13) introductory text, and (a)(15)(i); removing paragraphs (a)(5)(iv) and (a)(10)(ii); and adding paragraphs (a)(6)(i), (a)(16) and (17). The revised and added portions of § 52.232 are set forth to read as follows:

§ 52.232 Part D conditional approval

(a) * * *

(5) * * *

(iii) For ozone:

(A) By February 24, 1985, emission estimates and adequate documentation of base year and projected emissions from tertiary oil production operations for VOC emission sources.

(B) By February 24, 1985, a revised emission reduction estimate for each year for control tactic SSL, "Steam Drive Controls," which is based upon the refined emission inventory estimates.

(C) By February 24, 1985, a revised control strategy demonstrating attainment of the ozone NAAQS by December 31, 1982.

(D) By February 24, 1985, a revised demonstration of RFP.

(iv) [Reserved]

* * *

(6) * * *

(i) For O₃, PM and CO in San Joaquin County.

(A) By October 30, 1985 the NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR under section 173 of the Clean Air Act (May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676)) and submitted as a SIP revision.

* * *

(10) Kings, Madera, Merced, Stanislaus and Tulare County APCDs.

(i) For O₃ and PM [and CO in Stanislaus County].

(A) * * *

(ii) [Reserved]

(11) Fresno County, Sacramento Metropolitan Area (except those portions in Yolo and Solano Counties), and Ventura County nonattainment areas.

(i) * * *

(A) By November 1, 1982, the NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR under section 173 of the Clean Air Act (May 13, 1980 (45 FR 31307), August 7, 1980 (45 FR 52676), and October 14, 1981 (46 FR 50766)).

(ii) For ozone:

By November 1, 1982, the State must provide either (A) an adequate demonstration that the following regulations represent RACT, (B) amend the regulations so that they are consistent with the CTG, or (C) demonstrate that the regulations will

result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations:

Ventura County APCD

Rule 74.7 "Valves and Flanges at Petroleum Refineries and Chemical Plants."

* * *

(13) Los Angeles and Riverside portions of the Southeast Desert Air Basin.

* * *

(15) * * *

(i) By October 30, 1985 the new source review rules for Placer and El Dorado Counties must be revised to meet the requirements in EPA's amended regulations under section 173 of the Clean Air Act (May 13, 1980 (45 FR 31307), August 7, 1980 (45 FR 52676), and October 14, 1981 (46 FR 50766)).

(16) San Bernardino County portion of the Southeast Desert Air Basin.

(i) For ozone:

(A) By October 30, 1985, the NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR under section 173 of the Clean Air Act (May 13, 1980 (45 FR 31307), August 7, 1980 (45 FR 52676), and October 14, 1981 (46 FR 50766)).

(17) Yolo and Solano Counties.

(i) For ozone and CO in those portions of Yolo and Solano Counties that are part of the Sacramento Metropolitan Area:

(A) By October 30, 1985, the NSR rules must be revised to meet the requirements in EPA's amended regulations for NSR under section 173 of the Clean Air Act (May 13, 1980 (45 FR 31307), August 7, 1980 (45 FR 52676), and October 14, 1981 (46 FR 50766)).

(ii) For ozone:

By November 1, 1982, the State must provide either (A) an adequate demonstration that the following regulations represent RACT, (B) amend the regulations so that they are consistent with the CTG, or (C) demonstrate that the regulations will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations:

Yolo-Solano County APCD

Rule 2.24, "Solvent Cleaning Operations (Degreasing)."

[FR Doc. 85-4121 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

(A-5-FRL-2783-8)

Wisconsin; Approval and Promulgation of Implementation Plans

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Notice of final rulemaking.

SUMMARY: This rulemaking action addresses the Inspection and Maintenance (I/M) element of Wisconsin's 1982 Ozone and Carbon Monoxide (CO) State Implementation Plan (SIP) revision. This SIP revision was submitted to USEPA by the Wisconsin Department of Natural Resources (WDNR), pursuant to the Part D requirements of the Clean Air Act. On February 3, 1983 (48 FR 5103), USEPA published a notice of proposed rulemaking in the Federal Register citing several deficiencies in the I/M portion of the Ozone/CO SIP. These deficiencies have since been corrected; therefore, in today's action, USEPA is approving Wisconsin's I/M program.

EFFECTIVE DATE: This final rulemaking becomes effective on March 27, 1985.

ADDRESSES: Copies of this revision to the Wisconsin SIP are available for inspection at:

The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

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

Copies of this SIP revision, public comments on the notice of proposed rulemaking, and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Colleen W. Comerford, at (312) 886-6034, before visiting the Region V Office).

U.S. Environmental Protection Agency, Air and Radiation Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

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

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

SUPPLEMENTARY INFORMATION:**I. Background**

The State of Wisconsin failed to demonstrate attainment of the primary Ozone and CO National Ambient Air Quality Standards (NAAQS) in southeastern Wisconsin by December 31, 1982, as required by the Clean Air

Act. Consequently, the State requested an extension of the Ozone and CO attainment deadline to December 31, 1987, and was required to submit a revised Ozone/CO SIP by July 1, 1982, that addressed all of the criteria for SIP approval published in the January 22, 1981, Federal Register (46 FR 7182).

USEPA approved Wisconsin's request for an extension on May 6, 1981 (46 FR 25244), and the State subsequently submitted a draft of the 1982 Ozone/CO SIP revision to USEPA on June 28, 1982. The draft was used as the basis for a State and local public hearing held on October 25, 1982. USEPA's evaluation of the draft plan was forwarded to the WDNR in a letter dated October 26, 1982.

USEPA's review of the Ozone/CO plan revealed several deficiencies. The I/M portion of the plan was deficient for two major reasons. First of all, the proposed implementation date of April 2, 1984, did not meet the guidance policy date of January 1, 1983. Secondly, USEPA also determined that the Reasonably Available Control Technology (RACT) determinations used to project program effectiveness were unacceptable because they utilized the January 1, 1983, date instead of the proposed start-up date of April 2, 1984. In addition, two minor deficiencies pertaining to inspection and licensing requirements, and quality control audit and surveillance procedures, were noted. On February 3, 1983 (48 FR 510), USEPA proposed to disapprove the I/M portion of the Ozone/CO SIP because the delayed implementation date was not consistent with USEPA's policy. Within the February 3, 1983, rulemaking action, USEPA noted that, if Wisconsin's final plan showed that the State has remedied the deficiencies cited in the proposed rule (48 FR 510) and in the technical support document, then USEPA would publish a final rulemaking action approving the 1982 Ozone/CO SIP revision.

The WDNR submitted its final Ozone/CO plan to USEPA on March 8, 1983. The final plan adequately addressed USEPA's concerns, except for the full implementation of an I/M program. On August 3, 1983 (48 FR 35327), USEPA published a notice of proposed rulemaking finding that Wisconsin had failed to implement an I/M program by the required implementation date of January 1, 1983. USEPA proposed to impose Federal funding and construction restrictions as authorized by sections 176(b) and 173(4) of the Clean Air Act. However, USEPA noted that Wisconsin was making progress toward its proposed implementation date of April 2, 1984.

On March 9, 1984, USEPA published a notice of final rulemaking in the Federal Register (49 FR 8920) approving the 1982 Ozone/CO SIP revision, with the exception of the I/M element. USEPA deferred final action on the I/M portion of the SIP because of the delayed start-up date, and the lack of administrative rules detailing the program parameters. USEPA stated that it would finally approve the I/M element once Wisconsin had fully implemented its I/M program, including promulgation of administrative rules detailing the program parameters. On April 2, 1984, Wisconsin implemented its I/M program in southeastern Wisconsin. On June 11, 1984, the WDNR requested that USEPA finally approve the I/M element of the 1982 Ozone/CO SIP revision.

The results of USEPA's review of Wisconsin's I/M program are summarized below. The technical support document contains a complete discussion of USEPA's review. This document is available at the USEPA offices listed at the front of this notice. Additional background information can be found in the February 3, 1983 (48 FR 5103) and the March 9, 1984 (49 FR 8920), Federal Register, and associated Technical Support Documents.

II. State Responses to USEPA's Proposed Rulemaking

On March 8, 1983, WDNR submitted the final 1982 Ozone/CO SIP revision for the Milwaukee demonstration area. USEPA reviewed the SIP in accordance with the criteria published on January 22, 1981, (46 FR 7182), and in the "General Preamble" for SIP revisions for nonattainment areas, published on April 4, 1979, (44 FR 20372).¹ USEPA's conclusions on the changes that the WDNR made in response to USEPA's notice or proposed rulemaking are described below.

A. Calculation of Mobile Source Emissions and the Impact of I/M

WDNR revised the following appendices and inventories in response to USEPA's comments on the draft Ozone/CO SIP:

1. Appendix F of the Ozone SIP (mobile source inventories) was revised to show that no I/M emission reductions are included for Walworth County where no I/M program is planned.

2. Appendix F of the Ozone SIP and Appendix E of the CO SIP (mobile source inventories) were modified to

¹ EPA published four additional notices supplementing the general preamble in 1979: July 2, 1979 (44 FR 30583); August 28, 1979 (44 FR 50371); September 17, 1979 (44 FR 53761); and, November 23, 1979 (44 FR 67182).

exclude I/M emission reductions for vehicles older than 15 years. This was accomplished by applying a 3 percent correction factor as supplied by USEPA's Office of Mobile Sources.

3. USEPA commented that the I/M start-up date (January 1, 1983) assumed in the calculation of mobile source emissions did not agree with the planned start-up date (April 2, 1984).

The I/M emission reductions for the 1987 emission inventories contained in Appendix F of the Ozone SIP and Appendix E of the CO SIP (mobile source inventories) were recalculated by WDNR using the April 2, 1984, planned start-up date. In addition, the I/M RACT determination contained in Appendix L (maximum allowable emissions calculations) of the Ozone/CO SIP was also corrected to reflect this start-up date. These recalculations demonstrated that Wisconsin's I/M program meets USEPA's RACT emission reduction requirements for both Hydrocarbons and CO.

B. I/M Implementation Date

USEPA commented that the I/M implementation plan contained in the draft SIP was not consistent with USEPA I/M policy because I/M was not scheduled to begin until April 2, 1984. The USEPA guidance policy required I/M start-up by no later than January 1, 1983. The WDNR responded that USEPA's comment was valid, but no change was made in the planned I/M start-up date. However, the State submitted evidence that it was making progress toward implementation of I/M. On April 2, 1984, Wisconsin's I/M program began full operation. Wisconsin has demonstrated that, despite the late start-up date, the I/M program will provide the emission reductions necessary to reach attainment of the NAAQS by December 31, 1978, thereby addressing USEPA's concern about the delayed implementation schedule.

C. I/M Program Operational Procedures

USEPA commented that the WDNR did not properly document I/M fleet inspector demonstrations of proficiency, quality control, and audit and surveillance procedures. The WDNR has since submitted the I/M regulations (Chapter Trans 131) and the contract between the Wisconsin Department of Transportation and Hamilton Test Systems, Inc., detailing the operational parameters of the program. These submittals have satisfied USEPA's about these deficiencies.

III. Public Comments

A 45-day public comment period was provided for USEPA's February 3, 1983

notice of proposed rulemaking on the draft plan. During the public comment period, USEPA received no public comments on the I/M element of the 1982 Ozone/CO SIP revision, other than the final revision submitted by the State and responses from the State to USEPA's comments on the draft plan.

IV. Summary of Rulemaking Action

On March 9, 1984, USEPA published a Federal Register notice (49 FR 8920) that deferred action on the State's I/M program because of the inconsistency with USEPA's guidance policy which requires I/M programs to begin by January 1, 1983. Before USEPA could finally approve this element of the SIP, Wisconsin had to fully implement its I/M program, and promulgate and submit administrative rules detailing the operational parameters of the program. USEPA noted in the March 9, 1984, notice that Wisconsin's 1982 Ozone and CO SIP revision contained a commitment to implement an I/M program commencing April 2, 1984. USEPA also noted that Wisconsin was progressing toward implementation of the program.

On April 2, 1984, the State's I/M program became fully operational in southeastern Wisconsin. The program is a centralized, contractor operated program and includes ten test stations in the counties of Ozaukee, Washington, Waukesha, Milwaukee, Racine, and Kenoska. Wisconsin has submitted a technical analysis which shows that the required emission reductions will be obtained.

USEPA has determined that Wisconsin's I/M program adequately meets the requirements for program approval, as specified in the January 22, 1981 Federal Register (46 FR 7182). Therefore, USEPA can give final approval to this element of the SIP. Furthermore, because Wisconsin's I/M program is now fully operational, USEPA's proposed finding of non-implementation on August 3, 1983, (48 FR 35327) is no longer valid. USEPA will propose to withdraw this proposed action in a separate rulemaking notice. This action also removes the conditions of approval remaining on the CO portion of the Wisconsin SIP, as identified at 40 CFR § 52.2583 (a)(2) and 52.2583(a)(3). The State has fulfilled these conditions, which pertain to funding and manpower resource commitments for I/M and a revised schedule for implementing the I/M program, respectively.

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

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

List of Subjects in 40 CFR Part 52

Environmental Protection Agency, Air Pollution Control, Ozone, Sulfur Oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Incorporation by reference.

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

This notice is issued under authority of sections 110, 301, and 319 of the Clean Air Act, as amended (42 U.S.C. 7410, 7601 and 7609).

Dated: February 19, 1985.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52 Subpart YY—Wisconsin, is amended as follows.

Subpart YY—Wisconsin

1. Section 52.2570 is amended by adding new paragraph (c)(36) as follows:

§ 52.2570 Identification of Plan.

• • • • •
(c) • • •

(36) On December 8, 1983, the Wisconsin Department of Transportation submitted Chapter TRANS 131, Motor Vehicle Inspection and Maintenance Program (MVIP). On June 11, 1984, the Wisconsin Department of Natural Resources requested that USEPA approve the remaining element of the 1982 Ozone/Carbon Monoxide SIP, the vehicle inspection and maintenance portion (I-M). All other elements of the Ozone/Carbon Monoxide SIP has been approved previously. (See Section 52.2570 (c)(31)).

2. Section 52.2583, Control Strategy: Carbon monoxide, is revoked and reserved as follows:

§ 52.2583 [Reserved]

[FR Doc. 85-4482 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[EPA Docket No. AM053MD; A-3-FRL-2784-1]

Approval of a Revision to the Maryland State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is announcing final approval of a revision to the Maryland State Implementation Plan (SIP). This revision consists of amendments to the stack testing procedures referenced in the Code of Maryland Regulation (COMAR) under the "Administrative Provisions" and "Control of Iron and Steel Production Installations" sections of COMAR 10.18.01 and 10.18.10, respectively. This decision is based on a determination that the amendments meet the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51.

EFFECTIVE DATE: This action is effective February 25, 1985.

ADDRESSES: Copies of the revision and accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Region III, Air Management Division (3AM00), Curtis Building, Sixth & Walnut Streets, Philadelphia, PA 19106, Attn: James B. Topsale, P.E.
 Maryland Department of Health and Mental Hygiene, Air Management Administration, 201 W. Preston Street, Baltimore, Maryland 21201, Attn: George P. Ferreri
 Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, DC 20460
 The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Mr. James Topsale, P.E. at the Region III address stated above or telephone 215/597-4553.

SUPPLEMENTARY INFORMATION: On February 13, 1984 EPA received COMAR amendments which change the State's stationary source stack testing procedures document and correct a State procedural defect in the incorporation by reference of the procedures for observing and evaluating visible emissions from iron and steel facilities.

EPA proposed approval of this revision in a Notice appearing in the Federal Register on September 17, 1984

(49 FR 36409). No comments were received on the proposed Rulemaking.

The SIP revision amends the Maryland Air Management Administration's (MAMA) stack testing procedures referenced in COMAR 10.18.01.04 (Test Methods for Stationary Sources, Maryland State Bureau of Air Quality and Noise Control, March 1976) and COMAR 10.18.10.07 (Stack Test Methods for Stationary Sources, TM No. 73-116, amended November 1980) to include additional tests and make certain wording and organizational changes. The two separate stack test method documents are now combined into one, Air Management Administration Technical Memorandum, AMA TM 83-05, "Stack Test Methods for Stationary Sources", revised June 1983.

This SIP revision also corrects a State procedural defect in the incorporation by reference into COMAR 10.18.10.07 of the Air Management Administration Technical Memorandum, AMA TM 81-04, "Procedures for Observing and Evaluating Visible Emissions from Stationary Sources", dated May 1981. This action is only necessary to ensure that the document has been properly incorporated by reference.

EPA Evaluation/Approval

Based on our review of this SIP revision, EPA is today announcing final approval of all COMAR amendments as proposed in the Federal Register on September 17, 1984 (49 FR 36409). This SIP revision meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

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

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(42 U.S.C. 7401-7642)

Dated: February 19, 1985.

Lee M. Thomas,
Acting Administrator.

PART 52—[AMENDED]

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

Subpart V—Maryland

1. Section 52.1070, Identification of Plan, is amended by adding paragraph (c)(80) as follows:

§ 52.1070 Identification of plan.

(c) * * *

(80) A revision submitted by the State of Maryland on January 26, 1984, and May 25, 1984 consisting of amendments to change the State's stationary source stack testing procedures document and to correct a State procedural defect relating to procedures for observing visible emissions from iron and steel facilities.

[FR Doc. 85-4435 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 60

[AD-FRL-2748-8]

Amendment and Innovative Technology Waiver for New Source Performance Standards for Kraft Pulp Mills

Correction

In FR Doc. 85-3230 beginning on page 6316 in the issue of Thursday, February 14, 1985, make the following correction: On page 6318, first column, in the first and second lines of § 60.286(a)(2), "[date of promulgation in the Federal Register]" should read "February 14, 1985".

BILLING CODE 1505-01-M

40 CFR Part 81

[A-1-FRL-2782-5]

Designation of Areas for Air Quality Planning Purposes; Correction; Maine

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects the regulatory text portion of 40 CFR Part 81 which lists the attainment status designations by AQCR in the state of Maine for primary and secondary particulate matter (TSP). A complete attainment status table for TSP was published on February 19, 1980 (45 CFR

10766). This table was subsequently revised due to the redesignation of various locations in AQCR 109 as published December 20, 1983 (48 FR 56219-21) and January 20, 1984 (49 FR 2471). Because of textual omissions in the format of these subsequent redesignations the attainment status designation table for TSP, as printed in the regulatory text portion of these notices, was incomplete. Accordingly, EPA is hereby publishing the complete text of the TSP attainment status designation table as it should appear in 40 CFR Part 81.320 in order to correct this omission. No changes are being

§ 81.320 Maine.

Designated areas	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Maine-TSP				
AQCR 107 (Central ME):				
Augusta		X		
Thomaston		X		
Lewiston/Auburn			X	
Rockland			X	
Remainder of AQCR				X
AQCR 109 (Downeast):				
Lincoln	X	X		
Bangor/Brewer		X		
Baileysville		X		
Remainder of AQCR				X
AQCR 108 (Aroostook)			X	
AQCR 111 (Northwest ME)				X
AQCR 110 (Met. Portland)				X

[FR Doc. 85-4361 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 67

[CGD 83-066]

Documentation of Vessels

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending 46 CFR Part 67 by adding a provision for redocumenting a vessel sold at sea. This change will reduce the need for individual inquiries from members of the public concerning the procedures being used by the Coast Guard under such circumstances.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Robert R. Meeks (Staff Attorney), Office of Merchant Marine Safety, (202) 426-1492, or (202) 426-1493. Normal office hours are between 7 a.m. and 3:30 p.m. Monday through Friday, except holidays.

made to attainment status designations at this time.

Date: February 15, 1985.

Lee M. Thomas,

Administrator.

PART 81-DESIGNATION OF AIR QUALITY CONTROL REGIONS

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

1. In § 81.320 the attainment status designation table for TSP is corrected to read as follows:

procedure is continued without modification.

The changes made by this rule are not substantive. They are made for the sole purpose of publicizing the procedures for redocumenting a vessel which is sold while at sea. Since this rule informs the public of current procedures, the Coast Guard has determined that good cause exists under 5 U.S.C. 553(d)(3) to make this rule effective in less than 30 days after publication.

E.O. 12291 and DOT Regulatory Policies and Procedures

These regulations are considered to be non-major under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this regulation has been found to be so minimal that further evaluation is unnecessary. The regulation merely publishes procedures already in use but not in existing regulations.

Regulatory Flexibility Act

Since the impact of this proposal is expected to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 46 CFR Part 67

Vessels, Documentation.

In consideration of the foregoing, 46 CFR Part 67 is amended as follows:

1. The authority citation for Part 67 is revised to read as follows:

Authority: 46 U.S.C. 12103, 12113, 12115, 12120, 12121; 65 Stat. 290 (31 U.S.C. 483a); 41 Stat. 1002, 80 Stat. 795 (46 App. U.S.C. 927); 41 Stat. 1006 (46 App. U.S.C. 983); 94 Stat. 978 (42 U.S.C. 9101). 49 CFR 1.46(b).

2. In subpart 67.27, a new § 67.27-7 is added to read as follows:

§ 67.27-7 Application to redocument vessel sold at sea.

(a) A documented vessel which is sold or transferred while the vessel is at sea, and which remains eligible for documentation, may be documented anew while still at sea by applying at the port of documentation designated as the vessel's home port by the new owner or owners in accordance with the requirements of Subpart 67.13. A marine document is issued upon compliance with applicable requirements, however any requirement for presentation of marking evidence is waived until the vessel reaches its first port of call.

(b) A new certificate of documentation reflecting the necessary changes is prepared by the documentation officer and forwarded

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this regulation are Lieutenant Commander Robert R. Meeks, Office of Merchant Marine Safety; and Lieutenant Dave Shippert, Office of the Chief Counsel.

Background

A Notice of Proposed Rulemaking (NPRM) published in the Federal Register on July 19, 1984 (49 FR 29249) pointed out that earlier removal from the documentation regulations of a section which described procedures for redocumentation of vessels sold while at sea had led to a number of questions from members of the public concerning the proper procedure. The NPRM set out the current procedure and invited comments from the public concerning any effect the continued use of the procedure might have on them. The NPRM also invited any suggestions for improvement in the procedure.

Discussion of Comments and Action

No comments from the public were received concerning the procedures. Since the Coast Guard has had no difficulty using the procedure described in the NPRM and is unaware of any problems experienced by others the

for delivery at the vessel's next port of call. If the port of call is in the United States, the certificate of documentation is forwarded to the nearest documentation office. If the port of call is in a foreign country, the certificate of documentation is forwarded to the nearest American Consulate. The new certificate of documentation is released only upon presentation of the old certificate of documentation and a properly executed marking certificate, if remarking is required.

Dated: February 20, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85-4526 Filed 2-22-85; 8:45 am]

BILLING CODE 4910-14-M

Proposed Rules

Federal Register

Vol. 50, No. 37

Monday, February 25, 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

Federal Grain Inspection Service

7 CFR Part 800

Official Inspection and Class X or Class Y Weighing Requirements and Inspection Methods and Procedures

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Proposed rule—regulatory review.

SUMMARY: In compliance with the requirements for periodic review, the Federal Grain Inspection Service (FGIS or Service) reviewed and proposes to revise the regulations under the United States Grain Standards Act (Act), as amended, concerning Official Inspection and Class X or Class Y Weighing Requirements and Inspection Methods and Procedures. Also the provision for contracting with individuals for obtaining official samples for reinspection or appeal inspection services would be deleted. In addition to the miscellaneous proposed revisions which would reorganize, condense, and simplify certain language, the proposal would establish provisions for providing applicants two options for certifying infested grain in railcars or trucks with permanently enclosed tops and include provisions for applying additives to grain. The proposed changes would clarify and simplify the regulations, conform certain provisions to present trading practices, and facilitate the use of the regulations.

DATE: Comments must be submitted on or before April 26, 1985.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Management Branch, RM, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738. All comments received will be made available for public inspection at the above address

during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

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

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this proposed rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities.

Information Collection and Recordkeeping Requirements

In compliance with the Office of Management and Budget (OMB) regulations (5 CFR Part 1320) which implement the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and section 3504(h) of the Act, the previously approved information collection and recordkeeping requirements contained in this proposed rule have been submitted to OMB for review. Comments concerning these requirements should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for the Department of Agriculture, Room 3201, NEOB, Washington, D.C. 20503.

Regulatory Review

The review of the regulations concerning Official Inspection and Class X and Class Y Weighing Requirements (7 CFR 800.15-800.19) and Inspection Methods and Procedures (7 CFR 800.80-800.88) included a determination of continued need for and consequences of the regulations. The objective of the review was to ensure that the regulations are serving their intended purpose, the language is clear, and the regulations are consistent with FGIS policy and authority. FGIS has

determined that, in general, these regulations are serving their intended purpose, are consistent with FGIS policy and authority, and should remain in effect. FGIS, however, proposes to revise §§ 800.15-800.19 and §§ 800.80-800.88 by:

1. Clarifying, condensing, and removing unnecessary language. These proposed changes are in addition to the proposed changes specified below. They are nonsubstantive changes which facilitate the use of the regulations. The changes also generally would make greater use of the definitions which appear in § 800.0 of the regulations.

2. Removing § 800.16, *Determinations*: export elevator and export port location. The provision in § 800.16 were incorporated into § 800.0, *Meaning of terms*, by a final rule in the *Federal Register* (49 FR 36067) published on September 14, 1984. This final rule established the provisions in § 800.16 as definitions in § 800.0(35) and (37). The proposal to remove the provisions in § 800.16 would avoid duplication of this language. If this proposal is adopted, §§ 800.17-800.19 would be redesignated as §§ 800.16, 800.17, and 800.18, respectively; and § 800.19 would be removed.

3. Incorporating provisions for applying additives for the purpose of controlling insects, suppressing dust, identifying grain, and any other purpose deemed necessary by the Administrator in § 800.80(e). On November 26, 1984, a proposal was published in the *Federal Register* (49 FR 46414) to establish provisions for applying additives to grain prior to inbound weighing and after weighing. If this proposal is adopted, corresponding provisions would be incorporated into § 800.80(e).

4. Removing the provision in § 800.81(a)(3)(i) for a licensed contract sampler to obtain an official sample for reinspection or appeal inspection services. Currently, this section allows for the use of contract samplers to obtain reinspection or appeal samples provided that such samplers are not employed by an agency. Even though FGIS may contract with private parties, it was decided in September 1980 that FGIS would refrain from entering into contracts to provide this service. This policy was published in FGIS Notice 80-103 on September 4, 1980, and has continued without any contracts being let. After reviewing this policy, it was

determined that not entering into contracts to provide sampling for reinspection or appeal inspection services has served its intended purpose and has not effected FGIS' ability to obtain these samples or placed undue additional costs on the grain industry. The proposed change to eliminate this provision from § 800.81(a)(i) would make these regulations consistent with FGIS policy and practices.

5. Providing in §§ 800.84(b)(3) and 800.85(e) two options for applicants for inspection service when grain in railcars or trucks with permanently enclosed tops is determined to be infested. Currently, when grain in these types of carriers is determined to be infested, a certificate is issued with a special grade designation indicating the grain is infested. Fumigation procedures for these types of carriers were developed and implemented in 1980.

The procedures were developed so that official personnel would not be subjected to hazards involved in sampling these carriers after fumigation and to promote efficient fumigation. Since 1980, applicants have been given the option of either receiving a certificate indicating the grain is infested or fumigating the infested grain in these carriers according to instructions and receiving a certificate without the special grade. These procedures have been working well and have been used favorably by the grain industry. The proposed revision to § 800.84(b)(3) and § 800.85(e) would incorporate the present fumigation procedures into these sections of the regulations so as to facilitate their use.

6. Removing the definitions for door-probe sample in § 800.84(f)(4)(i) and shallow-probe sample in § 800.84(f)(4)(ii). These definitions were incorporated into § 800.0, *Meaning of terms*, by a final rule published in the *Federal Register* (49 FR 36067) on September 14, 1984. This final rule established definition for door-probe and shallow-probe samples in § 800.0 (30) and (92). The proposal to delete these definitions in § 800.84(f)(4)(i) and (ii) would avoid duplication of this language. The proposal to delete these definitions would result in the current § 800.84(f)(5), *Restrictions*, being redesignated as § 800.84(f)(4); § 800.84(f)(5) would be removed.

List of Subjects in 7 CFR Part 800

Administrative practices and procedures, Grain, Export.

Accordingly, it is proposed that 7 CFR Part 800 of the regulations be amended as follows:

PART 800—GENERAL REGULATIONS

1. Section 800.15 be revised as follows:

§ 800.15 Services.

(a) *General.* These regulations implement requirements for a national inspection and weighing system. This system promotes the uniform and accurate application of the official grain standards and provides inspection and weighing services required by the Act and as requested by applicants for official services. The types and kinds of services available under the Act and regulations can be obtained at all specified service points in the United States and on U.S. grain in Canadian ports.

(b) *Responsibilities for complying with official inspection and weighing requirements.*—(1) *Export grain.*

Exporters are responsible for complying with all inspection, Class X weighing, and other certification provisions and requirements of section 5(a)(1) of the Act and the regulations applicable to export grain.

(2) *Intercompany barges.* Operators of export elevators at export port locations are responsible for complying with Class X weighing requirements and regulations covering intercompany grain shipments received by barge.

(3) *Grain in marked containers.* When grain is in a container that bears an official grade designation or mark, the person who places the designation or mark on the container or the person who places the grain in a container that bears the designation or mark shall be responsible for determining that the grain has been inspected or weighed by official personnel and qualifies for the official grade designation or mark.

(4) *Grain for which representations have been made.* Any person who makes a representation that: (i) Grain has been officially inspected or weighed; or (ii) grain has been officially inspected or weighed and found to be of a particular kind, class, quality, condition, or weight; or (iii) particular facts have been established with respect to the grain by official inspection or weighing, shall be responsible for determining that the representation is true and is not in violation of the Act and regulations.

2. Section 800.16 be removed and § 800.17 be revised as follows and redesignated as § 800.16:

§ 800.16 Certification requirements for export grain.

(a) *General.* Official Export Grain Inspection and Weight Certificates, Official Export Grain Inspection Certificates, and Official Export Grain Weight Certificates for bulk or sacked

grain shall be issued according to § 800.162 for export grain loaded by an export elevator. Only these types of export certificates showing the official grade and/or the Class X weight of the grain will be considered to be in compliance with the inspection and/or weighing requirements under the Act for export grain.

(b) *Promptly furnished.* Export certificates shall be considered promptly furnished if they are forwarded by the shipper or the shipper's agent to the consignee not later than 10 business days after issuance.

3. Section 800.18 be revised as follows and redesignated as § 800.17:

§ 800.17 Special inspection and weighing requirements for sacked export grain.

(a) *General.* Subject to the provisions of § 800.18, sacked export grain shall be: (1) Officially inspected on the basis of official samples obtained with an approved sampling device and operated in accordance with instructions, (2) Class X weighed or checkweighed, and (3) officially checkloaded by official personnel at the time the grain is loaded aboard the export carrier, in accordance with the provisions of paragraphs (b) and (c) of this section.

(b) *Services at time of loading.* When official sampling, official inspection, Class X weighing or checkweighing, and checkloading of sacked export grain loaded aboard an export carrier is performed at one location and time, official export inspection and weight certificate(s) which identify the export carrier will be issued.

(c) *Services prior to loading.* When official sampling, official inspection, and Class X weighing or checkweighing of sacked export grain is performed prior to the date of loading aboard an export carrier, official "OUT" certificates shall be issued. An examination by official personnel for condition and checkloading of the grain must then be made as the grain is loaded aboard the export carrier. If the examination for condition and the checkloading shows that the identity or quantity of the grain has not changed or the condition of the grain has not changed beyond expected variations prescribed in the instruction, official export inspection and weight certificates shall be issued on the basis of the official "OUT" certificates and the checkloading. If the identity, quantity, or the condition has changed, official export inspection and weight certificates will be issued on the basis of the most representative samples, including weight samples, obtained at the time the grain is loaded aboard the export carrier.

4. Section 800.19 be revised as follows and redesignated as § 800.18:

§ 800.18 Waivers of the official inspection and Class X weighing requirements.

(a) *General.* Waivers from the official inspection and Class X weighing requirements for export grain under section 5 of the Act shall be provided in accordance with this section and the Act.

(b) *Waivers.*—(1) *15,000 metric-ton waiver.* Official inspection and Class X weighing requirements apply only to exporters and individual elevator operators who: (i) Exported 15,000 metric tons or more of grain during the preceding calendar year, or (ii) have exported 15,000 metric tons or more of grain during the current calendar year. Exporters and elevator operators who are granted a waiver by reason of this paragraph shall, as a condition of the waiver, keep such accounts, records, and memorandum to fully and correctly disclose all transactions concerning the lots of all export grain shipments subject to the waiver. In addition, the exporters or elevator operators must notify the Service in writing of the intention to export grain under this waiver. In the case of lots waived under this provision, if such lots are required by contract to be inspected or weighed, or if the lots are represented by official inspection or weight certificates, then such certificates shall meet the requirements of section 5 of the Act.

(2) *Grain exported for seeding purposes.* Official inspection and Class X weighing requirements do not apply to grain exported for seeding purposes, provided that: (i) The grain is (A) sold or consigned for sale and invoiced as seed; and (B) identified as seed for seeding purposes on the Shipper's Export Declaration; and (ii) records pertaining to these shipments are made available, upon request by the Service, for review or copying purposes.

(3) *Grain shipped in bond.* Official inspection and weighing requirements do not apply to grain that is shipped from a foreign country to a foreign country through the United States in bond in accordance with applicable regulations of the United States Customs Service (19 CFR Part 18).

(4) *Grain exported by rail or truck to Canada or Mexico.* Inspection and weighing requirements do not apply to grain exported by rail or truck from the United States to Canada or Mexico.

(5) *Grain not sold by grade.* Official inspection requirements may be waived by the Service on a shipment-by-shipment basis for export grain not sold, offered for sale, or consigned for sale by official grade if: (i) The contract and any

amendments clearly show that the buyer and seller mutually agree to ship the grain without official inspection and (ii) a copy of the contract and any amendments is furnished in advance of loading, along with a completed application on a form prescribed by the Service.

(6) *Service not available.* Upon request, any required official inspection of Class X weighing of grain may be waived on a shipment-by-shipment basis if: (i) Official personnel are not and will not be available within a 24-hour period to perform needed inspection or weighing services and (ii) both the buyer and seller of the grain are made aware that the grain has not been officially inspected or Class X weighed.

(7) *Emergency waiver.* Upon request, the requirements for official inspection or Class X weighing may be waived whenever the Service determines: (i) That an emergency exists that precludes official inspection or Class X weighing and (ii) that granting an emergency waiver will not impair the objectives of the Act. To qualify for an emergency waiver, the exporter or elevator operator shall make timely application and comply with all conditions which may be required by the Service.

(Approved by the Office of Management and Budget under control number 0580-0011)

Inspection Methods and Procedures

5. Section 800.80 be revised as follows:

§ 800.80 Methods and order of performing official inspection services.

(a) *Methods.*—(1) *General.* All official inspection services shall be performed in accordance with methods and procedures prescribed in the regulations and the instructions.

(2) *Lot inspection services.* A lot inspection service shall be based on a representative sampling and examination of the grain in the entire lot, except as provided in § 800.85, and an accurate analysis of the grain in the sample.

(3) *Stowage examination service.* A stowage examination service shall be based on a thorough and accurate examination of the carrier or container into which grain will be loaded.

(4) *Submitted sample inspection service.* A submitted sample inspection service shall be based on a submitted sample of sufficient size to enable official personnel to perform a complete analysis for grade. If a complete analysis for grade cannot be performed because of an inadequate sample size or other conditions, the request for service shall be dismissed or a factor only inspection may be performed upon request.

(5) *Reinspection and appeal inspection service.* A reinspection, appeal inspection, or Board appeal inspection service shall be based on an independent review of official grade information, official factor information, or other information consistent with the scope of the original inspection.

(b) *Order of service.* Official inspection services shall be performed, to the extent practicable, in the order in which they are received. Priority will be given to inspections required for export grain. Priority may be given to other kinds of inspection services under the Act with the specific approval of the Service.

(c) *Recording receipt of documents.* Each document submitted by or on behalf of an applicant for inspection services shall be promptly stamped or similarly marked by official personnel to show the date of receipt.

(d) *Conflicts of interest.* No official personnel shall perform or participate in performing an official inspection service on grain or on a carrier or container in which they have direct or indirect financial interest.

(e) *Additives.* If additives are applied for the purpose of insect control, dust control, identification, or other purposes determined by the Administrator to be in the interest of orderly marketing of grain to: (1) Inbound grain before sampling or (2) outbound grain after sampling, the inspection certificate shall show in the remarks section a statement indicating the type and purpose of the additive application.

6. Section 800.81 be revised as follows:

§ 800.81 Sample requirements; General.

(a) *Samples for official sample-lot inspection service.*—(1) *Original official sample-lot inspection service.* For original official sample-lot inspection purposes, an official sample shall be: (i) Obtained by official personnel; (ii) representative of the grain in the lot; (iii) protected from manipulation, substitution, and improper or careless handling; and (iv) obtained within the prescribed geographical boundaries of the agency or field office performing the service.

(2) *Official sample-lot reinspection and appeal inspection service.* For an official sample-lot reinspection service or an official appeal sample-lot inspection service, the sample(s) on which the reinspection or appeal is determined shall: (i) Be obtained by official personnel and (ii) otherwise meet the requirements of paragraph (a)(1) of this section. If the reinspection or appeal inspection is determined on the basis of official file sample(s), the

samples must meet the requirements of § 800.82(d).

(3) *New sample.* Upon request and if practicable, a new sample will be obtained and examined as a part of a reinspection or appeal inspection. The provision for a new sample shall not apply if obtaining the new sample involves a change in method of sampling.

(b) *Representative sample.* A sample shall not be considered representative unless it: (1) Has been obtained by official personnel, (2) is of the size prescribed in the instructions, and (3) has been obtained, handled, and submitted in accordance with the instructions. A sample which fails to meet the requirements of this paragraph may, upon request of the applicant, be inspected as a submitted sample.

(c) *Protecting samples.* Official personnel shall protect official samples, warehouseman's samples, and submitted samples from manipulation, substitution, or improper and careless handling which may deprive the samples of their representativeness or which may change the physical or chemical properties of the grain, as appropriate, from the time of sampling or receipt until the inspection services are completed and the file samples have been discarded.

(d) *Restriction on sampling.* Official personnel shall not perform an original inspection or a reinspection service on an official sample or a warehouseman's sample unless the grain from which the sample was obtained was located within the area of responsibility assigned to the agency or field office at the time of sampling. Upon request, the Administrator may grant an exception to this rule on a case-by-case basis.

(e) *Disposition of samples.*—(1) *Excess grain.* Any grain in excess of the quantity specified in the instructions for the requested service, the file samples, and samples requested by interested persons shall be returned to the lot from which the grain was obtained or to the owner of the lot or the owner's order.

(2) *Inspection samples.* Inspection samples, after they have served their intended purpose, shall be disposed of as follows:

(i) Samples which contain toxic substances or materials shall be kept out of food and feed channels.

(ii) Official personnel shall dispose of samples obtained or submitted to them according to procedures established by the Service. Complete and accurate records of disposition shall be maintained.

(Approved by the Office of Management and Budget under control number 0580-0011)

7. Section 800.82 be revised as follows:

§ 800.82 Sampling provisions by level of service.

(a) *Original inspection service.*—(1) *Official sample-lot inspection service.* Each original inspection service shall be performed on the basis of one or more official samples obtained by official personnel from grain in the lot and forwarded to the appropriate agency or field office.

(2) *Warehouseman's sample-lot inspection.* Each original warehouseman's sample-lot inspection service shall be performed on the basis of samples obtained by a licensed warehouseman and sent to the appropriate agency or field office in whose circuit the warehouse is located.

(3) *Submitted sample service.* Each original submitted sample inspection service shall be performed on the basis of the sample as submitted.

(b) *Reinspection, and appeal inspection services.*—(1) *Official sample-lot inspection service.* Each of these inspection services shall be performed on the basis of official samples as available, including file samples, at the time the service is requested. In performing these services, a sample obtained with an approved diverter-type mechanical sampler or with a pelican sampler generally shall be used with respect to quality factors and official criteria, and a sample obtained with a probe at the time of the reinspection or appeal, generally, shall be used with respect to heating, musty, sour, insect infestation, and other condition and odor factors. In instances where original inspection results are based on samples obtained by probe, the decision as to whether file samples or new samples obtained by probe are to be used shall be made by the official personnel performing the service.

(2) *Warehouseman's sample-lot inspection service.* Each reinspection service and appeal inspection service on a warehouseman's sample shall be performed on an analysis of the official file sample.

(3) *Submitted sample service.* Each reinspection service and appeal inspection service on a submitted sample shall be performed on an analysis of the official file sample.

(c) *Board appeal inspection services.* Board appeal inspection services shall be performed on an analysis of the official file sample.

(d) *Use of file samples.*—(1) *Requirements for use.* A file sample that is retained by official personnel in accordance with the procedures prescribed in the instructions may be considered representative for a

reinspection service, appeal inspection service, and a Board appeal inspection service if: (i) The file sample has remained at all times in the custody and control of the official personnel that performed the inspection service in question; and (ii) the official personnel who performed the original inspection service and those who are to perform the reinspection, the appeal inspection, or the Board appeal inspection service determine that the sample were representative at the time the original inspection service was performed and that the quality or condition of the grain in the samples has not changed.

(2) *Certificate statement.* When the results of a reinspection, appeal inspection, or Board appeal inspection service are based on an official file sample, the certificate for the reinspection service, the appeal inspection service, and the Board appeal inspection service shall show a statement, as specified in the instructions, indicating that the results are based on the official file sample.

8. Section 800.83 be revised as follows:

§ 800.83 Sampling provisions by kind of movement.

(a) *Export cargo movements.*—(1) *Bulk grain.* Except as may be approved by the Administrator on a shipment-by-shipment basis in an emergency, each inspection for official grade, official factor, or official criteria on an export cargo shipment of bulk grain shall be performed on official samples obtained from the grain: (i) As the grain is being loaded aboard the final carrier; (ii) after the final elevation of the grain prior to loading and as near to the final loading spout as is physically practicable (except as approved by the Administrator when representative samples can be obtained before the grain reaches the final loading spout); and (iii) by means of a diverter-type mechanical sampler approved by the Service and operated in accordance with instructions. If an approved diverter-type mechanical sampler is not properly installed at an elevator or facility as required, each certificate issued at that elevator or facility for an export cargo shipment of bulk grain shall show a statement indicating the type of approved sampling method used, as prescribed in the instructions.

(2) *Sacked grain.* Each inspection for official grade, official factor, or official criteria on an export cargo shipment of sacked grain shall be performed on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with instructions.

(b) *Other movements.* Each inspection for official grade, official factor, or official criteria on a domestic cargo movement ("In," "Out," or en route barge movement), a movement in a land carrier (any movement in a railcar, truck, trailer, truck/trailer combination, or container), or a "LOCAL" movement of bulk or sacked grain shall be performed on official samples obtained from the grain by any sampling method approved by the Service and operated in accordance with the instructions.

9. Section 800.84 be revised as follows:

§ 800.84 Inspection of grain in land carriers, containers, and barges in single lots.

(a) *General.* The inspection of bulk or sacked grain loaded or unloaded from any carrier or container, except shiplot grain, shall be conducted in accordance with the provisions in this section and procedures prescribed in the instructions.

(b) *Single and multiple grade procedure.*—(1) *Single grade.* When grain in a carrier or container is offered for inspection as one lot and the grain is found to be uniform in condition, the grain shall be sampled, inspected, graded, and certificated as one lot. For the purpose of this paragraph, condition only includes the factors hearing, musty, or sour.

(2) *Multiple grade.* When grain in a carrier or container is offered for inspection as one lot and the grain is found to be not uniform in condition because portions of the grain are heating, musty, or sour, the grain in each portion will be sampled, inspected, and graded separately; but the results shall be shown on one certificate. The certificate shall show the approximate quantity or weight of each portion, the location of each portion in the carrier or container, and the grade of the grain in each portion.

(3) *Infested.* When any portion of the grain in a lot is found to be infested, according to applicable provisions of the Official U.S. Standards for Grain, the applicant for inspection shall be promptly notified and given the option of: (i) Receiving a grade certificate with a special grade designation indicating that the entire lot of grain is infested or (ii) fumigating the grain in the lot in accordance with instructions and receiving a grade certificate without the special grade designation.

(c) *One certificate per carrier; exceptions.* Except as provided in this paragraph, one official certificate shall be issued for the inspection of the grain in each truck, trailer, truck/trailer(s) combination, railroad car, barge, or similarly sized carrier. The requirements

of this paragraph are not applicable to: (1) Grain inspected in a combined lot under § 800.85 or (2) grain inspected under paragraph (d) of this section.

(d) *Bulkhead lots.* If grain in a carrier is offered for official inspection as two or more lots and the lots are separated by bulkheads or other partitions, the grain in each lot shall be sampled, inspected, and graded separately in accordance with paragraphs (a) and (b) of this section. An official certificate shall be issued for each lot inspected. Each certificate shall show the term "Bulkhead lot," the approximate quantity or weight of the grain in the lot, the location of the lot in the carrier, and the grade of the grain in the lot.

(e) *Bottom not sampled.* If bulk grain offered for official inspection is at rest in a carrier or container and is fully accessible for sampling in an approved manner, except that the bottom of the carrier or container cannot be reached with each probe, the grain shall be sampled as thoroughly as possible with an approved probe. The grain in the resulting samples shall be inspected, graded, and certificated, except that each certificate shall show a statement, as specified in the instruction, indicating the depth probed. Any inspection which is based on a sample that does not represent the entire carrier or container does not meet the mandatory inspection requirements of section 5(a)(1) of the Act.

(f) *Partial inspection-heavily loaded.*—(1) *General.* When an "In" movement of bulk grain is offered for inspection at rest in a carrier or container and is loaded in such a manner that it is possible to secure only door-probe or shallow-probe samples, the container shall be considered to be "heavily loaded," and the request for inspection either shall be dismissed or a partial inspection shall be made. If the request is for the inspection of an "Out" movement of grain, the request shall be dismissed on the grounds that the grain is not accessible for a correct "Out" inspection.

(2) *Certification procedure.* If a partial inspection is made, the grain will be sampled as thoroughly as possible with an approved probe and inspected, graded, and a "partial inspection-heavily loaded" certificate issued. The certificate shall show the words "Partial inspection-heavily loaded" in the space provided for remarks. The type of samples that were obtained shall be described in terms of "door probe" or "shallow probe."

(3) *Reinspection and appeal inspection procedure.* A request for a reinspection or an appeal inspection service on grain in a carrier or container

that is certificated as "partial inspection-heavily loaded" shall be dismissed in accordance with § 800.48(a)(4).

(4) *Restriction.* No "partial inspection-heavily loaded" certificate shall be issued for sacked grain or any inspection other than the inspections described in paragraphs (f)(1) through (4) of this section and § 800.85(h)(2).

(g) *Part lots.*—(1) *General.* If a portion of the grain in a carrier or container is removed, the grain that is removed and the grain remaining shall be considered separate lots. When an official inspection service is requested on either portion, the grain shall be sampled, inspected, graded, and a "part-lot" inspection certificate issued.

(2) *Grain remaining in carrier or container.* The certificate for grain remaining in a carrier or container shall show: (i) The following completed statement: "Partly unloaded; results based on portion remaining in (show carrier or container identification)," (ii) the term "Part lot" following the quantity information, (iii) the identification of the carrier or container, and (iv) the estimated amount and location of the part lot.

(3) *Grain unloaded from carrier or container.* If grain is sampled by official personnel during unloading, the certificate for the grain that is unloaded shall show: (i) The completed statement: "Part lot; results based on portion removed from (show carrier identification)" and (ii) the term "Part lot" following the quantity information. If the grain is not sampled by official personnel during unloading, the certificate may, upon request of the applicant, show a completed statement such as "Applicant states grain is X-car" or "Applicant states grain is X-barge" but the certificate shall not otherwise show a carrier or container identification or the term "Part lot."

(h) *Identification for compartmented cars.* The identification for compartments in a compartmented railroad car shall, in the absence of readily visible markings, be stated in terms of the location of the grain in a compartment, with the first compartment at the brake end of the car being identified as B-1, and the remaining compartments being numbered consecutively towards the other end of the car.

10. Section 800.85 be revised as follows:

§ 800.85 Inspection of grain in combined lots.

(a) *General.* The official inspection for grade of bulk or sacked grain loaded aboard, or being loaded aboard, or discharged from two or more carriers or containers (including barges designed for loading aboard a ship) as a combined lot shall be performed according to the provisions of this section and procedures prescribed in the instructions.

(b) *Application procedure.*—(1) *For inspection during loading, unloading, or at rest.* Applications for official inspection of grain as a combined lot shall: (i) Be filed in accordance with § 800.116; (ii) show the estimated quantity of grain that is to be certificated as one lot; (iii) show the contract grade if applicable; and (iv) identify each carrier into which grain is being loaded or from which grain is being unloaded.

(2) *Recertification.* An application for the recertification as a combined lot of grain that has been officially inspected and certificated as two or more single lots shall (i) be filed not later than 2 business days after the latest inspection date of the single lots and (ii) show information specified in paragraph (b)(1) of this section.

(c) *Inspection procedure; general—land carriers and barges.*—(1) *Inspection during loading, or unloading, or at rest.* Grain in two or more land carriers and barges that are to be officially inspected as a combined lot shall be sampled in a reasonably continuous operation. Representative samples shall be obtained from the grain in each individual carrier and inspected in accordance with procedures as prescribed in the instructions.

(2) *Recertification.* Grain that has been officially inspected and certificated as two or more single lots may be recertified as a combined lot if: (i) The grain in each lot was sampled in a reasonably continuous operation; (ii) the original inspection certificates issued for the single lots have been surrendered to official personnel; (iii) representative file samples of the single lots are available; (iv) the grain in the single lots is of one grade and quality; (v) official personnel who performed the inspection service for the single lots and those who are to recertify the grain as a combined lot determine that the samples used as a basis for the inspection of the grain in the single lots were representative at the time of sampling and have not changed in quality or condition; and (vi) the quality or condition of the grain meets uniformity requirements established by

the Service for official inspection of grain in combined lots.

(d) *Weighted or mathematical average.* Official factor and official criteria information shown on a certificate for grain in a combined lot shall, subject to the provisions of paragraphs (e) through (g) of this section, be based on the weighted or mathematical averages of the analysis of the sublots in the lot and shall be determined in accordance with the instructions.

(e) *Infested grain.* If the grain in a combined lot is offered for official inspection as it is being loaded aboard a carrier and the grain, or a portion of the grain, is found to be infested according to the provisions of the Official U.S. Standards for Grain, the applicant must be promptly notified and given the options of either: (1) Receiving a grade certificate with a special grade indicating the grain is infested or (2) fumigating the grain in accordance with instructions and receiving a grade certificate without the special grade designation.

(f) *Grain uniform in quality.* Samples obtained from grain officially inspected as a combined lot shall be examined for uniformity of quality. If the grain in the samples is found to be uniform in quality and the grain is loaded aboard or is unloaded from the carriers in a reasonable continuous operation, the grain in the combined lot shall be officially inspected and certificated as one lot. The requirements of this paragraph (f) and paragraph (c) of this section with respect to reasonably continuous loading or unloading do not apply to grain which is at rest in carriers when the grain is offered for inspection.

(g) *Grain not uniform in quality.* When grain officially inspected as a combined lot is found to be not uniform in quality or if the grain is not loaded or unloaded in a reasonably continuous operation, the grain in each portion, and any grain which is loaded or unloaded at different times, shall be officially sampled, inspected, graded, and certificated as single lots.

(h) *Special certification procedures.*—(1) *Grain not uniform in quality.* When grain in a combined lot is found to be not uniform in quality under paragraph (g) of this section, the official inspection certificate for each portion of different quality shall show: (i) The grade, identification, and approximate quantity of the grain and (ii) other information required by the instructions.

(2) *Partial inspection.* When an inbound movement of bulk grain is offered for official inspection at rest as a combined lot and all carriers are not fully accessible for sampling, the request

for official inspection either shall be dismissed or a combined lot inspection shall be made on those carriers that are accessible. Those lots that are not accessible shall be handled in accordance with § 800.84. If the request is for an official inspection service on an outbound movement of grain at rest in a combined lot, the request shall be dismissed on the ground that the grain is not accessible for a correct "Out" inspection.

(3) *Official mark.* If grain in a combined lot is inspected for grade as it is being loaded aboard two or more carriers, upon request of the applicant, the following mark shall be shown on the inspection certificate: "Loaded under continuous official inspection" or "Loaded under continuous official inspection and weighing."

(4) *Combined-lot certification; general.* Each official certificate for a combined-lot inspection service shall show the identification for the "combined lot" or, at the request of the applicant, the identification of each carrier in the combined lot. If the identification of each carrier is not shown, the statement "Carrier identification available on official inspection log" shall be shown on the inspection certificate in the space provided for remarks. The identification and any seal information for the carriers may be shown on the reverse side of the inspection certificate, provided the statement "See reverse side" is shown on the face of the certificate in the space provided for remarks.

(5) *Recertification.* If a request for a combined-lot inspection service is filed after the grain has been officially inspected and certificated as single lots, the combined-lot inspection certificate shall show: (i) The date of inspection of the grain in the combined lot (if the single lots were inspected on different dates, the latest of the dates shall be shown); (ii) a serial number other than the serial numbers of the official inspection certificates that are to be superseded; (iii) the location of the grain, if at rest, or the name of the elevator from which or into which the grain in the combined lot was loaded or unloaded; (iv) a statement showing the approximate quantity of grain in the combined lot; (v) a completed statement showing the identification of any superseded certificates; and (vi) if at the time of issuing the combined-lot inspection certificate the superseded certificates are not in the custody of the official personnel, a statement indicating that the superseded certificates have not been surrendered shall be clearly shown in the space provided for remarks. If the

superseded certificates are in the custody of official personnel, the superseded certificates shall be clearly marked "Void."

(i) *Further combining.* After a combined-lot inspection certificate has been issued, there shall be no further combining and no dividing of the certificate.

(j) *Limitation.* No combined-lot inspection certificate shall be issued (1) for any official inspection service other than as described in this section or (2) which shows a quantity of grain in excess of the quantity in the single lots.

11. Section 800.86 be revised as follows:

§ 800.86 Inspection of shiplot grain in single lots.

(a) *General.* Official inspection for grade of bulk or stacked grain aboard, or being loaded aboard, or being unloaded from a ship as a single lot shall be performed according to the provisions of this section and procedures prescribed in the instructions.

(b) *Application procedure.* Applications for the official inspection of shiplot grain as a single lot shall: (1) Be filed in advance of loading or unloading; (2) show the estimated quantity of grain that is to be certificated; (3) show the contract grade if applicable; and (4) identify the carrier and the stowage area into which the grain is being loaded, or from which the grain is being unloaded, or in which the grain is at rest.

(c) *Inspection procedures; general.* Shiplot grain being officially inspected as a single lot shall be sampled in a reasonably continuous operation. Representative samples shall be obtained from the grain offered for inspection and inspected and graded in accordance with procedures prescribed in the instructions.

(d) *Weighted or mathematical average.* Official factor and official criteria information shown on a certificate for shiplot grain shall, subject to the provisions of paragraphs (e) through (g) of this section, be based on the weighted or mathematical averages of the analysis of the sublots.

(e) *Infested grain.*—(1) *Available options.* If grain or any portion of grain in a single shiplot is found to be infested, according to the provisions of the Official U.S. Standards for Grain, the applicant must be promptly notified and have the option of: (i) Unloading the portion of infested grain from the lot and an additional amount of other grain in common stowage with the infested grain; or (ii) when applicable,

completing the loading and the treating all the grain in the lot, or portion of the lot; or (iii) when applicable, treating the infested grain for the purpose of destroying the insects, subject to subsequent examination by official personnel; or (iv) continuing loading without treating the infested grain, in which case all of the infested grain in the lot and all grain in common stowage areas with the infested grain will be officially certificated as infested according to the provisions of the Official U.S. Standards for Grain. If, however, the infested grain is loaded into common stowage with a lot, or a portion of a lot, which has not been officially certificated as being infested, the applicant loading the infested grain may not use the option in paragraph (e)(1)(i) of this section.

(2) *With treatment.* If infested grain is treated with a fumigant in accordance with the instructions and the treatment is witnessed by official personnel, the official sampling, inspection, grading, and certification of the lot will continue as though the infested condition did not exist.

(f) *Grain uniform in quality.* Shiplot grain officially inspected as a single lot shall be examined for uniform quality. If the grain is found to be uniform in quality according to the rules of a specific loading plan established by instructions and is loaded aboard or is unloaded from the ship in a reasonably continuous operation, the grain in the lot shall be officially inspected, graded, and certificated as a single lot.

(g) *Grain not uniform in quality.* When the grain in a shiplot is found to be not uniform in quality according to the provisions of a specified loading plan established by the instructions or if the grain is not loaded or unloaded in a reasonably continuous operation, the grain in each portion, and any grain which is loaded or unloaded at different times, shall be officially sampled, inspected, graded, and certificated separately.

(h) *Special certification procedures.*—(1) *Grain not uniform in quality.* When grain in a single shiplot is found to be not uniform in quality under paragraph (g) of this section, the official inspection certificate for each different portion of different quality shall show: (i) A statement that the grain has been loaded aboard with grain of other quality; (ii) the grade, location, or other identification and approximate quantity of the grain in the portions; and (iii) other information required by the regulations and the instructions. The requirements of paragraph (h)(1)(i) of

this section do not apply to grain that is inspected as it is unloaded from a ship or to portions loaded in separate stowage space.

(2) *Common stowage.*—(i) *Without separations.* When bulk grain is offered for official inspection as it is being loaded aboard a ship and is loaded without separation in a stowage area with other grain or another commodity, the official inspection certificate for the grain in each lot shall show the kind, the grade, if known, and the location of the other grain, or the kind and location of the other commodity in the adjacent lots.

(ii) *With separation.* When separations are laid between the lots, the official inspection certificates shall show the kind of material used in the separations and the locations of the separations in relation to each lot.

(iii) *Exception.* The common stowage requirements of this paragraph are not applicable to the first lot in a stowage area unless a second lot is loaded, in whole or in part, in the stowage area prior to issuing the official inspection certificate for the first lot.

(3) *Inbound movement of shiplot grain.* Each lot inspection service for official grade, official factor, or official criteria on an inbound movement of shiplot grain shall be based on official samples obtained from the lot: (i) As the grain is being unloaded from the carrier, (ii) immediately after initial elevation and as near as necessary to initial elevation to obtain a representative sample and to protect the grain flow, and (iii) by means of a diverter-type mechanical sampler approved by and operated in accordance with the instructions.

(4) *Part lot.* If part of a lot of grain in an inbound carrier is unloaded and part is left in the carrier, the unloaded grain shall be officially inspected and certificated in accordance with the provisions of § 800.84(g).

(5) *Official mark.* If the grain in a single shiplot is officially inspected for grade as it is being loaded aboard a ship, upon request, the following official mark shall be shown on the inspection certificate: "Loaded under continuous official inspection."

(i) *Reinspection service and appeal inspection service on a shiplot.* A reinspection service or an appeal inspection service shall be obtained on either the total sublots in a shiplot or a material portion of the shiplot as prescribed in the instructions.

12. Section 800.87 be revised as follows:

§ 800.87 New inspections.

(a) *Identity lost.* An applicant may request official personnel to perform a new original inspection service on an identified lot of grain, or on an identified carrier or container, if the identity of the lot or the carrier or container has been lost.

(b) *Identity not lost.* If the identity of the grain or the carrier or container is not lost, a new original inspection shall not be performed on the same identified lot of grain or carrier or container in the same assigned area of responsibility within 5 business days after the last official inspection.

13. Section 800.88 be revised as follows:

§ 800.88 Loss of identity.

(a) *Lots.* The identity of a lot of grain shall be considered lost if: (1) A portion of the grain is unloaded, transferred, or otherwise removed from the carrier or container in which the grain was located at the time of the original inspection; or (2) a portion of grain or other material, including an insecticide or fumigant, is added to the lot after the original inspection was performed, unless the addition of the insecticide or fumigant was performed in accordance with the regulations and the instructions. At the option of official personnel performing a reinspection, appeal inspection, or Board appeal inspection service, the identity of grain in a closed carrier or container shall be considered lost if the carrier or container is not sealed or if the seal record is incomplete.

(b) *Carriers and containers.* The identity of a carrier or container shall be considered lost when: (1) The stowage area is cleaned, painted, treated, fumigated, or fitted after the original inspection was performed; or (2) the identification of the carrier or container has been changed since the original inspection was performed.

(c) *Submitted samples.* The identity of a submitted sample of grain shall be considered lost when: (1) The identifying number, mark, or symbol for the sample is lost or destroyed or (2) the samples have not been retained and protected by official personnel as prescribed in the instructions.

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

Dated: February 7, 1985.

Kenneth A. Gilles,
Administrator.

[FR Doc. 85-4489 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service**7 CFR Part 907****Navel Oranges Grown in Arizona and Designated Part of California**

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposal is to revise the provisions governing the nomination procedure with respect to the Navel Orange Administrative Committee's (NOAC) independent member, alternate, and additional alternate positions. Such provisions are designed to encourage greater participation in the nominating procedure.

DATES: Comments are due by March 27, 1985.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

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

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Acting Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The proposed rule is issued under Marketing Order 907, as amended (7 CFR Part 907, 50 FR 1429), regulating the handling of navel oranges grown in Arizona and designated part of California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The Navel Orange Administrative Committee (NOAC), which operates under Marketing Order 907, recommended the changes in the rules covering the nomination procedures with respect to independent members, alternates, and additional alternates. The proposed rule would establish mail balloting procedures for nominating NOAC independent member, alternate, and additional alternate positions. The proposal is intended to encourage greater industry participation in the nomination process. The marketing

order was amended effective January 11, 1985, to require nomination of independent members on NOAC by mail balloting. The committee's proposal is designed to implement that authority. All comments received will be considered prior to issuance of any final rule.

The proposal on nomination procedures submitted by the Navel Orange Administrative Committee addresses producer eligibility to nominate independent members, alternate members, and additional alternate members to the committee, producer eligibility to serve on the committee in any of the specified positions, selection of prospective nominees for these positions by grower petitions presented at district meetings or by submitting such petitions by mail, and nomination by mail balloting. Interested persons are invited to comment on the proposal and the procedural aspects of the nomination process. For example, the committee's proposal indicates that a producer who delivers any quantity of navel oranges to handlers which are not cooperative marketing organizations (independent handlers) may participate in the nomination process for independent members and alternates and vote for nominees to serve on the committee. However, under the proposal only producers who deliver 100 percent of their oranges to independent handlers are eligible to be nominated and serve on the committee. The proposal to make a person eligible to vote who would not be eligible to serve on the committee is unique. It appears possible under the proposal for growers who are primarily cooperative growers but deliver small volumes of oranges to independent handlers to participate in independent nominations and thereby affect the outcome. Consideration should be given as to whether 100 percent delivery to independent handlers, or some other basis, might be more appropriate as the standard of eligibility to vote for the independent seats on the committee. On the other hand, under the proposal it appears that growers who deliver the vast majority of their oranges, but not 100 percent, to independent handlers would be barred from serving as independent grower representatives on the committee. Perhaps some other basis might be more appropriate as the standard for eligibility to serve as an independent member on the committee. Comments, therefore, are invited on the appropriateness of establishing different eligibility requirements for voting and serving; on what should be the eligibility

standard for voting; and on what should be the eligibility standard for serving.

The proposal provides that in order to be valid, petitions for nominating candidates must be signed by a designated number of eligible producers. The proposal provides for a different number of signatures of eligible producers on petitions depending on whether the petition is presented at a district meeting, which requires five eligible producer's to sign the petition or whether the petition is submitted by mail prior to such meeting, which requires twenty eligible producers to sign the petition. Comments are requested on the appropriateness of the proposed number of producer signatures needed on each type of petition, and whether the number of producers signatures per petition should differ depending on whether it is submitted in person or through the mail.

The proposal requires that submission of nominees by mail be postmarked 10 days prior to the date of the first district meeting by any such submission by hand need be received 5 days prior to such meeting. Comments are requested on the appropriateness of these time periods.

The proposal provides for holding meetings in two or more districts, including District 1 and District 2. Matters for comment include whether additional meetings should be held and their location and whether meetings should be limited to the purpose of filling vacancies, with the petitioning process being the sole means of selecting candidates to be voted on through mail ballots.

The proposal also specifies that persons submitting their names for candidacy must specify the position for which they wish to be nominated. Comments are requested on whether a person should be permitted to simultaneously be a candidate for one or more positions and whether it is appropriate for a person to declare candidacy for the position of member, alternate member, or additional alternate member on the same petition with the provision that such person could not be selected to more than one position. In instances when nominations are conducted solely at nomination meetings, a person who is defeated in the balloting for one position can resubmit his/her name for consideration for a different position. The proposed nomination procedure does not offer that option. The marketing order provides that growers who are not affiliated with any cooperative

marketing organization shall nominate two producer members and one handler member and an alternate and additional alternate for each member. The proposal is not clear on how selected alternates and additional alternates would be aligned with selected members, or whether it is desirable to provide for such alignment. If desirable, at least two alternatives are possible: Producer member candidates receiving the two highest number of votes for those positions would be the member nominees, the two alternate producer candidates receiving the two highest number of votes for those positions would be the alternate member nominees and the additional alternate producer candidates receiving the two highest number of votes for those positions would be the additional alternate producer nominees. In that situation, alternates and additional alternates would be aligned with the member nominee by chance. The second alternative would be to designate positions so that the alignment of member, alternate member, and additional alternate member nominees would be known beforehand. Comments on these proposals or modification of these proposals are requested.

The proposal also provides that the committee mail ballots to producers. As an alternative, the USDA may exercise primary responsibility in distributing ballots and related materials at the discretion of the Secretary.

The proposal does not contain a special definition of the term "producer". The marketing order defines producer as being synonymous with grower and means any person who produces oranges for market. Thus, each person who produces navel oranges for market as an individual would be considered the legal entity and each person that produces navel oranges as a business unit, such as a separate partnership, family enterprise, corporation, estate or trust, would be considered one legal entity. Thus, each legal entity would be considered to be one producer for purposes of nominating committee members.

The proposal does not define an "independent handler", but suggests that an independent handler would be eligible to be represented on the committee if it was not affiliated with a cooperative marketing organization during the fiscal year when nominations are conducted. Comments on definitions of these terms used in the proposal are requested.

Industry discussions of methods of

nominating independent producer and handler members by mail balloting have included discussion of weighting producer votes by the volume of such producer's navel oranges delivered to handlers. The order does provide that in voting for nominees in the other cooperative category, the votes of cooperative marketing organizations in that category shall be weighted by the volume of oranges handled during the fiscal year in which such nominations are made. There is no provision for weighting votes cast for independent members. Interested persons are invited to comment on the appropriateness of weighting votes and, if appropriate, the basis for weighting votes, e.g. picks, tree crop estimates and how such information could be collected and verified. In this connection, there is no authority in the order to collect crop information from growers. Under the order handlers file information with the committee on shipments and other data but do not provide such information on an individual grower basis. Comments are solicited from interested persons on the foregoing issues and any modifications thereof.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (navel).

The proposal is to remove paragraphs (a)(3), (a)(4), and (a)(5) of § 907.102 and add a new paragraph (a)(3) to that section which reads as follows:

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

§ 907.102 Nomination procedure.

(a) * * *

(3) Candidates for the member, alternate member and additional alternate member positions referred to in § 907.22(d) shall be nominated in accordance with the following procedures: (i) Any producer who in the current fiscal year delivered navel oranges to handlers which are not cooperative marketing organizations shall be eligible to participate in the nomination of candidates and to vote for nominees. (ii) Only producers who in the current fiscal year made 100 percent of their navel orange deliveries to handlers which are not cooperative marketing organizations shall be eligible to be nominated for producer positions. (iii) For the purpose of selecting candidates for nominations, the Committee shall hold meetings in two or more districts

including Districts 1 and 2, prior to August 1 of each even-numbered year, or at other times as necessary to fill vacancies. Timely notice of such meetings shall be given by the Committee to each eligible producer of record. (iv) Candidates shall be selected at the meetings by submitting their names on a form approved by the Committee and signed by at least 5 eligible individuals. (v) A person may also be selected for candidacy by submitting his or her name on a form approved by the Committee to the headquarters office of the Committee and signed by at least 20 eligible individuals. Such submittal, if mailed, must be postmarked at least 10 days prior to the date of the first of the district meetings referred to in (iii) above, and if hand delivered, must be received at least 5 days prior. (vi) Persons submitting their names for candidacy shall specify the position for which they wish to be nominated. After a position is specified, it may not be changed. Candidates may withdraw by filing a written notice with the Committee prior to the date on which the ballots are prepared for mailing to eligible producers. (vii) Following the candidate selection meetings, the Committee shall mail to all eligible producers of record a ballot containing the names of those individuals selected for nomination for each available position. Separate ballot forms shall be used in voting for handler nominees and producer nominees. A voter may vote for only one candidate for each position to be filled. Votes may be cast only for those candidates who have been selected according to the procedures set forth herein. (viii) In order to be counted, ballots must be executed in accordance with the instructions set forth on the ballot, and returned to the Secretary's agent at the location and within the time period prescribed. The validity of ballots shall be determined by the Secretary's agent, with such assistance from the Committee as may be requested by the agent. (ix) The name of the person receiving the highest total number of votes for a particular position shall be submitted to the Secretary as the nominee for such position.

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

Dated: February 19, 1985.

Thomas R. Clark,

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

[FR Doc. 85-4468 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; State Supplemental Provisions; Agreements; Payments; Mandatory Passalong of Federal Supplemental Security Income Benefit Increases to Recipients of State Supplementary Payments

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The proposed regulations provide the rules we will use to implement the amendments made to the passalong provisions of section 1618 of the Social Security Act (the Act) by section 186 of Public Law (Pub. L.) 97-248 (Tax Equity and Fiscal Responsibility Act of 1982), enacted September 3, 1982; section 147 of Pub. L. 97-377 (Fiscal Year 1983 Continuing Budget Resolution for the Department of Health and Human Services), enacted December 21, 1982; and section 402 of Pub. L. 98-21 (Social Security Amendments of 1983), enacted April 20, 1983.

Generally, the passalong provisions of section 1618 of the Act require States that supplement the Federal supplemental security income (SSI) benefit to "pass along" Federal cost-of-living increases to individuals who are eligible for State supplementary payments. In order to meet the passalong requirements of the Act, States that make supplementary payments on or after June 30, 1977, must have in effect an agreement with the Secretary to continue making these supplementary payments and to keep them at certain levels. If a State does not have such an agreement in effect, or if the State has such an agreement but does not keep the payments at the required levels, the State is subject to loss of Medicaid reimbursement under title XIX of the Act. However, the State will not be found to be out of compliance with the passalong requirements because it did not keep its payments at a particular level if it maintains its total annual expenditures for State supplementary payments at an amount at least equal to its expenditures for such payments in the preceding 12-month period.

DATE: Your comments will be considered if we receive them no later than April 26, 1985.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Fred Mirand, Legal Assistant, 3-B-3 Operations Building, 6401 Security Blvd., Baltimore, Maryland 21235, (301) 594-7341.

SUPPLEMENTARY INFORMATION: The purpose of the passalong provision of section 1618 of the Act is to encourage States to pass along to SSI beneficiaries the amount of any Federal benefit increase. Some States had not done this prior to enactment of section 1618. Instead, when Congress enacted cost-of-living increases in the Federal SSI benefit amount, some States would reduce the levels of the State supplementary payments by the amount of the Federal benefit increase. Thus, the SSI beneficiaries in these States would have received the same combined Federal/State benefit they were receiving before the increase, but would not have received the additional money provided by the benefit increase.

Congress has recently enacted three amendments to section 1618 of the Act. Section 186 of Pub. L. 97-248 (section 1618(c) of the Act) permits a State which had not maintained all its December 1976 payment levels, but had been meeting the passalong requirements through total annual expenditures, to switch to the maintenance of payment levels method without having first to pass along to all current recipients all the Federal cost-of-living increases that have occurred since December 1976. Instead, for months from July 1977 through March 1983, the State must agree to maintain the supplementary payments at levels at least equal to the December 1976 levels or, if a State first makes supplementary payments after December 1976, the levels for the first month the State makes supplementary payments. Except that for the months in the period July 1, 1982 through March 31, 1983 a State may elect to maintain the

payment levels in effect in December 1981.

Section 147 of Pub. L. 97-377 (section 1618(d) of the Act) created a special method of compliance for States meeting the passalong requirements of section 1618 of the Act by the total annual expenditures test for the period July 1, 1980 through June 30, 1981. Under this provision, the total expenditures for that period must only equal or exceed the total expenditures for July 1, 1976 through June 30, 1977, rather than the total expenditures for the preceding 12-month period. As noted above, this provision did not become effective until December 21, 1982. Therefore, we will give credit to States which made additional payments (prior to the enactment of section 147 of Pub. L. 97-377) in order to make up shortfalls for the July 1, 1980 through June 30, 1981 period, if the States so request. This credit will be limited to the amount of "excess" payments made by the State and will be applied to any shortfall(s) in total expenditures (should one exist) in any period(s) ending on or before December 31, 1986. A 3-year period has been selected to parallel the exception for shortfall States provided in § 416.2096(c) of the current regulations. Also, the 3-year period imposes a limit that is long enough to provide the States with some flexibility and yet short enough so that we can close these periods and resolve the accounts.

Section 402 of Pub. L. 96-21 added section 1618(e) to the Act. This section changes the concept of "State supplementary payment level" to a concept of a combined level of State supplementary payments and Federal SSI payments for months after March 1983. The purpose of this change was to require that States on the maintenance of supplementary payment levels test pass along at least that part of the July 1983 Federal SSI benefit increase that would have occurred had there been a cost-of-living increase in July 1983. The statute also permits States to limit the passalong amount to the cost-of-living increase that would have occurred by permitting the State to reduce its March 1983 State supplementary payment levels by an amount up to the difference between the amount of the July 1983 general increase and the amount that the cost-of-living increase would have been had there been one in July 1983.

Congress introduced this concept of a combined supplementary/SSI payment level because of two other 1983 amendments to the Act. Section 401 of Pub. L. 96-21 amended section 1617 of the Act to provide for an increase in benefit rates effective July 1, 1983. The

passalong provisions of section 1618(b) of the Act refer to total expenditures for State supplementary payments in a 12-month period beginning on the effective date of any Federal SSI benefit increase pursuant to section 1617 of the Act. Prior to July 1983, all section 1617 increases were cost-of-living adjustments (COLA's) and are referred to as such in the existing regulations. The July 1983 general Federal SSI benefit increase was not a COLA, but it did take place pursuant to section 1617 of the Act. For this reason, the passalong provisions of section 1618(b) apply to the July 1983 Federal SSI benefit increase.

Secondly, section 111 of Pub. L. 96-21 provides in effect that future COLA's will occur in January rather than July as they had in the past. Therefore, the current and immediately preceding 12-month periods for passalong compliance under the total expenditures test will run from January through December, beginning January 1984.

This change in the effective date for future COLA's from July 1 to January 1 caused a transitional 6-month period to occur that does not appear to have been contemplated by the passalong statute, which measures compliance in 12-month periods beginning with the effective date of each increase in the federal SSI benefit rate pursuant to section 1617 of the Act. That 6-month period is July 1, 1983 through December 31, 1983. Section 416.2096(c)(3)(i) of the proposed regulations provides a special rule for compliance under the total expenditures test for this 6-month period. Total expenditures for State supplementary payments in this period must be at least equal to one-half of those in the 12-month period July 1, 1982 through June 30, 1983. We used an average expenditure amount in order to avoid inequities resulting from the use of any particular 6-month period that could advantage or disadvantage individual States on the basis of how their expenditures were distributed over the year. For example, if a State increased its payment levels in July 1982 and then in January 1983 reduced them because it could not afford to maintain those levels, the State's expenditures for July through December would be higher than the January through June expenditures.

We propose to revise §§ 416.2095, 416.2096, 416.2097 (to be redesignated § 416.2098) and 416.2098 (to be redesignated § 416.2099), which describe the scope and substance of the requirements that States must meet under the passalong amendments, the general content of the agreements between the States and the Secretary, and the basis for finding that a State is

not in compliance with the passalong requirements and the effect of this finding on the State. We also propose to add a new section (§ 416.2097) which contains additional definitions required by Pub. L. 96-21.

We propose to delete from the regulations the exception found at § 416.2096(c)(3) for compliance with the passalong requirements under the total expenditures test for the three 12-month periods ending before July 1980, because this exception has become obsolete due to passage of time.

State Supplementary Payments Which Are Covered by the Passalong Requirements

The passalong requirements of section 1618 of the Act apply to the type of payments described in section 1616(a) of the Act and § 416.2001(a) of the regulations. These payments are known as optional State supplementary payments. These payments must be made (1) in cash; (2) by a State or political subdivision; (3) on a regular basis; (4) to individuals who are receiving or but for their income would be eligible to receive benefits under title XVI of the Act; and (5) as assistance based on need in supplementation of Federal SSI benefits as determined by Secretary of Health and Human Services.

The passalong requirements of section 1618 of the Act also apply to State supplementary payments made under section 212 of Pub. L. 93-66 and § 416.2001(c) of the regulations. These payments are known as mandatory minimum State supplementary payments. They are available only to individuals who received aid or assistance under a State plan approved under titles I, X, XIV, or XVI of the Act for the month of December 1973.

Optional or mandatory minimum State supplementary payments may be administered by a State (or political subdivision of a State) or by the Federal government at a State's option. The passalong requirements apply whether the State or the Federal government administers the supplementary payments. They also apply whether the individual who receives those payments receives both a Federal SSI benefit and a State supplementary payment or, because of his or her income, receives only a State supplementary payment.

State Agreement With the Secretary

In § 416.2096(a), we discuss the State agreement with the Secretary. Basically, the State must have in effect an agreement with the Secretary to continue making supplementary

payments at certain levels. For months prior to April 1983, these levels must be either the levels in effect in December 1976 or, if a newly established payment, the level in effect for the first month of payment, or, in certain circumstances, the level in effect in December 1981. For months beginning April 1983, the supplementary levels must be such as to maintain the combined supplementary/SSI payment levels of March 1983, increased by any subsequent Federal SSI benefit increases (see below).

If a State does not maintain these levels, but does make total State supplementary payments during a 12-month period that are at least equal to the expenditures for such payments made in the 12-month period before a Federal benefit increases, we will consider the State to have complied with the passalong requirements. We have also revised § 416.2096 to provide for a special 6-month transition period (July through December 1983) for total expenditures purposes. This is necessary to effectuate properly the provision of Pub. L. 98-21 whereby future cost-of-living increases will occur in January rather than July, as discussed above.

State Supplementary/SSI Payment Level

In an effort to avoid passing along to SSI recipients the July 1983 Federal benefit increase, some State, which had not maintained all their December 1976 supplementary payment levels, but which had increased some of their supplementary payment levels, might have switched from the total expenditures test (which they had been meeting to comply with the passalong requirements) to maintenance of their December 1976 or other levels lower than their March 1983 levels. To prevent States from doing this, Congress introduced in section 1618(e), as added by Pub. L. 98-21, the concept of the combined supplementary/SSI payment level and established the March 1983 combined level for payment level passalong compliance purposes.

In § 416.2097, a new section, we define the combined supplementary/SSI payment level for each payment category as the total of the Federal SSI benefit and State supplementary payment that a recipient with no countable income received for March 1983, increased by the amount of all subsequent SSI Federal benefit increases (including cost-of-living increases) except that we use for the amount of the July 1983 increase the amount (3.5 percent) by which the Federal benefit rate would have increased had there been a COLA. For

months after March 1983, States that choose to comply by a means other than the total expenditures test must maintain these combined March 1983 levels in order to comply with the passalong requirements.

For months prior to April 1983, the rules for passalong compliance are based on the definition of "supplementary payment level." In § 416.2098(f), we continue to define the supplementary payment level as the amount of the supplementary payment established by the State that an individual in each payment category received in the State in December 1976 if the individual had no countable income. States must maintain these levels to comply with the passalong requirements.

For example, the Federal SSI benefit amount in December 1976 for an individual living in his or her own household and having no income was \$167.80 per month. If a State made a \$50 per month optional State supplementary payment to individual in this situation, they would receive a total payment of \$217.80 per month under the SSI program. In July 1977, the Federal cost-of-living increase was \$10 and the Federal SSI benefit amount was increased to \$177.80 per month. Under these circumstances, a State would maintain the level of its supplementary payment if the State continued to make a \$50 per month supplementary payment above the Federal SSI benefit to individuals in this situation. Thus, the individuals would receive a total payment of \$227.80 per month under the SSI program, and the Federal cost-of-living increase of \$10 per month would be passed along to them.

Pub. L. 97-248 made one change in this definition of a supplementary payment level. Section 186 of Pub. L. 97-248, effective September 3, 1982, provides that when a State has not maintained one or more of the December 1976 supplementary payment levels but, instead, has met the total expenditures test for a particular 12-month period and decides to switch to the maintenance of payment levels test for the next 12-month period, the State may elect to maintain all its supplementary payment levels in effect in the preceding December instead of the December 1976 levels, providing the preceding December is subsequent to 1980. Because of the interaction of section 402 of Pub. L. 98-21 with section 186 of Pub. L. 97-248, this option is only available for the period July 1, 1982 through March 31, 1983, and the only supplementary payment levels which can be elected instead of those in effect

in December 1976 are those which were in effect in December 1981.

State Compliance With the Passalong Requirements

In § 416.2099 (formerly § 416.2098), we discuss what we will require the States to do to show that they are complying with the passalong rules. Generally, a State must keep records and provide information about: (1) its supplementary payment levels in December 1976 or, if no supplementary payments were made in December 1976, the first month such payments are made; (2) its March 1983 supplementary payment levels; (3) its total expenditures for supplementary payments for the 12-month period beginning July 1976 through June 1977 and the following 12-month periods, as well as its advance estimates of the total State supplementary payment expenditures for each 12-month period covered by the passalong agreement between the State and the Secretary; and (4) its total expenditures for supplementary payments in the 6-month period July 1983 through December 1983. If a State is not complying with the passalong rules, the State will be subject to a finding by the Secretary of ineligibility for payments under title XIX (Medicaid) of the Act.

Regulatory Procedures

Executive Order No. 12291

These proposed regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major rule because they will not have an annual effect on the economy of \$100 million and will not cause increases in costs or prices. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities because they affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act of 1980

Sections 416.2099(a)(2) and 416.2099(a)(4) of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments

on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attn: Robert J. Fishman.

Section 416.2099 was formerly § 416.2098, and except for the two paragraphs described above, this section has been approved by the Office of Management and Budget, approval number 0960-0240.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: July 5, 1984.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: December 11, 1984.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart T of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1601, 1616, 1618, 1631, and 1634, Social Security Act, as amended, sec. 401 of Pub. L. 92-603, sec. 212 of Pub. L. 93-66, sec. 8 of Pub. L. 93-233, secs. 1 and 2 of Pub. L. 93-335, 49 Stat. 647, as amended, 86 Stat. 1465, 1474, 90 Stat. 2901 as amended, 86 Stat. 1475, 1478, and 1485, 87 Stat. 155 and 956, 88 Stat. 291; 42 U.S.C. 1302, 1381, 1382e, 1382g, 1383, 1383c, 1382e nts, 1382 nt (7 U.S.C. 2012 nts).

2. Section 416.2095 is revised to read as follows:

§ 416.2095 Passalong of Federal benefit increases.

(a) *General.* This section and the four sections that follow describe the rules for passing along increases in the Federal SSI benefit to recipients of State supplementary payments.

(1) Section 416.2095(b) indicates when the passalong rules apply to State supplementary payments.

(2) Section 416.2096 describes the basic passalong rules. The States must have an agreement to "pass along" increases in Federal SSI benefits. A State passes along an increase when it maintains (rather than decreases) the levels of all its supplementary payments after a Federal benefit increase has

occurred. Generally, a passalong of the increase permits recipients to receive an additional amount in combined benefits equal to the Federal benefit increase. A State can decrease one or more of its payment levels if it meets an annual total expenditures test.

(3) Section 416.2097 explains the combined supplementary/SSI payment level.

(4) Section 416.2098 explains how to compute a supplementary payment level.

(5) Section 416.2099 discusses what information a State must provide to the Secretary concerning its supplementation programs so that the Secretary can determine whether the State is in compliance. That section also discusses the basis for findings of noncompliance and what will occur if a State is found out of compliance.

(b) *When the passalong provisions apply.* (1) The passalong requirements apply to all States (and the District of Columbia) that make supplementary payments on or after June 30, 1977, and wish to participate in the Medicaid program.

(2) The passalong requirements apply to both optional State supplementary payments of the type described in § 416.2001(a) and mandatory minimum State supplementary payments as described in § 416.2001(c), whether or not these State supplementary payments are Federally administered.

(3) The requirements apply to State supplementary payments both for recipients who receive Federal SSI benefits and those who, because of countable income, receive only a State supplementary payment.

(4) The requirements apply to State supplementary payments for recipients eligible for a State supplementary payment on or after June 30, 1977.

(5) Supplementary payments made by a State include payments made by a political subdivision (including Indian tribes) where—

(i) The payment levels are set by the State; and

(ii) The payments are funded in whole or in part by the State.

3. Section 416.2096 is revised to read as follows:

§ 416.2096 Basic passalong rules.

(a) *State agreements to maintain supplementary payment levels.* (1) In order to be eligible to receive Medicaid reimbursement, any State that makes supplementary payments on or after June 30, 1977, must have in effect an agreement with the Secretary. In this agreement—

(i) The State must agree to continue to make the supplementary payments; and

(ii) For months from July 1977 through March 1983, the State must agree to maintain the supplementary payments at levels at least equal to the December 1976 levels (or, if a State first makes supplementary payments after December 1976, the levels for the first month the State makes supplementary payments). For months in the period July 1, 1982 through March 31, 1983, a State may elect to maintain the levels described in paragraph (b)(2) of this section; and

(iii) For months after March 1983, the State must agree to maintain supplementary payments at least sufficient to maintain the combined supplementary/SSI payment levels in effect in March 1983, increased by any subsequent SSI benefit increases, except as provided in § 416.2097(c).

(2) We will find that the State has met the requirements of paragraph (a)(1) of this section if the State complies with the conditions in either paragraph (b) or (c) of this section. We will consider a State to have made supplementary payments on or after June 30, 1977, unless the State furnishes us satisfactory evidence to the contrary.

(b) *Meeting the passalong requirement—supplementary payment levels.* (1) We will consider a State to have met the requirements for maintaining its supplementary payment levels (described in § 416.2098) for a particular month or months after March 1983 if the combined supplementary/SSI payment levels have not been reduced below the levels in effect in March 1983, increased by any subsequent Federal SSI benefit increases, except as provided in § 416.2097(c). We will consider a State to have met the requirements for maintaining its supplementary payment levels for a particular month or months between June 1977 and April 1983 if the supplementary payment levels have not been reduced below the levels in effect in December 1976 (or if a State first makes supplementary payments after December 1976, the levels in effect the first month the State makes supplementary payments, or in certain cases described in paragraph (b)(2) of this section, the levels in effect in December 1981.)

(2) We will also consider a State to have met the requirements for maintaining its supplementary payment levels if the State has met the requirements of paragraph (c) of this section for a particular month or months in the 12-month period July 1, 1981 through June 30, 1982, and, with respect to any month in the period July 1, 1982 through March 31, 1983, the State

maintains the payment levels in effect in December 1981.

(3) If a State reduced any of its supplementary payment levels for a month or months within any 12-month period beginning with the effective date of a Federal benefit increase, we will consider the State to have met the requirement to maintain its supplementary levels if—

(i) Within 12 months after the relevant 12-month period, the State restores the levels retroactively; and

(ii) The State makes a single retroactive benefit payment to each of the beneficiaries eligible for the retroactive payment.

(c) *Meeting the passalong requirement—total expenditures.* (1) If a State does not meet the conditions in paragraph (b) of this section, we will consider a State to have met the requirement for maintaining supplementary payment levels for a particular month or months if total State expenditures for supplementary payments in the 12-month period within which the month or months fall, beginning on the effective date of a Federal SSI benefit increase are at least equal to the total State expenditures for supplementary payments in the 12-month period immediately before the Federal SSI benefit increase.

(2) If total State expenditures in the relevant 12-month period are less than the total expenditures in the preceding 12-month period (a "shortfall"), we also will consider a State to have met the requirement for maintaining supplementary payment levels for the relevant 12-month period if in the following 12-month period the State increases the total expenditures required for that period by an amount at least equal to the amount of the shortfall in the relevant 12-month period. The increased amount up to the amount needed to correct the shortfall shall be deemed to be an expenditure in the relevant 12-month period, for passalong purposes only. (See paragraph (c)(5) of this section.)

(3)(i) Exception for the 6-month period from July 1, 1983 through December 31, 1983:

We will consider the State to have met the total expenditures requirement for the 6-month period July 1, 1983 through December 31, 1983, only if total expenditures are at least one-half of the total expenditures for the period July 1, 1982 through June 30, 1983. The provisions of paragraphs (c)(4) and (c)(5) of this section and of § 416.2099 (b), (c) and (d) shall apply to this 6-month period in the same manner as they apply to the 12-month periods referred to therein.

(ii) Exception for the 12-month period ending June 30, 1981:

If a State does not meet the conditions in paragraph (b) of this section, we will consider a State to have met the maintenance of supplementary payment levels requirement for this 12-month period if the State's expenditures for supplementary payments in that period were at least equal to its expenditures for such payments for the 12-month period ending June 30, 1977 (or, if the State made no supplementary payments in that period, the expenditures for the first 12-month period ending June 30 in which the State made such payments).

(4) Total State expenditures for supplementary payments are the State's total payments for both mandatory minimum and optional State supplementary payments in the appropriate 12-month period less the amount of any payments recovered and other adjustments made in that period. Total State expenditures do not include State administrative expenses, interim assistance payments, vendor payments, or payments made under other Federal programs, such as title IV, XIX, or XX of the Social Security Act.

(5) Adjustments in total State supplementary payments made after the expiration of the relevant 12-month period for purposes of meeting total State expenditures under paragraph (c) of this section shall be considered a State expenditure in the relevant 12-month period only for purposes of the passalong requirement. For purposes of § 416.2080, which discusses the rules for limitation on fiscal liability of States (hold harmless), these retroactive adjustments are State expenditures when made and shall be counted as a State expenditure in the fiscal year in which the adjustments are made.

4. Section 416.2097 and 416.2098 are redesignated as §§ 416.2098 and 416.2099, a new § 416.2097 is added and, as redesignated, § 416.2098 and § 416.2099 are revised. As amended, §§ 416.2097, 416.2098, and 416.2099 read as follows:

§ 416.2097 Combined supplementary/SSI payment levels.

(a) The combined supplementary/SSI payment level for each payment category is the total of the Federal SSI benefit and the State supplementary payment for a recipient with no countable income for March 1983, increased by the amount of all subsequent SSI Federal benefit increases, except as provided in paragraph (c) of this section. We compute combined supplementary/SSI payment levels as described in paragraphs (b) through (e) of this section.

(b) The Federal SSI benefit level is the March 1983 Federal benefit rate for a

recipient with no countable income, plus the amount of all subsequent Federal SSI benefit increases, except as provided in paragraph (c) of this section.

(c) The monthly SSI Federal benefit rates (FBR's) were increased in July 1983 by \$20 for an eligible individual and \$30 for an eligible couple, and the monthly increment for essential persons was eligible increased by \$10 in lieu of the expected cost-of-living adjustment which was delayed until January 1984. However, in computing the combined supplementary/SSI payment levels for the purpose of determining passalong compliance, we use only the amounts by which the FBR's and the essential person increment would have increased had there been a cost-of-living adjustment in July 1983 (a 3.5 percent increase would have occurred). These amounts are \$9.70 for an eligible individual, \$14.60 for an eligible couple and \$4.50 for an essential person.

(d) The State supplementary payment level is the total State payment for March 1983 as defined in § 416.2098(a) and as computed according to the rules contained in § 416.2098 (b) through (e).

(e) To compute the combined supplementary/SSI payment level, add the SSI Federal payment benefit rate for March 1983, that portion of the July 1983 benefit increase computed in accordance with paragraph (c) of this section, the full amount of all SSI benefit increases after July 1983, and the State supplementary payment level for March 1983. The result is the combined supplementary/SSI payment level.

§ 416.2098 Supplementary payment levels.

(a) *General.* (1) The supplementary payment level for each payment category is the total State payment for March 1983 that a State provides an eligible individual (or couple) with no countable income in excess of the Federal SSI benefit for March 1983.

(2) We compute supplementary payment levels according to rules described in paragraphs (b) through (e) of this section. When applying these rules to States that did not make supplementary payments in March 1983, we base the supplementary payment level on the supplementary payment for the first month after March 1983 in which a State makes supplementary payments.

(b) *Mandatory minimum State supplementary payment level.* The mandatory minimum State supplementary payment level is a recipient's December 1973 minimum income level plus any State increases prior to April 1983, less any reductions made at any time after December 1973

due to changes in special needs or circumstances, less the March 1983 Federal SSI benefit rate.

(c) *Optional State supplementary payment level for flat grant amounts.* The optional State supplementary payment level for flat grant amounts is the total amount that an eligible individual (or couple) with no countable income received for March 1983 in excess of the Federal SSI benefit rate for March 1983. If the State varied its payment levels for different groups of recipients (e.g., paid recipients different amounts based on eligibility categories, geographic areas, living arrangements, or marital status), each variation represents a separate supplementary payment level.

(d) *Optional State supplementary payment level for individually budgeted grant amounts.* The optional State supplementary payment level for individually budgeted grant amounts is the amount that the State budgeted for March 1983 in excess of the March 1983 Federal SSI benefit for an eligible individual (or couple) having the same needs and no countable income.

(e) *Optional State supplementary payment level for per diem based grants amounts.* The optional State supplementary payment level for a particular calendar month for per diem grant amounts is the total dollar amount that the State would have paid to an eligible individual (or couple) with no countable income for that month at rates in effect for March 1983 (number of days in the calendar month multiplied by the March 1983 per diem rate plus any March 1983 personal needs allowance) in excess of the March 1983 Federal SSI benefit rate.

Example:		
March 1983.....	\$15.40	Per diem rate.
	x 31	Days in month.
	447.40	
	447.40	
	+ 42.00	Personal needs allowance.
	519.40	
	519.40	Combined supplementary/SSI
	- 264.30	payment.
		March 1983 FBR.
	235.10	State supplementary level.
The March 1983 combined supplementary/SSI payment level for a 31-day month is \$519.40.		
July 1983.....	\$519.40	March 1983 combined payment
	+ 9.70	level.
	529.10	July 1983 COLA-equivalent.
	529.10	July 1983 combined payment
	529.10	level.
	- 304.30	July 1983 FBR.
	224.80	State Supplementary level.
	529.10	July 1983 combined payment
	- 42.00	level.
		Personal needs allowance.
	487.10	

487.10
31 Days in month.
15.71 Per diem rate.

The July 1983 combined supplementary/SSI payment level for a 31-day month is \$529.10. This amount is equal to the March 1983 combined payment amount for 31-day month plus the July 1983 COLA-equivalent (\$519.40 + \$9.70).

(f) *Optional State supplementary payment level for months prior to April 1983.* In determining passalong compliance under the maintenance of payment levels test for months from July 1977 through March 1983, we used December 1976 (or December 1981 under the circumstances described in paragraph (g) of this section) as the standard month for determining the State supplementary payment level. The rules stated in paragraph (a) through (e) of this section are made applicable to months between June 1977 and March 1983 by substituting "December 1976" for "March 1983" and "January 1977" for "April 1983" whenever they appear in these paragraphs only.

(g) *Optional State supplementary payment level for July 1982 through March 1983.* States which were in compliance solely under the total expenditures test for the 12-month period ending June 30, 1982, had the option of substituting December 1981 for December 1976 and switching to the maintenance of payment levels test for July 1982 through March 1983 (see § 416.2096(b)(2)). If this situation applies, we make the rules in paragraphs (a) through (e) of this section applicable to months from July 1982 through March 1983 by substituting "December 1981" for "March 1983" and "January 1982" for "April 1983" whenever they appear in these paragraphs only.

§ 416.2099 Compliance with passalong.

(a) *Information regarding compliance.* Any State required to enter into a passalong agreement with the Secretary shall provide appropriate and timely information to demonstrate to the Secretary's satisfaction that the State is meeting the passalong requirements. The information shall include, where relevant—

(1) The State's December 1976 supplementary payment levels, any subsequent supplementary payment levels, and any change in State eligibility requirements. If the State made no supplementary payments in December 1976, it shall provide such information about the first month in which it makes supplementary payments;

(2) The State's March 1983 supplementary payment levels, any

subsequent supplementary payment levels, and any changes in State eligibility requirements;

(3) the total State expenditures for supplementary payments in the 12-month period beginning July 1976 through June 1977, in each subsequent 12-month period, and in any other 12-month period beginning on the effective date of a Federal SSI benefit increase. The State shall also submit advance estimates of its total supplementary payments in each 12-month period covered by the agreement; and

(4) The total State expenditures for supplementary payments in the 6-month period July 1, 1983 through December 31, 1983.

(b) *Records.* Except where the Secretary administers the State supplementary payments, the State shall maintain records about its supplementary payment levels and total 12-month (or 6-month where applicable) expenditures for supplementary payments and permit inspection and audit by the Secretary or someone designated by the Secretary.

(c) *Noncompliance by the States.* Any State that makes supplementary payments on or after June 30, 1977, and does not have a passalong agreement with the Secretary in effect, shall be determined by the Secretary to be ineligible for payments under title XIX of the Act. A State does not have an agreement in effect if it has not entered into an agreement or has not complied with the terms of the agreement. Ineligibility shall apply to total expenditures for any calendar quarter beginning after June 30, 1977, for which a State has not entered into an agreement. A State that enters into an agreement but does not maintain its payment levels or meet the total expenditures test in a particular 12-month or transitional 6-month period, shall be determined by the Secretary not to have an agreement in effect for any month that the State did not meet the passalong requirements during that particular period. The State shall then be ineligible for title XIX payments for any calendar quarter containing a month for which an agreement was not in effect. If a State first makes supplementary payments beginning with a month after June 1977, ineligibility shall apply to any calendar quarter beginning after the calendar quarter in which the State first makes payments.

(d) *Notices to States about potential noncompliance.* Within 90 days after the end of the relevant 12-month period, the Secretary shall send a notice to any State that has not maintained its supplementary payment levels and that

appears not to have maintained its total expenditures during the period. The notice will advise the State of the available methods of compliance and the time within which corrective action must be taken (see § 416.2096(b)(3)) in order to avoid a determination of noncompliance. If the State fails to take the corrective action, the Secretary shall make a timely determination of noncompliance.

[FR Doc. 85-4500 Filed 2-22-85; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 146

[Docket No. 84N-0402]

Pulpy Nectars of Certain Small Fruits; Advance Notice of Proposed Rulemaking on the Possible Establishment of a Standard

Correction

In FR Doc. 85-2301 beginning on page 4231 in the issue of Wednesday, January 30, 1985, make the following corrections:

1. On page 4232, in the middle column under "1. Scope", in the entry for "rowanberries", "*aucuparis*" should read "*aucuparia*".
2. In the next entry, "sallowthorn", "*Hippophae*" should read "*Hippophaea*".
3. In the next entry, "strawberries", "*Fragaris*" should read "*Fragaria*".
4. In the third column, in the paragraph designated "4.1", remove "Limited by GMB".
5. On page 4233, in the middle column, in the paragraph designated "8.7.3", in the fourth line, "quality" should read "quantity".
6. On the same page, in the third column, in the paragraph following the heading "6. Determination of Essential Oils", in the third line, "AOAC," should read "AOAC, 1970,".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD11-85-01]

Regulated Navigation Area; Isthmus Cove, Santa Catalina, California

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is considering a proposal to designate a regulated navigation area in Isthmus Cove, Santa Catalina Island, California.

This action is being taken to protect divers participating in underwater scientific research and underwater scientific research equipment from possible injury or damage resulting from indiscriminate anchoring activities.

DATES: Comments must be received on or before April 11, 1985.

ADDRESSES: Comments should be mailed to Commander(mep), Eleventh Coast Guard District, Union Bank Building, Long Beach, CA 90822. The comments will be available for inspection and copying at Marine Safety Division, Commander, Eleventh Coast Guard District, Room 709, 400 OceanGate, Long Beach, CA 90822. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT:

Lieutenant (junior grade) James E. Mahoney, Marine Safety Division, Eleventh Coast Guard District, 400 OceanGate, Long Beach, CA 90822. Phone Number: (213) 590-2301.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in this rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD11-85-01) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Lieutenant (junior grade) J. E. Mahoney, project officer, and Lieutenant C. M. McNally, project attorney, Eleventh Coast Guard District Legal Office.

Discussion of Proposed Regulation

The proposed regulated navigation area regulations are submitted at the request of the University of Southern California, Catalina Marine Science Center, Avalon, California. The designation of the regulated navigation area is being proposed to protect divers participating in underwater scientific

research and underwater scientific research equipment from possible injury or damage resulting from anchoring activities. The University of Southern California is presently conducting decompression experiments in hopes of establishing an underwater habitat for aquanauts. The safety of the aquanauts and the operational equipment would be greatly endangered by indiscriminate anchoring activities. While anchoring will not be allowed, the University of Southern California has installed and will maintain mooring buoys for use by recreational vessels during inclement weather.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact is expected to be so minimal that a full regulatory evaluation is unnecessary. The designation of a regulated navigation area will not adversely affect any known commercial enterprise. This measure will protect divers participating in underwater scientific research and underwater scientific research equipment from possible injury or damage resulting from anchoring activities.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Regulated navigation area.

PART 165—AMENDED

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 165 of Title 33, Code of Federal Regulations as follows:

By adding § 165.1110 to read as follows:

§ 165.1110 Isthmus Cove, Santa Catalina Island, CA

(a) The following is a Regulated Navigation Area—The waters of Isthmus Cove, enclosed by the shore and a line beginning at latitude 33°26'39" N., longitude 118°29'19" W.; thence northeasterly to latitude 33°26'50" N., longitude 118°29'108" W.; thence east northeasterly to latitude 33°26'57.5" N., longitude 118° 28'33.5" W.; thence southeasterly to latitude 33°26'55" N.,

longitude 118°28'32" W.; thence southwesterly to latitude 33°26'53.5 N., longitude 118°28'35" W.

(b) No vessel may anchor in this area.

(c) For the purposes of this section, "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(33 U.S.C. 1225, 1231; 49 CFR 1.46(n) (4))

Dated: February 20, 1985.

F.P. Schubert,

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

[FR Doc. 85-4525 Filed 2-22; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 42; A-2-FRL-2783-6]

Approval and Promulgation of Implementation Plans; New Jersey Lead Plan

AGENCY: Environmental Protection Agency.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice announces receipt by the Environmental Protection Agency (EPA) of supplemental information submitted by the State of New Jersey with regard to its State Implementation Plan (SIP) for attainment and maintenance of the national ambient air quality standard for lead in all areas of the State. It also repropose approval of the State's lead SIP, which was submitted under the requirements of the Clean Air Act.

EPA has carried out its review of the New Jersey lead SIP concurrently with the State's SIP development process under the terms of "parallel processing" (this procedure is discussed in a June 23, 1982 Federal Register notice (47 FR 27073)). "Parallel processing" is designed to expedite EPA actions on SIP revisions.

The need for New Jersey's current submittal was identified by EPA in its December 29, 1983 Federal Register notice (48 FR 57331) proposing to approve the New Jersey lead SIP. In determining the nature of its final rulemaking on the New Jersey lead SIP, EPA will consider, along with the public comments it receives, the State's future submittals and actions in response to issues that are identified in today's Federal Register notice.

DATES: Interested persons are invited to submit comments on this proposed action on or before April 26, 1985.

ADDRESSES: All comments should be addressed to: Christopher J. Daggett, Regional Administrator, Environmental Protection Agency, Regional II Office, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278.

Copies of the proposed revision, including the supplemental information, are available for public inspection during normal business hours at: Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, Room 1005, New York, New York 10278
New Jersey Department of Environmental Protection, Labor and Industry Building, John Fitch Plaza, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, New York 10278, 212-264-2517.

SUPPLEMENTARY INFORMATION:

I. Background

On October 6, 1983, as required by section 110 of the Clean Air Act, New Jersey submitted to the Environmental Protection Agency (EPA) a draft State Implementation Plan (SIP) for attainment and maintenance of the national ambient air quality standard for lead. After review of the draft SIP, on December 29, 1983 (48 FR 57331) EPA proposed to approve it. However, in its Federal Register notice of proposed rulemaking, EPA stated that final approval would be contingent upon EPA's receipt of certain supplemental information for the State. EPA also indicated that if this supplemental information showed that significant changes had been made to the SIP, EPA would have to repropose action on the SIP in order to provide the public with the opportunity to comment on the revised SIP, as well as on EPA's evaluation of it.

A. New Jersey's Lead SIP Development Process

In response to the requirements set forth in EPA's December 29, 1983 notice of proposed rulemaking, New Jersey issued a proposed lead SIP, dated January 1984, and conducted a public hearing on this SIP on February 22, 1984. Based on the public comments that State received on this proposed SIP, and on a March 21, 1984 letter from EPA to the State requesting additional information on several of its elements, New Jersey

decided to make substantial additions and revisions to its January 1984 document. Consequently, a repropose, June 1984, SIP document was issued and a second public hearing was held on August 2, 1984.

B. EPA's Processing of New Jersey's Lead SIP

Information supplementing New Jersey's original October 6, 1983 draft SIP has been submitted to EPA on May 1, June 18, and August 15, 1984, and on February 7, 1985. Due to the substantive nature of this supplemental information, EPA has determined that today's supplemental notice of proposed rulemaking on the New Jersey lead SIP is warranted.

The purpose of today's notice is to provide the public with an opportunity to comment on the contents of this supplemental information and on EPA's analysis of it. The public is also being provided with an additional opportunity to comment on EPA's proposed approval of the New Jersey lead SIP. All public comments received on EPA's December 29, 1983 notice of proposed rulemaking, today's notice, and comments received by EPA during the course of the comment periods established by the State will be addressed in EPA's notice of final rulemaking on the New Jersey lead SIP.

II. Results of EPA Review

Today's Federal Register notice provides a summary of the supplemental information submitted by the State and the results of EPA's review of it. The analysis is presented under the following headings:

- A. Attainment Demonstration: Urban Areas
- B. Attainment Demonstration: Significant Point Sources
- C. Fugitive Emissions
- D. Control Measures

More detailed information concerning EPA's review of this supplemental information is contained in a Technical Support Document to today's notice. This document is available for public inspection at the locations identified in the ADDRESSES section of this notice.

A. Attainment Demonstration: Urban Areas

In its December 29, 1983 notice of proposed rulemaking, EPA required the State to submit attainment demonstrations for the cities of Newark, Jersey City, and Trenton, three urban areas in New Jersey which have experienced recent violations of the air quality standard for lead. In its supplemental submittal, the State addressed this requirement by providing

a statistical analysis of the relationship between decreases in lead in the ambient air and the reduction of lead in gasoline in these cities. The quantity of lead in gasoline and ambient air concentrations of lead were found to be closely related. Since the quantity of lead in gasoline in 1990 will be only 26.4% of its 1982 value, the State expects that the average ambient lead concentration in 1990 will be reduced by the same percentage. In 1982 no urban areas in New Jersey experienced violations of the lead standard. Thus, the ambient lead concentration is presently below the standard and will continue to decrease to well below the standard in the future. It also should be noted that in an August 2, 1984 Federal Register notice (49 FR 31032), EPA proposed additional reductions to the lead content of gasoline. These additional reductions are not reflected in the State's analysis.

EPA has determined that this demonstration of attainment and maintenance of the lead standard in urban areas is adequate, and finds it approvable.

B. Attainment Demonstration: Significant Point Sources

EPA's December 29, 1983 notice of proposed rulemaking required the State to submit a demonstration of attainment and maintenance of the lead standard in

the vicinity of certain "significant" point sources. (A "significant" point source is any source which emits at least 25 tons of lead per year or, in the case of certain specified lead industrial source categories, five tons per year.) The significant sources requiring review and evaluation were:

- Delco-Remy, Division of General Motors Corporation (New Brunswick)
- National Smelting of New Jersey, Inc. (Pedricktown)
- Federated Metals, Inc. (Newark)
- U.S. Metals Refining Co. (Carteret), and
- E.I. DuPont de Nemours & Co., Inc. (Deepwater)

In addition, the State identified the following two point sources of lead which, although not "significant," are considered to have the potential to emit greater than five tons of lead per year.

- Heubach, Inc. (Newark)
- Rollins Environmental Services, Inc. (Logan Township)

According to EPA regulations the State is not required to demonstrate attainment in the vicinity of these sources because they do not emit 25 or more tons per year of lead.

The seven sources just identified comprise all the point sources of lead in New Jersey. These sources have been (or will be) evaluated by the State according to the following procedure:

• A field investigation was conducted to identify fugitive emissions.

• The total lead emission rate was calculated using appropriate fugitive emission factors coupled with control efficiencies and operating parameters, and allowable stack emission rates contained in the source's operating permit.

• The source was modeled using EPA-approved dispersion modeling methods.

• If the modeling results predicted a violation of the ambient lead standard, stack testing was performed.

• The source was remodeled using the stack test results. If a violation was predicted using actual stack emission rates, then an air quality monitor was installed in the vicinity of the source to verify the modeling results.

• If the violation is verified by the monitoring results, then the State will take mitigating action, usually in the form of an administrative consent order containing an enforceable schedule under which the source causing the violation implements control measures to eliminate the contravention of the ambient standard.

Table 1 provides a summary of the status of the attainment demonstrations for all major lead point sources in the State. The following sections discuss the attainment demonstration for each source.

TABLE 1.—SUMMARY OF THE ATTAINMENT DEMONSTRATIONS PERFORMED FOR MAJOR POINT SOURCES OF LEAD IN NEW JERSEY

Source	Fugitive emissions found?	Modeled attainment?	Stack testing conducted?	Monitored attainment?	Compliance measures
Delco-Remy, New Brunswick	No	No	Yes	No	Consent order (if necessary—see discussion)
National Smelting, Pedricktown	Yes	Yes	Yes	Yes	Plant closed (Permits revoked)
Federated Metals, Newark	Yes	Yes	No	Not necessary	None necessary
U.S. Metals, Carteret	Yes	Yes	Yes	Monitoring requested by EPA	Consent order
Dupont, Deepwater	No	Yes (marginal)	Yes	Monitoring requested by EPA	None necessary
Heubach, Newark	Yes	Inconclusive	Yes	Monitoring to be conducted	Consent order (if necessary—see discussion)
Rollins Env. Services, Logan Township	No	Yes	Yes	Not necessary	None necessary

Delco-Remy, Division of General Motors Corporation, New Brunswick

In its December 29, 1983 notice of proposed rulemaking, EPA found that New Jersey's demonstration of attainment in the vicinity of Delco-Remy (lead-acid storage battery manufacturer and secondary lead smelter) was inconclusive. This was because the emission rates used in the modeling of this source had not been verified by stack testing.

In its supplemental submittal, the State provided the results of revised dispersion modeling of Delco-Remy's lead emissions. Emission inputs to the model were based on updated lead

emission data supplied by the company when applying for a revised permit. The revised modeling predicted a marginal violation of the ambient standard (1.6 $\mu\text{g}/\text{m}^3$ compared to a standard of 1.5 $\mu\text{g}/\text{m}^3$). However, EPA considers the analysis inconclusive due to the uncertainty in the lead emission rates employed in the model. These emission estimates are therefore currently being verified by stack testing.

Following the revised modeling a high volume air sampler (ambient monitor) was sited by the State near the location of the modeled violation. Contraventions of the quarterly lead standard have been measured by this

monitor. However, it cannot be concluded that the measured violation is solely attributable to the emissions of Delco-Remy.

Given the inconclusive nature of the modeling analysis, and considering the potential impacts of nearby industrial facilities and rail lines, further investigation appears called for. In cases, such as Delco-Remy, where an ambient violation is measured even though the source has "reasonably available control technology" (RACT) applied to all process and non-process emission points, EPA guidelines allow a "RACT plus studies" approach to lead SIP development. Under this approach,

in lieu of an attainment demonstration a State may submit as part of its SIP a workplan for investigating and ultimately correcting the violation. EPA judges the adequacy of such workplans based on the following criteria:

- A justification, which has been verified by EPA, that the level of emission controls in place constitutes RACT.
- A detailed study protocol to identify individual emission points which may be contributing to the violation, potential measures for their further control, and a legally enforceable schedule for the implementation of the control measures.
- Establishment of an air quality monitoring network around the source(s) suspected of contributing to the violation of the lead standard.

New Jersey has employed the "RACT plus studies" approach in addressing the situation regarding Delco-Remy. As a part of its supplemental submittal the State provided a workplan for a special study of this facility and EPA has found that the workplan meets all of EPA's criteria. Phase III of this workplan describes a plan for requiring the installation of beyond-RACT control measures if they are found to be necessary in order to prevent violations of the ambient lead standard. The schedule calls for such control measures to be selected by January 1986, and appropriate actions based on existing State legal authority to be implemented by March, 1986.

In a separate part of its supplemental submittal, the State included a description of how the New Jersey Administrative Code, Title 7, Chapter 27, Subchapter 6, "Control and Prohibition of Particles from Manufacturing Processes" (N.J.A.C. 7:27-6) could be revised in order to incorporate maximum allowable emission rates for lead. The State has not committed to making these revisions to Subchapter 6 for controlling lead emissions in the State. Instead, New Jersey has chosen to rely on the authority of other portions of N.J.A.C. 7:27, including Subchapter 5, "Prohibition of Air Pollution," Subchapter 8, "Permits and Certificates," Subchapter 13, "Ambient Air Quality Standards," and Subchapter 18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas." However, if it is determined that any control measure required under Phase III of the "RACT plus studies" workplan requires supplemental regulatory authority by means of specific lead emission limitations, the State should revise Subchapter 6 or develop and adopt other

regulations, as appropriate, to incorporate such limitations.

EPA finds that the "RACT plus studies" workplan for Delco-Remy is adequate and approvable as an element of the SIP, provided that the State submits, as it has agreed to, a plan for expeditiously adopting new authorities within the time frame of Phase III of the "RACT plus studies" workplan, in case implementation of the "RACT plus studies" workplan indicates that such authorities are necessary.

National Smelting of New Jersey, Inc., Pedricktown

In its December 29, 1983 notice of proposed rulemaking, EPA found that the demonstration of attainment for National Smelting (lead smelter) was incomplete and inconclusive since the State had not completed the development of necessary control measures. In addition, a nearby monitor had measured repeated violations of the lead standards. Since the time of EPA's December 29, 1983 notice of proposed rulemaking, National Smelting of New Jersey has permanently ceased operations, and all of the company's operating permits have been revoked by the State. The only remaining source is one of fugitive emissions of dust from open slag storage piles at the abandoned plant site.

In its supplemental submittal, the State presented dispersion modeling data which showed no predicted violations of the ambient lead standard from the slag pile emissions. The entire plant site, including the slag storage piles, has been placed on a priority list for cleanup under the provisions of the federal Comprehensive Emergency Response, Compensation, and Liability Act. EPA finds this demonstration of attainment at the former National Smelting of New Jersey site approvable.

Federated Metals Inc., Newark

An attainment demonstration for Federated Metals (secondary lead smelter) was included in the October 6, 1983 draft SIP evaluated by EPA in its December 29, 1983 notice of proposed rulemaking. The October 1983 draft SIP presented results of a modeling analysis of Federated Metals Inc. (then known as ASARCO, Inc.) which predicted no violations of the ambient standard as a result of the facility's lead emissions. In performing its analysis, the State did not consider the potential impact of fugitive emissions from the facility.

EPA requested in its December 29, 1983 notice of proposed rulemaking that the State revise its attainment demonstration to include fugitive emissions in the calculation of total lead

emissions from the facility. The State, in its supplemental submittal, presented the results of revised dispersion modeling of Federated Metals' lead emissions, including fugitive emission estimates based on visual observation and the use of emission factors.

The updated modeling, which took into account fugitive and stack emissions from the facility's reverberatory furnaces, predicts no violation of the ambient standard in the vicinity of the facility. Furthermore, in a June 8, 1984 letter from the State to EPA it was indicated that these furnaces have been shut down and taken out of service. While the conclusion of the attainment demonstration for Federated Metals is not affected by this information, in order to clarify the status of the Federated Metals' furnaces, the State must either revoke the operating permits for this equipment and submit evidence of such revocation to EPA prior to EPA's final approval of the lead SIP, or alternatively, submit more definitive information on the current and projected operating status of the furnaces.

Therefore, EPA finds the attainment demonstration for the Federated Metals Inc. facility to be approvable, provided that the State clarifies the operating status of the reverberatory furnaces, as it has agreed to do.

U.S. Metals Refining Co., Carteret

Modeling of the U.S. Metals facility (secondary copper smelter) without including the effect of fugitive emission controls showed a violation of the ambient standard. However, modeling of this facility was also performed under the assumption that fugitive emissions would be controlled, as a result of a State administrative consent order applicable to this facility. This order requires a 90 percent reduction in fugitive emissions, and has been made a part of the SIP. Modeling of U.S. Metals' lead emissions, incorporating the projected 90 percent reduction in fugitive emissions, predicts attainment of the standard in the vicinity of the facility.

However, in view of the uncertainty in the quantification of the expected reduction in fugitive emissions, EPA believes that site-specific ambient monitoring in the vicinity of the U.S. Metals facility is essential in order to confirm that execution of the control program required by the consent order will result in compliance with the ambient standard. Included in the State's supplemental information was a draft protocol for an ambient air sampling program for lead in the vicinity

of the U.S. Metals facility. If followed, this protocol would result in the operation of two ambient monitors located near sites predicted by dispersion modeling to experience the maximum impacts of the facility's emission. However, the protocol did not include a schedule for initiating and implementing the monitoring program, nor was there a commitment by the State to carry it out as an element of the attainment demonstration for the U.S. Metals facility.

EPA finds the SIP's demonstration of attainment for U.S. Metals approvable provided that the State submits, as it has agreed to, an acceptable final protocol, including a schedule of implementation for an ambient air sampling program for lead in the vicinity of the U.S. Metals facility.

E.I. DuPont de Nemours & Co., Inc., Deepwater

In its December 29, 1983 notice of proposed rulemaking, EPA found the demonstration of attainment at the Dupont facility (lead gasoline additive manufacturer) to be inconclusive, since the State supplied insufficient data on background lead concentrations used in the modeling demonstration for the source.

In its submittal of supplemental information, the State addressed this deficiency by modeling the facility's emissions using documented background lead concentrations. The modeling predicted marginal attainment of the standards in the vicinity of the facility. EPA finds this demonstration of marginal modeled attainment again to be inconclusive since the predicted ambient lead concentration at the receptor of highest impact is equal to the standard ($1.5 \mu\text{g}/\text{m}^3$). Given the inconclusive nature of this attainment demonstration, EPA believes that an ambient air monitoring program in the vicinity of Dupont is necessary in order to confirm the attainment status of the area in which this facility produces an ambient air quality impact. The attainment demonstration must therefore contain a plan for an ambient monitoring program which would provide for at least one monitor sited to measure the maximum concentration within the impact area of the facility's emissions.

EPA finds this attainment demonstration approvable provided that the State submits to EPA an acceptable ambient monitoring protocol for the Dupont facility in Deepwater, as it has agreed to do.

Heubach Inc., Newark

Heubach (lead chromate pigment manufacturer) was not considered a significant point source of lead in the State's October 6, 1983 draft lead SIP. However, based on subsequent investigations, the State has determined that Heubach had the potential to emit as much as 26.3 tons of lead per year, based on the allowable emission rates listed in the facility's operating permit and on an estimate of its potential fugitive emissions.

Modeling of these emission rates predicted a violation of the ambient standard. The company has indicated that the emission rates used by the State in its dispersion modeling are much higher than actual values. As was the case with the Delco-Remy facility in New Brunswick, the State has elected to carry out a "RACT plus studies" investigation for Heubach in order to confirm the attainment status of this facility and implement additional controls if necessary.

Accordingly, the State submitted as part of its supplemental submittal a "RACT plus studies" workplan which meets the same requirements as the workplan for Delco-Remy, discussed earlier in today's notice. It should be noted that the workplan provides for the State and Heubach to initiate stack testing and further investigations of fugitive emission rates from the plant in order to perform more refined dispersion modeling. If the revised total lead emission rate falls below 25 tons per year, and if the updated modeling shows no predicted violations as a result of the plant's lead emissions, EPA regulations do not require any further attainment demonstration.

Due to the current uncertainty about the actual attainment status of the Heubach facility, the State is locating an ambient lead monitor in the area of expected maximum lead concentration resulting from the facility's emissions, and the company plans to operate an upwind air monitor on plant property to determine background lead concentrations. In the event that a violation of the ambient standard is predicted and/or monitored in the vicinity of the facility, the "RACT plus studies" workplan describes the procedures and schedule by which the State will identify the source(s) responsible for the violation, identify appropriate control measures, and enforce their implementation.

As in the case of the attainment demonstration for the Delco-Remy facility discussed earlier in this notice, if it is determined that any control measure required under Phase III of the

"RACT plus studies" workplan requires supplemental regulatory authority by means of specific lead emission limitations, the State should revise N.J.A.C. 7:27-6, "Control and Prohibition of Particles from Manufacturing Processes" or develop and adopt other regulations, as appropriate, to incorporate such limitations.

EPA has determined that the State's "RACT plus studies" workplan for Heubach, Inc. will ascertain the attainment status in the vicinity of the facility and result in the implementation of additional control measures, if such are required for the attainment and maintenance of the ambient lead standard. Therefore, EPA finds the "RACT plus studies" approach employed by the State in regard to Heubach, Inc. approvable, provided that the State submits, as it has agreed to, an adequate plan for adopting regulations which incorporate maximum allowable lead emission limitations.

Rollins Environmental Services, Inc., Logan Township

This facility (waste chemical incinerator), was investigated at the State's discretion due to its potential to emit greater than five tons of lead per year. It is not considered under EPA guidelines to be a significant point source of lead. The State's analysis revealed negligible fugitive emissions and predicted no violations of the ambient lead standard as a result of the emissions from this facility. EPA finds this portion of the State's supplemental submittal to be approvable.

C. Fugitive Emissions

In its October 6, 1983 draft SIP, the State did not describe the procedures it used to identify and estimate fugitive lead emissions from significant point sources. In its December 29, 1983 notice of proposed rulemaking, EPA requested further information on this aspect of the emission inventory.

In its submittal of supplemental information, the State provided details on the methods it employed to estimate fugitive lead emissions. These included field investigations, use of emission factors, and engineering calculations. EPA has reviewed this supplemental information, and finds it approvable.

D. Control Measures

In its December 29, 1983 notice of proposed rulemaking, EPA stated its determination that the New Jersey regulations included as part of the lead SIP did not provide adequately for the review of existing lead sources or for the review of new or modified sources with

the potential to emit more than five tons of lead per year, as required under 40 CFR 51.18 and EPA policy. In order to correct these deficiencies, EPA required the State to adopt the following regulatory revisions, or other revisions to the same effect:

- In N.J.A.C. 7:27-18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas," the State had to:

- Define a "major facility" for lead as any stationary source of lead pollutant which emits, or has the potential to emit, five tons per year or more of lead or lead compounds measured as lead.
- Define a "significant net increase" in lead emissions as a rate increase of 0.6 tons per year of either actual emissions or in the capability to increase emissions.
- Require that fugitive lead emissions, to the extent quantifiable, be entered into the calculation of total emissions from major facilities.

When making changes to Subchapter 18 the State should recognize that "banking" and offset provisions of new source review in non-attaining areas are not directly applicable to lead emissions.

- In N.J.A.C. 7:27-8, "Permits and Certificates," the State had to:

- Require that all lead point sources greater than five tons per year or significant increases in emissions at major facilities of 0.6 tons per year, be analyzed to determine whether a violation of the standard for lead will occur. In this analysis fugitive emissions, area source, background, and stack emissions must be considered. If the final analysis, conducted using EPA approved dispersion modeling techniques, indicates that violation of the standard will occur, then a permit cannot be issued.

- In N.J.A.C. 7:27-13, "Ambient Air Quality Standards," the State must add the national ambient air quality standard for lead.

As a part of its supplemental submittal, the State provided EPA with drafts of the three revised regulations: N.J.A.C. 7:27-8, -13, and -18.

N.J.A.C. 7:27-18, "Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality in Nonattainment Areas"

In response to EPA requirements, the State, in its draft revisions to N.J.A.C. 7:27-18, modified the definition of

"significant emission increase" to change the value for lead from 50 tons per year to 0.6 tons per year, including, as EPA required, fugitive emissions. This 0.6 tons per year significance level applies to both new and existing sources, and is thus more stringent than the five tons per year significance level for new sources stipulated in EPA guidelines. A further effect of this revised definition is to ensure, through Subsections 18.2, 18.3, and 18.4 of Subchapter 18, that all new or modified sources emitting greater than 0.6 tons of lead per year will be reviewed as to their potential impact on the ambient lead standard.

Although the revised definition of "significant emission increase" addresses EPA's principal requirements with respect to the adequacy of Subchapter 18, there are technical aspects of the revised definition of significant emission increase which require further exposition in order to improve the clarity of Subchapter 18 and enhance its enforceability, especially with regard to stationary sources of lead. EPA has delineated the necessary technical corrections to the definition of "significant emission increase" in a memorandum which is appended to the technical support document to today's notice. A copy of the memorandum has been supplied to the State.

With the exception of needed additions to the definition of "significant emission increase," EPA finds that the requirements for revisions to Subchapter 18 described in its December 29, 1983 notice of proposed rulemaking have been met by the State. EPA proposes to approve N.J.A.C. 7:27-18, as a part of the lead SIP, provided that the State makes the necessary changes in the definition of "significant emission increase," and otherwise adopts the other revisions to Subchapter 18 as described, as it has agreed to do.

N.J.A.C. 7:27-8, "Permits and Certificates"

In its draft revisions to N.J.A.C. 7:27-8, the State added new Subsection 8.5, which in part certifies that the State will deny an application for any permit if the construction or operation of the equipment pursuant to the application would result in a violation of any ambient air quality standard. The provisions for analyzing an application to determine whether or not a violation is likely to occur are contained in N.J.A.C. 7:27-18.3 and, as discussed earlier, meet the requirements specified by EPA in its December 29, 1983 notice of proposed rulemaking. EPA finds these provisions of N.J.A.C. 7:27-8 approvable

as a control measure of the lead SIP, provided that they are adopted, as the State has agreed to do.

N.J.A.C. 7:27-13, "Ambient Air Quality Standards"

The draft revisions to N.J.A.C. 7:27-13 incorporate the national ambient air quality standard for lead into the Subchapter. EPA has determined that these revisions meet its requirements with respect to N.J.A.C. 7:27-13 and finds Subchapter 13 approvable as a part of New Jersey's lead SIP, provided that the State adopts the revisions to N.J.A.C. 7:27-13, as it has agreed to do.

III. EPA's Proposed Action

Based on its review, EPA has determined that, with the exception of additional information regarding demonstrations of attainment in the vicinity of certain significant point sources, and technical revisions to N.J.A.C. 7:27-18.1, the information submitted by the State as a supplement to its lead SIP is approvable, and the SIP as a whole meets the requirements of section 110(a) of the Clean Air Act and 40 CFR Part 51, Subparts B and E.

Therefore, EPA proposes to approve the SIP provided that the State incorporates the following information into its SIP, adopts the resulting SIP, and submits the complete SIP document to EPA by April 26, 1985, as the State has agreed to do.

- An acceptable plan, including a projected schedule, to adopt regulations incorporating specific maximum allowable lead emission limits in the event that such limits are determined to be required as supplemental regulatory authority for the implementation of Phase III of the "RACT plus studies" workplans for Delco-Remy Division of General Motors Corp., New Brunswick; and Heubach, Inc., Newark.

- A clarification of the operating status of the reverberatory furnaces at Federated Metals, Inc., Newark, including evidence of revocation of operating permits for this equipment, if such action is taken.

- Acceptable plans, including schedules of implementation, for establishing ambient lead monitoring in the vicinity of U.S. Metals Refining Co., Carteret, and E.I. DuPont de Nemours & Co., Inc., Deepwater.

- Technical corrections, as specified in a memorandum appended to the technical support document to today's notice, to the definition of "significant emission increase" in N.J.A.C. 7:27-18.1.

The State intends to provide the above material to EPA shortly. EPA will review the material for adequacy when it is received and will take final action on it with the rest of the SIP. EPA may disapprove the SIP if the above material is not submitted.

With the exception of the items noted above EPA's review of the material submitted by the State indicates that this revision to the New Jersey SIP will be approvable if it is not substantially changed from its presently proposed form.

EPA, under the terms of "parallel processing," is proposing approval of this SIP revision now, before final submittal of the revision to EPA by the State.

Interested persons are invited to comment on any element of the SIP, including the supplemental information and on whether or not the New Jersey lead SIP meets the requirements of the Clean Air Act. Comments received on or before April 26, 1985 will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA at 26 Federal Plaza, Room 1005, New York, New York 10278.

The Administrator's final decision to approve or disapprove the New Jersey lead SIP will be based on comments received and on a determination of whether the SIP meets the requirements of section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Subparts B and E.

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

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Lead, Particulate matter, Incorporation by references.

(Secs. 110 and 301, Clean Air Act, as amended (42 U.S.C. 7410 and 7601))

Dated: November 13, 1984.

Christopher Daggett,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 85-4481 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL-2781-7]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA proposes to approve a revision to the Illinois State Implementation Plan (SIP) for Ozone. The revision, if finally approved, will provide for a change in the baseline transfer efficiency for Ford Motor Company's (Ford) prime surfacer and topcoat painting operations located at its assembly facility in Chicago, Illinois, Cook County. This action is taken in response to a July 26, 1984, request from the State of Illinois.

DATE: Comments on this revision and on the proposed USEPA action must be received by March 27, 1985.

ADDRESSES: Copies of the SIP revision, and other materials relating to this proposed rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 353-0396, before visiting the Region V Office.)

Environmental Protection Agency,
Region V, Air and Radiation Branch,
230 South Dearborn Street, Chicago,
Illinois 60604

Illinois Environmental Protection
Agency, Division of Air Pollution
Control, 2200 Churchill Road,
Springfield, Illinois 62706

Written comments should be sent to:
Gary Gulezian, Chief, Regulatory
Analysis Section, Air Programs
Branch (5AP-26), Environmental
Protection Agency, Region V, 230
South Dearborn Street, Chicago,
Illinois 60604

FOR FURTHER INFORMATION CONTACT:
Gary Gulezian (312) 353-2205.

SUPPLEMENTARY INFORMATION: On July 26, 1984, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to its ozone SIP for Ford located in the Metropolitan Chicago Ozone demonstration area. This proposed revision is in the form of an April 27, 1984, (modified on May 29, 1984), Opinion and Order of the Illinois Pollution Control Board (IPCB), Number PCB 83-105. It grants a variance from the existing SIP requirements until April 27, 1989, or until final action is taken by IPCC regarding Rule 83-36, and provides a legally enforceable compliance schedule.

Under the existing federally approved

SIP, Ford's Chicago Assembly facility is subject to the emission control requirements contained in IPCC Rule 205(n)(1) of Chapter 2: Air Pollution of the IPCC Rule and Regulations. IPCC Rule 205(n)(1) limits the volatile organic compound (VOC) from prime surfacer coating and topcoat operations at automobile or light-duty truck manufacturing facilities in Cook County to 0.34 kilogram VOC per liter (kg VOC/l) (2.8 pounds of VOC per gallon (lbs VOC/gallon)) of coating material, excluding water, delivered to the coating applicator.

In lieu of the existing SIP limitations, some of which are based on a 40 percent transfer efficiency, the State is proposing that the 0.34 kg VOC/gallon (2.8 lbs VOC/gallon) coating limitation for Ford's prime surfacer and topcoat painting operations be associated with a 30 percent baseline transfer efficiency. This addition of a 30 percent baseline transfer efficiency is the only deviation from the federally approved SIP contained in the Board's order.

Transfer efficiency is the ratio of the amount of coating solids deposited onto the surface of the coated part to the total amount of coating solids used. Increasing the transfer efficiency results in less VOC emissions because the coating process is more efficient, i.e., less coating material is required to provide the same film thickness. If this SIP revision is approved, and if a subsequent SIP revision requires that the transfer efficiency of Ford's prime surfacer or topcoat operation be increased above the new 30 percent baseline, then the 2.8 lbs. VOC/gallon of coating limit might be raised correspondingly in accordance with the procedures specified in USEPA's May 5, 1980, policy memorandum from Richard Rhoads, former Director of the Control Programs Development Division, titled "Procedures to Calculate Equivalency with the CTG Recommendations for Surface Coating". As an example, if the transfer efficiency is raised to 60 percent, then Ford's coating limitation could be increased to 4.0 lbs VOC per gallon of coating (based upon coating material described by Ford in their variance petition).

In a July 3, 1979, memorandum from Richard Rhoads, then Director of the Control Program Development Division, the appropriate transfer efficiency for "waterborne equivalence" at automotive assembly plants was specified.

This memorandum states that USEPA had "reviewed the available data and concluded that present waterborne coating 0.34 kg VOC/l (2.8 lbs/gal less

water) is being applied at a transfer efficiency of 30 percent."

Accordingly, USEPA finds the mass limits and transfer efficiency requirements of this SIP revision to be reasonably available control technology (RACT) and to be in accordance with the provisions contained in USEPA's policy relating to the appropriate transfer efficiency for "waterborne equivalence" at automobile assembly facilities surface coating operations.

In addition, USEPA has determined that this variance will not jeopardize the attainment and maintenance of the ozone National Ambient Air Quality Standards, because the increase in VOC emissions allowed by the revision is much smaller than the Chicago area's growth margin, as documented in the State's 1982 Ozone SIP attainment demonstration which USEPA proposed to approve on August 15, 1984 (49 FR 32601). USEPA is, therefore, proposing to approve this variance as a proposed revision to Illinois SIP. USEPA will not take final action on this SIP revision action until it takes final rulemaking to approve the 1982 Chicago ozone SIP attainment demonstration.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before March 27, 1985 will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8706).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons.

(Secs. 110, 172, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a)))

Dated: December 19, 1984.

Valdas V. Adamkus,
Regional Administrator.

[FR Doc. 85-4230 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[Region II Docket No. 48; A-2-FRL-2783-7]

Designation of Areas for Air Quality Planning Purposes; Revision to Section 107 Attainment Status Designations for New York State

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This notice announces the Environmental Protection Agency's (EPA's) proposed approval of a request from New York State to revise its air quality designation with regard to the Town of Waterford in the Hudson Valley Air Quality Control Region. If this proposal is approved, the Town of Waterford would be designated as "better than national standards" with regard to the carbon monoxide national ambient air quality standards. Such designations are required by section 107(d) of the Clean Air Act and may be revised at the request of a state.

DATE: Comments must be received on or before March 27, 1985.

ADDRESSES: All comments should be addressed to:

Christopher J. Dagget, Regional Administrator, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278

Copies of the proposal submitted by New York State are available for public inspection during normal business hours at the following addresses:

Environmental Protection Agency, Air Programs Branch, Room 1005, 26 Federal Plaza, New York, New York 10278

New York State Department of Environmental Conservation, Division of Air, 50 Wolf Road, Albany, New York 12233

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278 (212) 264-2517.

SUPPLEMENTARY INFORMATION: Section 107(d) of the Clean Air Act directed each state to submit to the Administrator of the Environmental Protection Agency (EPA) a list of attainment status designations with respect to the national ambient air quality standards for all areas. EPA received such designations from the states and promulgated them on March 3, 1978 (43 FR 8962). As authorized by the Clean Air Act, these designations have

been revised from time to time at a state's request.

EPA's Review Criteria

EPA uses several criteria for reviewing redesignations. These are based on EPA policy as outlined in a "section 107 Designation Policy Summary" memo of April 21, 1983 from the Director of EPA's Office of Air Quality, Planning and Standards (OAQPS). The criteria that apply to today's action are as follows:

(1) When the original nonattainment designation was based on air quality modeling, state-of-the-art modeling with the implemented control strategy must be used to show attainment of the applicable air quality standards; and

(2) There must be evidence that the control strategy approved by EPA has been implemented.

State Submittal and EPA's Review Findings

On August 13, 1984 the New York State Department of Environmental Conservation (NYSDEC) submitted a request to revise its air quality designation for carbon monoxide in the Town of Waterford to "better than national standards" (i.e., attainment). The area is currently designated as "does not meet primary standards."

The original nonattainment designation for the Town of Waterford was based on the application of an empirical model that related vehicle-miles-traveled to monitoring data. In order to quantify more accurately the extent and magnitude of the carbon monoxide problem in Waterford and in other cities in upstate New York, a subsequent "Upstate Carbon Monoxide Hot-Spot Study" was conducted by the State in late 1979 and early 1980. From the results of this study, which used monitoring and modeling techniques, the State determined that it needed to reduce carbon monoxide emissions at the carbon monoxide "hot-spot" in Waterford by 31 percent to attain the carbon monoxide standards.

It has been calculated that due to the Federal Motor Vehicle Control Program, emissions in the "hot-spot" area were reduced by 33 percent by the end of 1983 and by 40 percent by the end of 1984. This control program has been approved by EPA (45 FR 7803; February 5, 1980) for the Hudson Valley Air Quality Control Region (AQCR), where Waterford is located, and meets EPA's criteria for an implemented control strategy.

EPA has reviewed the Upstate Study and the State's subsequent air quality modeling analysis and agrees with the

State's assessment that the carbon monoxide standard is being met in the Town of Waterford. As explained earlier, this analysis meets EPA's criteria for redesignations to attainment.

EPA's Proposed Action

Today, EPA is proposing to approve the State's request to redesignate the Town of Waterford in the Hudson Valley AQCR to "better than national standards" with respect to carbon monoxide.

EPA's proposed approval of the State's redesignation request is based on its meeting the requirements of sections 107 and 301 of the Clean Air Act and applicable EPA guidelines.

Interested persons are invited to comment on the proposal and on whether it meets Clean Air Act requirements. Comments received by 30 days from today's date will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA, at 26 Federal Plaza, Room 1005, New York, New York 10278.

Under 5 U.S.C. 605(b), I have certified that this redesignation will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 and 301 of the Clean Air Act as amended (42 U.S.C. 7407 and 7601))

Dated: January 17, 1985.

Christopher Daggett,

Regional Administrator, Environmental Protection Agency.

[FR Doc. 85-4486 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 147

[OW-8-FRL-2781-8]

South Dakota Department of Water and Natural Resources Underground Injection Control Primacy Application

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of public hearing.

SUMMARY: The purpose of this notice is to announce that: (1) The Environmental Protection Agency (EPA) has received a complete application from the South Dakota Department of Water and Natural Resources (SDDWNR) requesting approval of its Underground Injection Control (UIC) Program; (2) the application is now available for inspection and copying; (3) public comments are requested; and (4) a public hearing will be held.

The proposed comment period will provide EPA the breadth of information and public opinion necessary to approve, disapprove, or approve in part and disapprove in part the application of the SDDWNR to regulate Class I, III, IV, and V injection wells in the State.

DATES: The Public Hearing will be held on March 26, 1985, in two sessions: 10:00 a.m. and 7:00 p.m. Requests to present oral testimony should be filed by March 20, 1985. If sufficient public interest in holding the hearing is not expressed by March 20, 1985, EPA reserves the right to cancel the hearing pursuant to the provisions of 40 CFR 145.31(c). If the hearing is cancelled, those persons having expressed interest in attending the hearing will be notified of the cancellation. Written comments can be made until April 2, 1985 regardless of whether or not a hearing is held.

ADDRESSES: Comments and requests to testify should be mailed to Patrick A. Crotty, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295. Copies of the application and pertinent material are available between 8:30 a.m. and 4:00 p.m., Monday through Friday at the following locations.

Environmental Protection Agency, Drinking Water Branch, 1860 Lincoln Street, Denver, Colorado 80295, Phone: (303) 844-2731

South Dakota Department of Water and Natural Resources, Joe Foss Building, Room 408, Pierre, South Dakota 57501, Phone: (605) 773-3754.

The hearing will be held in the Joe Foss Building, Pierre, South Dakota.

FOR FURTHER INFORMATION CONTACT: Patrick Crotty or Michael Liuzzi, Ground

Water Section, Drinking Water Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, (303) 844-2731, 564-1413 (FTS), or Mark Steichen or Garland Erbele, Drinking Water Section, South Dakota Department of Natural Resources, Joe Foss Building, Pierre, South Dakota 57501, (605) 773-3754.

SUPPLEMENTARY INFORMATION: The Underground Injection Control (UIC) program seeks to protect as "underground sources of drinking water" (USDWs) all aquifers capable of yielding a significant amount of water containing less than 10,000 mg/l of total dissolved solids.

This application from the South Dakota Department of Water and Natural Resources is for the regulation of all Class I, III, IV, and V injection wells, defined at 40 CFR 144.6. It includes a description of the State Underground Injection Control Program, copies of all applicable statutes and rules, a statement of legal authority and a proposed memorandum of agreement between the South Dakota Department of Water and Natural Resources and the Region VIII office of the Environmental Protection Agency.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control Program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 147

Indians—lands, Reporting and recordkeeping, Intergovernmental relations, Penalties, Confidential business information, Water supply, Incorporation by reference.

Authority: 42 U.S.C. 300.

Dated: February 15, 1985.

Henry Longest II,

Assistant Administrator for Water.

[FR Doc. 85-4362 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register

Vol. 50, No. 37

Monday, February 25, 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

Treatment of Historic Properties Under Emergency Conditions Pursuant to Section 106 of the National Historic Preservation Act

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Secretary of the Interior has issued 36 CFR Part 78, detailing procedures by which a Federal agency head may waive the requirements of section 110 of the National Historic Preservation Act where compliance with these requirements would impede the agency's response to a major natural disaster or national security emergency.

Neither section 110(j) of the National Historic Preservation Act, which directed the Secretary to establish such regulations, nor 36 CFR Part 78 itself, authorizes agencies to waive the requirements of section 106 of the National Historic Preservation Act, or to waive the requirements of the Council's implementing regulations (36 CFR Part 800).

The Council believes, however, that to require normal compliance with section 106 during a major natural disaster or national security emergency, while waiving the requirements of section 110, would be poor public policy, especially inasmuch as 36 CFR Part 78 establishes a requirement, placed on agency heads who waive section 110 responsibilities, to report their actions to the Secretary. An agency that conscientiously complied with both section 106 and 36 CFR Part 78 would have to report simultaneously to the Council and the Secretary; this reporting requirement, imposed only under emergency conditions, would be more burdensome than the single requirement to report to the Council that is imposed by section 106 in nonemergency situations.

Accordingly, the Council invites all Federal agencies that must take action from time to time in response to major natural disasters or national security emergencies to consult with the Council under 36 CFR 800.8 of the regulations to develop Programmatic Memoranda of Agreement that eliminate the need to report to the Council under section 106 in such circumstances and that facilitate agency responses to 36 CFR 78.4(a)(5). A model such Programmatic Memorandum of Agreement is given below.

Dated: February 19, 1985.

Robert R. Garvey,
Executive Director.

Model—Programmatic Memorandum of Agreement

WHEREAS the (agency) from time to time takes actions in response to major natural disasters or national security emergencies, and

WHEREAS the (agency) has determined that such actions may affect historic properties, and

WHEREAS it would not be in the public interest to delay such actions in order to comply with the requirements of section 106 of the National Historic Preservation Act and the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800) on each such action individually, and

WHEREAS the Department of the Interior has recently issued regulations at 36 CFR Part 78 governing the waiver of agency responsibilities under section 110 of the National Historic Preservation Act in cases of major natural disaster or national security emergencies, and

WHEREAS, the (agency), the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers have consulted pursuant to 36 CFR 800.8 of the Council's regulations to identify prudent and feasible means to avoid or mitigate effects on historic properties arising from the (agency's) response to major natural disasters or national security emergencies,

NOW, THEREFORE, it is mutually agreed that:

Within (specify time period) the (agency) will develop a plan for taking historic properties into account during its response to major natural disasters and/or national security emergencies. This plan shall give due consideration to the Secretary of the Interior's Standards

and Guidelines for Archeology and Historic Preservation (48 FR 44716-44740) and shall be responsive to 36 CFR 78.4(a), with special reference to 36 CFR 47.4(a)(5). The (agency) will afford the Council and National Conference of State Historic Preservation Officers (specify time period; usually 30 days) to review the plan and offer advisory comments.

Having received no comments from the Council and National Conference of State Historic Preservation Officers, or having received and considered such comments and adjusted its plan as the (agency) determines necessary to respond to them, the (agency) will ensure that the plan is implemented whenever it responds to a major natural disaster or a national security emergency, and shall integrate implementation of the plan with its compliance with 36 CFR Part 78.

[FR Doc. 85-4489 Filed 2-22-85; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Agricultural Advisory Committees for Trade; Renewal

Notice is hereby given that the Secretary of Agriculture, after consultation with the United States Trade Representative, has renewed the following advisory committees: Agricultural Policy Advisory Committee for Trade, and eight separate Agricultural Technical Advisory Committees for Trade in: Cotton, Dairy Products, Fruits and Vegetables, Grain and Feed, Livestock and Livestock Products, Oilseeds and Products, Poultry and Eggs, and Tobacco.

The purpose of these committees is to provide advice to the Secretary and the U.S. Trade Representative with respect to the trade policy of the United States pursuant to section 135(c) of the Trade Act of 1974 (Pub. L. 93-618), as amended by the Trade Agreements Act of 1979 (Pub. L. 96-39). Meetings of these committees will be open only to members of the committees in accordance with section 135(f)(2) of the Act unless otherwise determined.

The renewal of such committees is in the public interest in connection with the duties of the Department imposed by

the Trade Act of 1974, as amended by the Trade Agreements Act of 1979.

Issued at Washington, D.C. this 20th day of February 1985.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 85-4538 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-10-M

Farmers Home Administration

Natural Resource Management Guide Meeting; Salt Lake City, UT

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice of meeting.

SUMMARY: The Farmers Home Administration (FmHA) State Office located in Salt Lake City, Utah, is announcing a public information meeting to discuss its draft Natural Resource management Guide.

DATES: Meeting on March 5, 1985, 10:00 a.m. to 12:00 noon.

Comments must be received no later than April 4, 1985.

ADDRESS: Meeting location at Room 534 Federal Building, 125 South State Street, Salt Lake City, Utah.

Written Comments and Further Information Will be Addressed to: State Director, FmHA, Room 5438, Federal Building, 125 South State Street, Salt Lake City, Utah 84138 (801) 524-5027.

All written comments will be available for public inspection during regular work hours at the above address.

SUPPLEMENTARY INFORMATION: FmHA's Utah State Office has prepared a draft Natural Resource Management Guide. The Guide is a brief document describing the major environmental standards and review requirements that have been promulgated at the Federal and local levels and that affect the financing of FmHA activities in Utah. The purpose of the meeting is to discuss the Guide as well as to consider comments and questions from interested parties. Copies of the Guide can be obtained by writing or telephoning the above contact.

Any person or organization desiring to present formal comments or remarks during the meeting should contact FmHA in advance, if possible. It will also be possible at the start of the meeting to make arrangements to speak. Time will be available during the meeting to informally present brief, general remarks or pose questions. Additionally, a 30-day period for the submission of written comments will follow the meeting.

Dated: February 20, 1985.

David J. Howe,

Director, Program Support Staff.

[FR Doc. 85-4534 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-07-M

Forest Service

Southwestern Region; Prescott National Forest Grazing Advisory Board; Meeting

The Prescott National Forest Grazing Advisory Board will meet at 10:00 a.m. on March 19, 1985, at the Forest Supervisor's Office in Prescott, Arizona.

The purpose of this meeting is to review items of mutual interest to grazing permittees and the Forest Service. Discussion will be limited to use of range betterment funds and management planning.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Prescott National Forest, 344 South Cortez Street, Prescott, Arizona, telephone number (602) 445-1762. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rules for public participation:

Members of the public will be given an opportunity for comments and questions following discussion by the Advisory Board.

C.D. Warrick,

Acting Forest Supervisor.

February 11, 1985.

[FR Doc. 85-4463 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Central Electric Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500-1506), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact with respect to construction of a 345 kV switching station in Callaway County, Missouri, by Central Electric Power Cooperative, Inc. (Central).

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact (FONSI) and Environmental Assessment

(EA) and Central's Borrower's Environmental Report (BER) may be reviewed at the office of the Chief, Distribution and Transmission Engineering Branch, Southwest Area-Electric, Room 0009, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1915, or at the office of Central Electric Power Cooperative, Inc. (Carl M. Herren, Manager), 2106 Jefferson Street, Jefferson City, Missouri 65102, telephone (314) 634-2425, during regular business hours. Copies of the EA and FONSI can be obtained from either of the contacts listed above. Any comments or questions should be directed to the REA contact.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for financing assistance from Central, has reviewed the BER submitted by Central and has determined that it represents an accurate assessment of the environmental impact of the proposed project. Central's project consists of constructing the 345 kV McCredie switching station on a 0.46 ha (1.14 a) site proximate to the crossing point of two existing 345 kV transmission lines. The transmission lines are owned by Associated Electric Power Cooperative, Inc., and Union Electric Company. A 15.2 meter (50 ft) wide rock aggregate driveway 0.678 km (0.41 mi) long will access the switching station to an existing county road.

REA determined that the proposed project will have no effect on cultural resources, floodplains, wetlands and threatened and endangered species. Approximately 1.7 ha (4.2 a) of important farmland will be removed from production due to construction of the switching station and access road. REA determined that there is a demonstrated significant need for the project and there is no practicable alternative that would avoid conversion of these lands or reduce the number of acres to be converted.

Alternatives examined for the proposed new switching station included no action, installing the switching equipment at an existing substation which would also require construction of an additional 345 kV transmission line or constructing a new 345 kV line between two existing substations. REA determined that the proposed project is an acceptable alternative to meet Central's needs.

Based upon the BER, REA prepared an EA concerning the proposed project and its impacts. REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the project would not

constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Environmental Policies and Procedures (7 CFR Part 1794), Central advertised and requested comments on the environmental aspects of the proposed project in local newspapers. There were no comments.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Guarantees.

Dated: February 20, 1985.

Jack Van Mark,

Acting Administrator.

[FR Doc. 85-4535 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-15-M

Sulfur Springs Valley Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and REA Environmental Policy and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact (FONSI) with respect to the development of 2.3 ha (5.7 a) for material and equipment storage in Cochise County, Arizona, by Sulfur Springs Valley Electric Cooperative, Inc. (SSVEC).

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) and SSVEC's Borrower's Environmental Report (BER) may be reviewed at the office of the Chief, Distribution and Transmission Engineering Branch, Southwest Area-Electric, Room 0009, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1915, or at the office of Sulfur Springs Valley Electric Cooperative, Inc. (Howard D. Bethel, Manager), P.O. Box 820, Willcox, Arizona 85643, telephone (602) 384-2221, during regular business hours. Copies of the EA and FONSI can be obtained from either of the contacts listed above. Any comments or questions should be directed to the REA contact.

SUPPLEMENTARY INFORMATION: REA, in conjunction with a request for financing assistance from SSVEC, has reviewed

the BER submitted by SSVEC and has determined that it represents an accurate assessment of the environmental impact of the proposed project. SSVEC's project consists of expanding the storage facilities at the Sierra Vista warehouse/construction center yard. Initially, 2.3 ha (5.7 a) will be fenced and utilized for material storage. An additional 4 ha (10 a) is scheduled for future development.

REA determined that the proposed project will have no effect on floodplains, wetlands, important farmland, cultural resources and threatened and endangered species.

Alternatives examined for the proposed expansion include continued leasing of storage space (no action) and development of storage facilities at a new location. REA determined that the proposed project is an acceptable alternative to meet SSVEC's needs.

Based upon the BER, REA prepared an EA concerning the proposed project and its impacts. REA has independently evaluated the proposed project and has concluded that approval of financing assistance for the project would not constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Environmental Policies and Procedures (7 CFR Part 1794), SSVEC advertised and requested comments on the environmental aspects of the proposed project in local newspapers. There were no comments.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: February 20, 1985.

Jack Van Mark,

Acting Administrator.

[FR Doc. 85-4536 Filed 2-22-85; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-582-501]

Photo Albums and Photo Album Filler Pages From Hong Kong; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are

initiating an antidumping duty investigation to determine whether photo albums and photo album filler pages from Hong Kong are being, or are likely to be, sold in the United States at less than fair value. Critical circumstances have also been alleged under section 733(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(e)) (the Act). We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 18, 1985, and the Department of Commerce will make its preliminary determination on or before July 9, 1985.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT: Steven Lim, Office of Investigations, Import Administration, International Trade Administration U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1776.

SUPPLEMENTARY INFORMATION:

The Petition

On January 30, 1985, we received a petition in proper form filed by Esselte Pendaflex, Inc., Holson Company, Kleer-Vu Plastics Corporation and SPM Manufacturing, on behalf of the U.S. industry producing photo albums and photo album filler pages. On February 7, 1985, the petition was amended to cover photo album filler pages in addition to photo albums upon which the original petition was filed. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Hong Kong are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

The petitioners base the United States price on C&F, delivered, duty paid prices for sales in 1984 from Hong Kong to the United States less ocean freight, duty, customs clearance and inland freight.

The petitioners base foreign market value on their own costs of production, plus the statutory minimum of 10 for general expenses and 8 percent for profit.

Based on the petitioners' constructed value data, and the price for export to the United States, dumping margins from Hong Kong appear to exist ranging from a low of 25 percent to a high of approximately 82 percent.

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on photo albums and photo album filler pages and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether photo albums and photo album filler pages are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by July 9, 1985.

Scope of Investigation

The products covered by this investigation are photo albums and photo album filler pages. Photo albums are currently provided for in item 256.60 of the *Tariff Schedules of the United States* (TSUS). Photo album filler pages are currently provided for in items 256.87, 256.90 and 774.55 of TSUS.

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by the ITC

The ITC will determine by March 18, 1985, whether there is a reasonable indication that imports of photo albums and photo album filler pages from Hong Kong are causing material injury, or threaten material injury, to a United States industry. If the ITC determination is negative, the investigation will

terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

February 19, 1985.

[FR Doc. 85-4533 Filed 2-22-85; 8:45 am]

BILLING CODE 3510-05-M

[A-580-501]

Photo Albums and Photo Album Filler Pages From the Republic of Korea; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether photo albums and photo album filler pages from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value. Critical circumstances have also been alleged under section 733(e) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b (e)) (the Act). We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before March 18, 1985, and the Department of Commerce will make its preliminary determination on or before July 9, 1985.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT: Steven Lim, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-1776.

SUPPLEMENTARY INFORMATION:

The Petition

On January 30, 1985, we received a petition in proper form filed by Esselte Pendaflex, Inc., The Holson Company, Kleer-Vu Plastics Corporation and SPM Manufacturing, filing on behalf of the U.S. industry producing photo albums and photo album filler pages. On February 7, 1985, the petition was amended to cover photo album filler pages in addition to photo albums upon which the original petition was filed. In

compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

The petitioners base the United States price on C&F, delivered, duty paid prices for sales in 1984 from Korea to the United States less ocean freight, duty, customs clearance and inland freight.

The petitioners base foreign market value on their own costs of production, adjusted for estimated differences in production costs, plus the statutory minimums of 10 percent for general expenses and 8 percent for profit.

Based on the petitioners' constructed value data, and the price for export to the United States, dumping margins from Korea appear to exist ranging from a low of 26 percent to a high of approximately 83 percent.

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on photo albums and photo album filler pages and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether photo albums and photo album filler pages are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by July 9, 1985.

Scope of Investigation

The products covered by this investigation are photo albums and photo album filler pages. Photo albums are currently provided for in item 256.60 of the *Tariff Schedules of the United States* (TSUS). Photo album filler pages are currently provided for in items 256.87, 256.90 and 774.55 of TSUS.

Notification to the ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it

all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by the ITC

The ITC will determine by March 18, 1985, whether there is a reasonable indication that imports of photo albums and photo album filler pages from Korea are causing material injury, or threaten material injury, to a United States industry. If the ITC determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Alan F. Holmer,

Deputy Association Secretary for Import Administration.

February 19, 1985.

[FR Doc. 85-4532 Filed 2-22-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Issuance of Letter of Authorization

Notice is hereby given that on February 15, 1985, the National Marine Fisheries Service issued a Letter of Authorization under the authority of section 101(a)(5) of the Marine Mammal Protection Act of 1972 and 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to On-Ice Seismic Activities to the following:

CGC American Services, Inc., 699 Hampshire Road, Suite 203, Westlake Village, California 91361

This Letter of Authorization is valid for 1985 and is subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing Small Takes of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B).

Issuance of this letter is based on a finding that the total level of taking will have a negligible impact on the ringed seal species or stock, its habitat and its availability for subsistence use.

This Letter of Authorization is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: February 5, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-4479 Filed 2-22-85; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
 - a. Name: San Antonio Zoological Gardens and Aquarium.
 - b. Address: 3930 North Saint Mary's Street, San Antonio, Texas 78212.
2. Type of Permit: Public Display.
3. Name and Number of Animals: California sea lions (*Zalophus californicus*) 3.
4. Type of Take: Beached/stranded and captive born.
5. Location of Activity: Birmingham Zoo, Birmingham, Alabama and New England Aquarium, Boston, Massachusetts.
6. Period of Activity: 3 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the *Federal Register*, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service U.S. Department of Commerce, Washington, D.C. 20235, with 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930-3799; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, Florida 33702.

Dated: February 19, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-4480 Filed 2-22-85; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Office of the Secretary, DoD.

ACTION: 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 Respondent; (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

Department of Defense Industrial Preparedness Program Production Planning Schedule (DD Form 1519).

The DD Form 1519 is used by Department of Defense officials to schedule delivery of military items in the event of an emergency or war. The schedule identifies actual delivery dates and allocated production of each facility and shifts of work at the facility to produce the required item.

Responses 18,600

Burden hours 46,500

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Dubreuil, Office of the Under Secretary of Defense (Research and Engineering) Acquisition Management, Industrial Resources, Room 3C257, Pentagon, Washington, D.C. 20301-3060, telephone (202) 695-0292.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. John Dubreuil.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 20, 1985.

[FR Doc. 85-4559 Filed 2-22-85; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

AGENCY: Office of the Secretary, DOD.

ACTION: 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 Respondent; (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

Department of Defense Industrial Facility Survey Industrial Preparedness Planning Program (DD Form 1519-2).

The DD Form 1519-2 is used by Department of Defense officials to record production capabilities and physical properties of privately owned facilities. The data obtained is used to plan for effective utilization of the plant during mobilization.

Responses 12,100

Burden hours 24,200

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, Room 1C535, Pentagon, Washington, D.C. 20301-1155, telephone (202) 694-0187.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Dubreuil, Office of the Under Secretary of Defense (Research and Engineering) Acquisition Management, Industrial Resources, Room 3C257, Pentagon, Washington, D.C. 20301-3060, telephone (202) 695-0292.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. John Dubreuil.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 20, 1985.

[FR Doc. 85-4558 Filed 2-22-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army**Army Science Board; Closed Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday-Thursday, 12-14 March 1985.

Times of Meeting: 0830-1700 hours, all three days (Closed).

Place: 12 March at Structures Laboratory, Langley Research Center, Hampton, Virginia; 13-14 March at Applied Technology Laboratory, Fort Eustis, Virginia.

Agenda: The Army Science Board Ad Hoc Subgroup on U.S. Army Research and Technology Laboratories Effectiveness Review will meet to receive classified Command briefings and conduct one-on-one

interviews with a cross-section of the staff. The study purpose is to ensure continued excellence of the labs by providing independent evaluation on problems and causes of deficiencies, if any. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-4506 Filed 2-22-85; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Monday & Tuesday, 18 and 19 March 1985.

Times of Meeting: 0830-1700 hours, both days (Closed).

Place: Science & Technology Associates, Inc.—Arlington, VA.

Agenda: The Army Science Board Ad Hoc Subgroup on Nondevelopmental C/I Items will meet in an Executive Session for finalization of the draft report. The study purpose is to effect an increase in "off the shelf" equipment purchases for the Army. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 85-4507 Filed 2-22-85; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Comprehensive Galveston Bay Area, Texas, Navigation Civil Works Study

Correction

In FR Doc. 85-2096 appearing on page 3829 in the issue of Monday, January 28, 1985, make the following correction: In the second column, in the **SUMMARY**, in

the seventh line, "difficult" should read "efficient".

BILLING CODE 1505-01-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before March 27, 1985.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Margaret B. Webster, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: February 20, 1985.

Linda M. Combs,

Deputy Under Secretary for Management.

Office of the Secretary

Type of Review Requested: New
Title: Application for the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages

Agency Form Number: R80-1P

Frequency: Annually

Affected Public: State and local educational agencies, institutions of higher education, and non-profit organizations

Reporting Burden: Responses: 250;

Burden Hours: 10,000

Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The Secretary's Discretionary Program for Mathematics, Science, Computer Learning and Critical Foreign Languages is a new program enacted as section 212 of the Education for Economic Security Act (Pub. L. 98-377, 20 U.S.C. 3972). The program provides support for projects of national significance (1) designed to improve the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages and, to increase the access of all students to such instruction; and (2) designed to improve or expand instruction in critical foreign languages. Applicants will be State educational agencies, local educational agencies, institutions of higher education, and non-profit organizations including museums, libraries, educational TV stations and professional science, math and engineering societies, and associations.

Office of the Secretary

Type of Review Requested: New
Title: Application for the Excellence in Education Program

Agency Form Number: R80-2P

Frequency: Annually

Affected Public: State and local educational agencies and public elementary and secondary schools

Reporting Burden: Responses: 1,305;

Burden Hours: 52,000

Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: the Excellence in Education Act is a new program enacted as title VI of the Education for Economic Security Act (Pub. L. 98-377, 20 U.S.C. 4031). It was designed to provide assistance to individual public schools that are

implementing the recommendations of the National Commission on Excellence in Education or are otherwise striving to improve the quality of elementary and secondary education. Applicants will be local educational agencies, who will submit a separate application for each school to be considered for funding to the Chief State School Officer of each State. The Chief State School Officer will then nominate up to 25 schools in each State and forward those nominations to the Secretary.

Office of Vocational and Adult Education

Type of Review Requested: Revision
Title: Application for Vocational and Adult Education Direct Grant Programs

Agency Form Number: ED 3176

Frequency: Annually

Affected Public: Individuals or households; State or local governments; Non-profit institutions

Reporting Burden: Responses: 490;

Burden Hours: 9,800

Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: Applicants use the standard OMB Circular No. A-102 application form to request consideration for vocational and adult education direct grant awards. Program officials use the information to establish eligibility and to assign a quality ranking to the application. Grant officers use the information to negotiate a grant award.

Office of Special Education and Rehabilitative Services

Type of Review Requested: Extension
Title: Rehabilitative Services

Administration (RSA) Discretionary Program Application Instructions

Agency Form Number: ED 424

Frequency: Annually

Affected Public: State or local governments; Businesses or other for-profit; Non-profit institutions

Reporting Burden: Responses: 1,170;

Burden Hours: 46,800

Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: Instructions are required so that all applications will be completed in accordance with specified and unique requirements of various RSA programs. Program staff and/or outside reviewers use the application information to evaluate program progress, project viability, soundness of approach, and reasonableness of proposed cost of new and continuation applications.

Office of Special Education and Rehabilitative Services

Type of Review Requested: New

Title: Three-year State Plan for Independent Living (IL) Rehabilitation Services under Title VII (Part A) of the Rehabilitation Act of 1973, as amended

Agency Form Number: ED (RSA)—SPIL

Frequency: Annually; 3 year cycle

Affected Public: State or Local Governments

Reporting Burden: Responses: 83; Burden Hours: 1,860

Recordkeeping Burden: Recordkeepers: 83; Burden Hours: 7

Abstract: Title VII, Part A, of the Rehabilitation Act authorizes grants to assist State Vocational Rehabilitation (VR) agencies (a total of 83 State agencies) in providing Independent Living rehabilitation services to the severely handicapped who do not have potential for gainful employment but may receive VR services to help them function independently. Each state submits a State plan in order to receive Federal funds. (29 U.S.C. 796d)

Office of Postsecondary Education

Type of Review Requested: Reinstatement

Title: Program Announcement—Fund for the Improvement of Postsecondary Education (FIPSE): Comprehensive Program Final Year Dissemination Competition

Agency Form Number: ED 0003

Frequency: Annually

Affected Public: State or local governments; Non-profit institutions;

Small businesses or organizations

Reporting Burden: Responses: 63; Burden Hours: 264

Recordkeeping Burden: Recordkeepers: 63; Burden Hours: 264

Abstract: This is a grant competition for awards with a limited eligibility requirement—a current FIPSE grantee under the comprehensive Program whose projects are in its final year of funding may apply, or recipients of single-year grants may apply within one year following the termination of its project. The purpose of these awards is to disseminate FIPSE project results or ideas.

[FR Doc. 85-4539 Filed 2-22-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY**Office of the Secretary**

Compliance With the National Environmental Policy Act (NEPA); Amendments to the DOE NEPA Guidelines

AGENCY: Department of Energy.

ACTION: Notice of Proposed Amendments to the Department of Energy's NEPA Guidelines.

SUMMARY: The Department of Energy proposes to amend Section D of its NEPA guidelines by adding, modifying, and deleting typical classes of action. Public comment is invited on this proposal. Pending final adoption of the proposed amendments, the Department of Energy will use the amendments on an interim basis.

DATES: Comments by: March 27, 1985.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert J. Stern, Director, Office of Environmental Compliance, U.S. Department of Energy, 1000 Independence Avenue, SW., Rm. 3G-092, Washington, D.C. 20585, (202) 252-4600.

Henry Garson, Esq., Assistant General Counsel for Environment, GC-11, U.S. Department of Energy, 1000 Independence Avenue, SW., Rm. 6A-113, Washington, D.C. 20585, (202) 252-6947.

SUPPLEMENTARY INFORMATION:**A. Background**

On March 28, 1980, the Department of Energy (DOE) published in the *Federal Register* (45 FR 20694) final guidelines for compliance with the National Environmental Policy Act (NEPA), as required by the Council on Environmental Quality (CEQ) regulations (40 CFR 1500-1508). In accordance with 40 CFR 1507.3(b)(2), Section D of the guidelines lists typical classes of agency action: (1) Which normally require environmental impact statements (EIS); (2) which normally require environmental assessments but not necessarily environmental impact statements; and (3) which normally do not require either environmental assessments or environmental impact statements.

Under Paragraph A.3(d) of the guidelines, the Department may amend Section D based on experience gained during implementation of the CEQ regulations and the DOE guidelines. The last amendments to Section D were published in the *Federal Register* on January 6, 1983, (48 FR 685).

B. Proposed Amendments

The Department proposes to further amend Section D of the guidelines by adding 8 new typical classes of actions, by modifying 4 existing typical classes of action, and by deleting 1 typical class of action.

The following categorical exclusions, i.e., actions which do not individually or cumulatively have a significant effect on the quality of the human environment and therefore for which neither an environmental assessment (EA) nor an EIS is required, are proposed:

1. Construction of tap lines (usually less than 6 miles in length) which are not for the integration of major new sources of generation into DOE's main transmission systems, and where such actions do not impact environmentally sensitive areas such as archeological sites, critical habitats, floodplains, wetlands, etc.

2. Construction of microwave towers and associated facilities where such actions do not impact environmentally sensitive areas such as archeological sites, critical habitats, floodplains, wetlands, etc., and where such actions do not prejudice future site selection decisions for substations or other transmission facilities.

3. Disposal of real property by the Department of Energy through the General Services Administration where the planned land-use is to remain unchanged.

4. Financial and technical assistance to individual (builders, owners, designers) and to state and local governments to promote energy-efficiency in new structures built in compliance with applicable, duly adopted building codes.

5. Small scale research and development projects designed to demonstrate potential electrical energy conservation associated with residential/commercial buildings, appliance/equipment efficiency standards, and manufacturing and industrial processes (e.g. insulation effectiveness, lighting efficiencies, appliance efficiency ratings, and development of manufacturing or industrial plant efficiencies).

6. Activities undertaken to restore existing fish and wildlife facilities, including minor habitat improvements or improvements to existing fish passage facilities at existing dams or diversion canals.

7. Power marketing services including storage, load factoring, seasonal exchanges, or other similar activities where the operations of hydroelectric projects remain within established

constraints and which do not alter the environmental status quo.

As a result of the addition of the new categorical exclusion number 2 listed above, it is necessary to modify an existing typical class of action normally requiring an EA. The typical class of action "Construction of new service facilities such as tap lines and substations," is modified to read as follows: "Construction of new substations and service facilities."

The following typical class of action is being added to those which normally require environmental assessments but not necessarily environmental impact statements:

1. Execution of contracts for the long term (greater than 1 year) allocation of existing or excess power resources to customers who can receive the resources over existing transmission facilities.

The following existing typical classes of action are being modified to add clarity.

1. "DOE actions which cause energy conservation on a substantial scale," is modified as follows: DOE actions which cause energy conservation on a substantial scale including those which cause effects on the indoor environment (indoor air quality, etc.).

2. "Execution of contracts for the short term or seasonal allocation of excess power resources to customers who can receive these resources over existing transmission systems," is modified as follows: Execution of contracts for the short-term or seasonal allocation (less than 1 year) of existing or excess power resources to customers who can receive these resources over existing transmission systems.

3. "Minor additions to a substation, transformer additions, or changes in transformer assignments that do not affect the area beyond the previously developed substation area," is modified as follows: Minor substation modifications, which do not involve the construction of new transmission lines or the intergration of a major new resource, and where such actions do not impact environmentally sensitive areas such as archeological sites, critical habitats, floodplains, wetlands, etc.

As a result of this modification, the following typical class of action normally requiring an EA but not necessarily an EIS is being deleted: "Modifications of existing facilities (e.g., substations, storage yards) where impacts extend beyond the previously developed facility area."

Comments concerning the proposed amendments to Section D of the Department's NEPA guidelines should

be submitted to Dr. Stern at the above cited address.

Pending final adoption, the Department of Energy will use the proposed typical classes of action on an interim basis.

Issued in Washington, D.C., on February 12, 1985.

William A. Vaughan,

Acting Assistant Secretary for Policy, Safety, and Environment.

[FR Doc. 85-4512 Filed 2-22-85; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs and Energy Emergencies

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 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 agreement involves approval of the following sales:

Contract Number S-CA-370, to the University of Montreal, Montreal, Canada, 0.105 grams of uranium, enriched to 99.82% in U-235, and 26 grams of natural uranium metal, for use as standard reference material.

Contract Number S-CA-371, to Atomic Energy of Canada, Ltd., Chalk River, Canada, 148.8 grams of natural uranium, 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.

Dated: February 19, 1985.

For the Department of Energy.

George J. Bradley, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 85-4518 Filed 2-22-85; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreement; Civil Uses; Proposed Subsequent Arrangement; 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 a 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, and the Agreement for Cooperation Between the Government of United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval of the following retransfer: RTD/JA (EU)-33, from the Federal Republic of Germany to Japan, 4.505 kilograms of uranium, enriched to approximately 19.95% in U-235, in the form of fuel elements for use in the Japan Atomic Energy Research Institute Oarai reactor.

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.

Dated: February 19, 1985.

For the Department of Energy.

George J. Bradley, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 85-4517 Filed 2-22-85; 8:45 am]

BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Japan

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 Japan Concerning Civil 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-JA-355, to the Nissho Iwai Corp., Tokyo,

Japan, 0.003 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 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.

Dated: February 19, 1985.

For the Department of Energy,

George J. Bradley, Jr.,

Deputy Assistant Secretary for International Affairs.

[FR Doc. 85-4516 Filed 2-22-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 85-02-NG]

The Washington Water Power Co. Order Approving Import of Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order approving amendment of authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that on February 15, 1985, the ERA Administrator issued an Opinion and Order approving The Washington Water Power Company's (Washington Water Power) application to amend its authorization to import Canadian natural gas from Amoco Canada Petroleum Company (Amoco Canada). The approval authorizes Washington Water Power to import up to 15,000 Mcf of natural gas per day, up to a maximum of 11 Bcf, at an average price of about \$2.90 (U.S.) per MMBtu.

The text of the Opinion and Order follows.

FOR FURTHER INFORMATION CONTACT:

Tom Dukes, Natural Gas Division,
Office of Fuels Programs, Economic
Regulatory Administration, Forrestal
Building, Room GA-007, 1000
Independence Avenue, SW.,
Washington, D.C. 20585, (202) 252-
9590

Diane Stubbs, Office of General
Counsel, Natural Gas and Mineral
Leasing, U.S. Department of Energy,
Forrestal Building, Room 6E-042, 1000
Independence Avenue, SW.,
Washington, D.C. 20585, (202) 252-
6667

Issued in Washington, D.C., on February 15, 1985.

James W. Workman,

Director, Office of Fuels Programs, Economic
Regulatory Administration.

Department of Energy Economic Regulatory Administration

[ERA Docket No. 85-02-NG; DOE/ERA
Opinion and Order No. 71]

The Washington Water Power Co.: Order Approving Amendment of Authorization To Import Canadian Natural Gas

February 15, 1985.

I. Background

On January 8, 1985, The Washington Water Power Company (Washington Water Power) filed an application and motion for expedited consideration with the Department of Energy's (DOE) Economic Regulatory Administration (ERA) pursuant to section 3 of the Natural Gas Act to amend the existing natural gas import authorization granted by the ERA on October 31, 1984, in Opinion and Order No. 62 (Order 62).¹ Order 62 authorized Washington Water Power to import from Amoco Canada Petroleum Company (Amoco Canada) up to 15,000 Mcf of natural gas per day until a maximum of 11 Bcf has been imported, for resale to one industrial and two institutional customers in eastern Washington State for a two-year period at an average weighted cost of \$2.70 (U.S.) per MMBtu.

Washington Water Power, a combination electric and gas utility located in Spokane, Washington, provides gas at retail to residential, commercial and industrial customers in eastern Washington and northern Idaho. The volume it proposes to import would be transported for Amoco Canada by Westcoast Transmission Co., Ltd. (Westcoast) from British Columbia to the interconnection of Westcoast's facilities with the facilities of Northwest Pipeline Corporation (Northwest) at the international border in the vicinity of Sumas, Washington. Northwest would then transport the gas to the applicant's service area in northeast Washington.

Washington Water Power filed this application to amend its current authorization in response to the Canadian National Energy Board's (NEB) disapproval of the application for an export license filed by Amoco Canada on October 31, 1984. The NEB denied Amoco Canada's request on December 24, 1984, on the grounds that the proposed export price of \$2.70 per MMBtu was below the Toronto city gate

price set by the Canadian government as the minimum export price.

On January 3, 1985, Washington Water Power amended its agreement with Amoco Canada to establish a Canadian price of \$3.637 per gigajoule, equal to about \$2.90 (U.S.) per MMBtu at the time of filing.² The price charged to two of the three customers, Fairchild Air Force Base and Northwest Alloys, Inc., (\$3.50 per MMBtu) would not change. The increase in price for the imported gas would result from eliminating Washington State University as a customer. According to Washington Water Power's original application,³ Washington State University was the lowest priced service under the arrangement and would have accounted for nearly 38 percent of the authorized import volumes.

Under the amended contract with Amoco Canada, only aggregate volumes have been changed. The revised arrangement would require Washington Water Power to provide gas service to Northwest Alloys, Inc. and Fairchild Air Force Base at the same maximum daily and annual volumes and take-and-pay factors as before:

Item	Quantities in Mcf		
	Fairchild *	N.W. alloys *	Total
Annual contract quantities	400,000	1,200,000	1,600,000
Contract year take-and-pay quantities	400,000	1,000,000	1,400,000
Maximum daily rate	2,500	4,100	6,600
Daily take-and-pay factor	1,100	2,740	3,840

* Fairchild Air Force Base is located near Spokane, Washington.

* The Northwest Alloys, Inc. plant is located near Addy, Washington.

As provided in the original contract, the amended agreement permits the parties to extend the contract for additional one-year periods. If the contract is extended, it requires the parties to redetermine the contract price 60 days prior to the beginning of any additional period. In the event they are unable to reach an agreement on price, the agreement will terminate effective October 31 of the applicable calendar year.

Another amendment to the agreement would give Washington Water Power the right to refuse to take the imported gas if the price were to become uneconomical. No other provisions were amended. The authorized import rate of up to 15,000 Mcf per day would remain unchanged.

¹ 1 gigajoule = .95 MMBtu or approximately .95 Mcf.

² ERA Docket 84-10-NG, September 14, 1984.

³ 49 FR 44523, November 7, 1984.

In support of its application, Washington Water Power states that the gas import would be competitive and not inconsistent with the public interest. According to the applicant, importation of the gas will in no way impair its ability to continue rendering natural gas service at reasonable rates. It demonstrates this by comparing the current \$3.81 per MMBtu it must pay Northwest to the amended price of \$2.90 (U.S.) per MMBtu it would pay Amoco Canada, a difference of approximately \$0.91 per MMBtu. Washington Water Power also contends that only existing facilities would be required to implement the proposed import. Therefore, no environmental impacts are anticipated.

Washington Water Power asserts that the elimination of service to Washington State University does not change the essential nature of its contract because the rate to the two remaining customers is still low enough to make service economical for those customers. It further states that none of the reasons given in support of its original application have changed.

Washington Water Power has requested that ERA expeditiously approve the amendment because one of its industrial customers, Northwest Alloys, has a critical and immediate need for the gas. Northwest Alloys has indicated that further delay of service would be unacceptable and, given its special circumstances, it may convert to coal if gas is not available soon. The ERA agreed to consider the application on an expedited basis.

II. Intervention and Comments

The ERA issued a notice of the application on January 14, 1985.⁶ The notice invited protests or petitions to intervene, which were to be filed by February 8, 1985. No comments were received.

III. Decision

Washington Water Power's application has been evaluated in accordance with the Administrator's authority to determine if the proposed import arrangement meets the public interest requirements of section 3 of the Natural Gas Act. Under Section 3, an import is to be authorized unless there is a finding that it "will not be consistent with the public interest."⁷ The Administrator is guided by the Secretary of Energy's policy relating to the regulation of natural gas imports, and by Delegation Order No. 0204-111.⁸ Under

the policy guidelines, the competitiveness of the import arrangement is the primary consideration for meeting the public interest test, with security of the supply and need being other considerations.

As previously concluded in Order 62, Washington Water Power's proposed arrangement for the import of Canadian gas is consistent with the competitiveness criterion. The agreement was freely renegotiated between Washington Water Power and its supplier and customers. The volumes will be imported on a short-term basis, and Washington Water Power reserves the right to refuse gas deliveries if they become uneconomical. In eliminating service to Washington State University, the lowest priced of its three authorized customers, Washington Water Power raised its average imported gas cost from \$2.70 to about \$2.90 per MMBtu. In doing so, however, the original rate of \$3.50 per MMBtu that the two remaining customers will pay has not changed from the import arrangement originally authorized, nor have the annual gas purchase and take-and-pay obligations changed for those customers. The competitive price advantage which caused those customers to enter into the agreement remains.⁹ Thus it is determined that this arrangement remains consistent with the policy guidelines.

After taking into consideration all information in the record of this proceeding, I find that the amended authorization requested by Washington Water Power is not inconsistent with the public interest and should be granted.¹⁰

Order

For the reasons set forth above, pursuant to section 3 of the Natural Gas Act, it is ordered that:

A. Ordering Paragraph A of DOE/ERA Opinion and Order No. 62 (Order 62), issued October 31, 1984, is hereby amended to authorize Washington Water Power to import up to 15,000 Mcf of Canadian natural gas per day for a two-year period beginning on the date of first delivery, and to continue thereafter on a year-to-year basis until terminated by either party, or until a maximum of 11

Bcf has been imported, whichever occurs first, in accordance with the pricing and other provisions established in the amended contract submitted as part of its application to amend its authorization.

B. Except as modified by Ordering Paragraph A, all other terms and conditions in Order 62 shall continue to apply to the imports authorized herein.

Issued in Washington, D.C., February 15, 1985.

Rayburn Hanzlik,
Administrator, Economic Regulatory
Administration.

[FR Doc. 85-4513 Filed 2-22-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP85-72-000]

Algonquin Gas Transmission Co.; Filing of Revised Tariff Sheets

February 20, 1985.

Take notice that on February 12, 1985, Algonquin Gas Transmission Company ("Algonquin Gas") tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No 1:

First Revised Sheet No. 610

First Revised Sheet No. 611

First Revised Sheet No. 612.

Algonquin Gas states that such revised tariff sheets modify section 11 of the General Terms and Conditions, relating to Assignment.

More specifically Algonquin Gas states that it is clarifying such provision to indicate the regulatory procedural steps of obtaining certificate authority for any assignment of service agreement rights or obligations, and the need for superseding Service Agreements so that the results of an authorized assignment are reflected in an updated agreement. Algonquin Gas proposes that its tariff sheets should become effective 30 days after filing, or on March 14, 1985.

Algonquin Gas states that it has served a copy of its filing on each affected party 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, 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 February 27, 1985. Protests will be considered by the

⁶ 50 FR 2712, January 18, 1985.

⁷ 15 U.S.C. 717b.

⁸ 49 FR 6084, February 22, 1984.

⁹ The commodity rate Washington Water Power pays to Northwest is \$3.81 (U.S.) per MMBtu compared to the Amoco Canada resale price of \$3.50 per MMBtu.

¹⁰ Because the proposed importation of gas will use existing pipeline facilities, DOE has determined that granting this application is not a Federal action significantly affecting the quality of the environment within the meaning of the National Environmental Policy Act (42 U.S.C. 4321, *et seq.*) and therefore an environmental impact statement or environmental assessment is not required.

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. 85-4521 Filed 2-22-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-71-000]

**Algonquin Gas Transmission Co.;
Proposed Changes in FERC Gas Tariff**

February 20, 1985.

Take notice that on January 29, 1985, Algonquin Gas Transmission Company (Algonquin Gas) tendered for filing First Revised Sheet No. 648 to its FERC Gas Tariff, Second Revised Volume No. 1. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR § 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until February 8, 1985.

Algonquin Gas states that the above-mentioned tariff sheet is being filed pursuant to Commission Opinion No. 226 at Docket No. RP84-85-000, which amended and approved Gas Research Institute's ("GRI") 1985 Research and Development Program and Related Five-Year Plan for 1985-89. The revised sheet reflects the change ordered in Opinion No. 226 that collection of the GRI funding unit be remitted to GRI within fifteen (15) days of receipt. The proposed effective date of the filing is January 1, 1985.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 27, 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 petition to

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-4502 Filed 2-22-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP79-23-022]

**Distrigas of Massachusetts Corp.;
Motion Requesting Acceptance of
Substitute Tariff Sheets and Refund
Reports in Implementation of Court
Mandate**

February 19, 1985.

Take notice that on February 11, 1985, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing a Motion Requesting Acceptance of Substitute Tariff Sheets And Refund Reports (Motion) in implementation of the mandate of the United States Court of Appeals for the First Circuit issued in *Distrigas of Massachusetts Corp. v. FERC*, 737 F.2d 1208 (June 14, 1984).

In its Motion, DOMAC requests that the Commission approve and accept: (1) DOMAC's Fourth Substitute Fourth Revised Sheet No. 17 to its FERC Gas Tariff, First Revised Volume No. 1, attached as Appendix C to the Motion; and (2) The Calculation, attached as Appendix B to the Motion.

DOMAC states that it has served this Motion on each person designated on the official service list, its customer companies and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 26, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-4503 Filed 2-22-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-34-010]

**Distrigas of Massachusetts; Motion
Requesting Acceptance of Substitute
Tariff Sheets and Refund Reports in
Implementation of Court Mandate**

February 19, 1985.

Take notice that on February 11, 1985, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing a Motion Requesting Acceptance of Substitute Tariff Sheets And Refund Reports (Motion) in implementation of the mandate of the United States Court of Appeals for the First Circuit issued in *Distrigas of Massachusetts Corp. v. FERC*, 737 F.2d 1208 (June 14, 1984).

In its Motion, DOMAC requests that the Commission approve and accept: (1) DOMAC's Third Substitute Sixth Revised Tariff Sheet No. 17 to its FERC Gas Tariff, First Revised Volume No. 1, attached as Appendix B to the Motion; (2) Approve and accept the refund report and calculation attached as Appendix C to the Motion; and (3) Approve the lump sum payment of amounts owed to DOMAC for the Docket No. RP81-34, together with interest through and including date of payment, by each customer to DOMAC within 45 days of the Commission's order approving this motion.

DOMAC states that it has served this Motion on each person designated on the official service list, its customer companies and affected state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 26, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-4505 Filed 2-22-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GT85-11-000]

**Mountain Fuel Resources, Inc.;
Proposed Change in FERC Gas Tariff**

February 20, 1985.

Take notice that on February 13, 1985, Mountain Fuel Resources, Inc. (Resources) tendered for filing and acceptance revisions to its FERC Gas Tariff, Original Volume No. 3, as follows:

Rate Schedule X-1

First Revised Sheet No. 46

Rate Schedule X-2

First Revised Sheet No. 66

First Revised Sheet No. 67.

The proposed tariff sheets will revise the respective rate schedules to allow thermally equivalent volumes of gas to be balanced on a thermal basis. The rate schedules previously provided for balancing on a volumetric basis. Northwest Pipeline Corporation (Northwest) has filed corresponding tariff changes for its counterpart rate schedules. These changes became effective October 31, 1984, per letter order dated October 25, 1984, in Docket No. GT-85-3-000.

Resources requests waiver of 18 CFR 154.22 to permit an effective date of October 31, 1984, to coincide with Northwest's Rate Schedules X-15 and X-16 and to facilitate an efficient operating and accounting conversion to the proposed balancing provision.

A copy of Resources' filing has been served upon Resources' jurisdictional customers and the Utah and Wyoming Public Service Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission (Commission), 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Part 154, §§ 385.211, 385.214. All such petitions or protests should be filed on or before February 27, 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 petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-4504 Filed 2-22-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals**Implementation of Special Refund
Procedures; Allied Materials Corp. and
Excel Corp.**

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to eligible claimants a total of \$848,232.46 (plus accrued interest) obtained by the DOE under the terms of a consent order entered into with Allied Materials Corporation and Excel Corporation. The funds are being held in escrow following settlement of all claims and disputes arising from an audit by the Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the *Federal Register* and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0200.

FOR FURTHER INFORMATION CONTACT: Geoffrey D. Stein, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The proposed Decision and Order tentatively establishes procedures to distribute to eligible claimants \$848,232.46 obtained by the DOE under the terms of a consent order entered into with Allied Materials Corporation and Excel Corporation (hereinafter cited collectively as Allied) on June 10, 1982. The funds were provided to the DOE in order to settle all claims which the Economic Regulatory Administration could have pursued under the DOE price and allocation regulations relating to transactions by Allied involving the production, refining, and marketing of petroleum products during the period from September 1, 1973 through January 27, 1981 (the consent order period).

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow

account funded by Allied. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals who purchased refined petroleum products from Allied during the consent order period. The Proposed Decision and Order provides that in order to be entitled to receive any portion of the settlement funds, a purchaser must furnish the DOE with evidence which demonstrates that the claimant was injured by the alleged unlawful prices for covered products charged by Allied. This evidence includes specific documentation concerning the date, place, price, and volume of product purchases, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered.

The Proposed Decision and Order also refers to the distribution in a second-stage proceeding of any funds remaining after all valid claims are paid. The DOE solicits comments on any proposals that claimants may suggest for this second-stage distribution.

Until final procedures are adopted, no claims for refunds will be accepted. Applications for Refund, therefore, should not be filed at this time. Appropriate public notice will be provided prior to the acceptance of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submissions. Comments should be submitted within 30 days of publication of this notice in the *Federal Register*, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue SW., Washington, D.C., between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Dated: February 12, 1985.

George B. Breznay,
Director, Office of Hearings and Appeals.

**Proposed Decision and Order of the
Department of Energy***Special Refund Procedures*

February 12, 1985.

Name of Case: Allied Materials Corporation and Excel Corporation.

Date of Filing: October 13, 1983.

Case Number: HEF-0200.

The procedural regulations of the Department of Energy (DOE) permit the

Economic Regulatory Administration (ERA) to request that the Office of Hearings and Appeals (OHA) formulate and implement procedures for distributing funds received as a result of an enforcement proceeding involving alleged violations of DOE regulations. See 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the ERA, on October 13, 1983, filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Allied Materials Corporation and Excel Corporation (hereinafter cited together as Allied).⁽¹⁾ Under the terms of the consent order, Allied agreed to remit \$848,232.46 to the DOE in settlement of all civil and administrative claims by the DOE relating to Allied's compliance with the federal petroleum price and allocation regulations applicable to refiners of petroleum products during the period from September 1, 1973 through January 27, 1981 (the consent order period).

I. Background

Allied is a "refiner" of petroleum products as that term was defined in 10 CFR § 212.31. Its subsidiary, Excel Corporation, was a "reseller" and "retailer" as those terms were defined. During the consent order period, Allied was engaged in the refining, reselling, and retailing of products covered by the federal petroleum price and allocation regulations set forth in 10 CFR Part 212.

The ERA conducted an audit to determine Allied's compliance with these regulations. In the course of this audit, Allied and the DOE entered into a proposed consent order, whereby Allied agreed to refund \$1.5 million to resolve all issues regarding Allied's application of the regulations during the consent order period. Allied agreed to pay a total of \$651,767.54 to 30 direct purchasers which were ultimate consumers of its refined petroleum products. These customers are listed in the Appendix to this Decision. The firm was to remit the remaining \$848,232.46 to the DOE for distribution to other Allied customers who were not ultimate consumers. Notice of this proposed consent order was published for public comment at 47 FR 11057 (1982). The proposed consent order was adopted without modification as a final order of the DOE on June 10, 1982. 47 FR 25177 (1982).

II. Jurisdiction to Fashion Refund Procedures

The ERA filed a Petition for the Implementation of Special Refund Procedures under Subpart V in connection with the portion of the Allied

consent order remitted to the DOE. The Subpart V process may be used in situations where the DOE is unable to readily identify the persons who may be eligible to receive refunds as a result of enforcement proceedings or to readily ascertain the amounts that such persons should receive. 10 CFR § 205.280. Subpart V authorizes the OHA, upon request by an appropriate DOE enforcement official, to fashion special procedures to distribute moneys obtained as part of a settlement agreement. 10 CFR 205.281-.282. After reviewing the record in the present proceeding, we have determined that the implementation of Subpart V procedures is appropriate. There is a significant degree of difficulty in identifying the purchasers who, though not among the group of ultimate consumers which received refunds directly from Allied, nevertheless may have been injured by Allied's pricing practices. Moreover, the consent order itself cites the "difficulty" and "uncertainty" involved in determining the extent to which the alleged overcharges were absorbed at different levels of Allied's distribution system. The alleged overcharges were associated with the price methodology of a refiner, so that any impact likely was spread throughout a broad range of customers. Furthermore, it is difficult to ascertain the proper amount of refunds to identifiable injured parties. Therefore, the provisions of Subpart V provide a very useful mechanism through which refund money to parties likely to have been injured by the alleged violations may be distributed. Accordingly, the OHA has decided to exercise jurisdiction over the funds received by the DOE pursuant to the Allied consent order.

III. Proposed Refund Procedures

A. Refunds to Identifiable Purchasers

During the first stage in the refund process, funds from the Allied consent order should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by alleged overcharges in Allied's sales of covered products. As in many prior special refund cases, we will adopt certain presumptions. First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of products made by Allied during the consent order period. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will adopt a presumption of injury with respect to small claims.

Presumptions in refund cases are specifically authorized by applicable DOE procedural regulations. Section

205.282(e) of those regulations states that:

[I]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions to be adopted in this case will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable the OHA to consider refund applications in the most efficient way possible in view of the limited resources available.

A claimant will be eligible to receive a refund equal to the documented number of gallons if bought from Allied during the consent order period, multiplied by a volumetric percentage. This percentage is computed by dividing the \$848,232.46 consent order fund by the total number of gallons sold by Allied during the consent order period.⁽²⁾ The pro rata, or volumetric, refund presumption assumes that alleged overcharges were spread equally over all gallons of product marketed by Allied. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser may have been greater than the pro rata amount determined by the volumetric presumption. Certain purchasers may believe that they suffered disproportionate injury as a result of Allied's pricing practices during the consent order period. Any such purchaser may file a refund application for an amount greater than that calculated using the volumetric presumption, provided that the claimant documents the disproportionate impact of the alleged overcharges. See, e.g., *Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

Resellers and retailers seeking refunds totalling \$5,000 or less under the volumetric presumption will not be required to demonstrate further any injury resulting from the alleged overcharges. The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the Allied consent order is based on a

number of considerations. See e.g., *Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). As we have noted in many previous refund decisions, there may be considerable expense involved in gathering the types of data needed to support a detailed claim of injury. In order to prove such a claim, an applicant must compile and submit detailed factual information regarding the impact of alleged overcharges which occurred many years ago. This procedure is generally time-consuming and expensive. In the case of small claims, the cost to the firm of gathering this factual information, and the cost to the OHA of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore deprive injured parties of the opportunity to obtain a refund. The use of this presumption is also desirable from an administrative standpoint, because it allows the OHA to process a large number of routine refund claims quickly, and to use its limited resources more efficiently. Finally, these smaller claimants did purchase covered products from Allied and were in the chain of distribution in which the alleged overcharges occurred. Therefore, they bore some impact of the alleged overcharges, at least initially.

Under the presumptions we are adopting, a reseller or retailer claimant will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a threshold level. Previous OHA refund decisions have expressed the threshold either in terms of a ceiling on purchases from the consenting firm, or as a dollar refund amount. However, in *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would better effectuate our goal of facilitating disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. We believe that the same approach should be followed in this case. Since the potential refund amounts are fairly low, and the consent order period is long since over, we believe that the establishment of a presumption of injury for claims up to \$5,000 is reasonable. See *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein.

In order to qualify for a refund exceeding the \$5,000 threshold amount, a reseller or retailer will be required to demonstrate that during the consent order period it was unable to pass through the alleged overcharges to its

customers. While there are a variety of means by which a claimant could make this showing, a purchaser generally should demonstrate that at the time it purchased covered products from Allied, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. In addition, a reseller or retailer of petroleum products must show that it maintained a "bank" of unrecovered costs, in order to demonstrate that it did not subsequently recover these costs by increasing its prices.

We believe that most, if not all, of the ultimate consumers who purchased petroleum products directly from Allied have already received refunds for the alleged overcharges. The consent order stipulated the refund procedures for these customers. See Appendix. These customers therefore will not be eligible to apply for further refunds from the consent order fund deposited with the DOE. However, other ultimate consumers who purchased Allied products from resellers may be eligible to apply for refunds. We find these end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. See *Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); see also *Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that downstream end-user purchasers of Allied petroleum products need only document their purchase volumes in order to make a sufficient showing that they were injured by the alleged overcharges.

In addition, refund applications from firms regulated by a governmental agency or by the terms of a cooperative agreement will not be required to demonstrate that the firm absorbed the alleged overcharges. In the case of regulated firm, e.g., public utilities, any overcharges incurred as a result of Allied's alleged violations of the DOE regulations would routinely be passed

through to their customers. Similarly, any refunds received by such firms would be reflected in the rates they are allowed to charge their customers. Refunds to agricultural cooperatives will likewise directly influence the prices charged to member customers. Consequently, these firms too need only document their purchase volumes from Allied to make an adequate showing of injury. See *Office of Special Counsel*, 9 DOE ¶ 82,538. However, along with their applications these firms should provide a full, detailed explanation of the manner in which refunds would be passed through to customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of a refund.

As in previous cases, we propose that there is a class of potential claimants who may be presumed to have suffered no injury from Allied's alleged overcharges. Those parties are firms that made spot purchases of Allied petroleum products. (3) See *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*). As we stated in *Vickers*:

[T]hese customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers.

8 DOE at 85,396-97. We believe that the same rationale applies in this case. Consequently, we propose to establish a rebuttable presumption that spot purchasers were not injured by Allied's pricing practices. Thus, a spot purchaser claimant will be required to submit additional evidence sufficient to establish that it was unable to recover the prices it paid to Allied.

Any purchaser claiming a portion of the consent order fund should file an Application for Refund pursuant to 10 CFR 205.283. Applications should provide all relevant information necessary to establish a claim in accordance with the presumption outlined above, including, where necessary, specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed procedures for filing applications will be provided in a final Decision and Order. See *Vickers*. Before disposing of any of the consent order funds, we intend to publicize widely the distribution process and to provide an opportunity for any affected party to file a claim. Purchasers

of Allied products who filed claims in response to the original consent order notice in the Federal Register will be informed of these refund procedures by mail. As a final matter, we note that refund applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers also will be considered. Such applications will be evaluated on a case-by-case basis.

B. Distribution of the Remainder of the Consent Order Fund

After all meritorious claimants have received an appropriate refund, it is possible that the consent order funds may not be exhausted. Any remaining funds should be distributed during a second stage of the refund process in furtherance of the goals set forth in the DOE's enabling legislation and implementing regulations. However, any consideration of the second-stage procedure at this point in time involves a number of uncertainties. As was noted in *Vickers*:

[Such] a step would be difficult to justify before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme.

8 DOE at 85,397. We will consider any comments receiving regarding second-stage alternatives and then issue a final Decision and Order establishing procedures for the first stage. In that decision, we will summarize and address briefly the comments received concerning second-stage procedures, and will solicit another round of comments on the distribution of the funds that may remain after payment of claims in the first stage. In this way, we will have adequate opportunity to consider the outstanding issues before reaching a final decision on the second stage.

It Is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Allied Materials Corporation pursuant to the consent order executed on January 25, 1982, will be distributed in accordance with the foregoing Decision.

Footnotes

(1) Allied Materials Corporation acquired all outstanding stock of Excel Corporation in 1977, and the two firms subsequently merged. The consent order pertains to sales of covered products by both firms, both before and after the merger.

(2) We are awaiting data to be provided by the Energy Information Administration as to Allied's sales of refined products during the consent order period. This material will

enable us to calculate the volumetric refund amount to be distributed on a per gallon basis to potential claimants in this proceeding. The volumetric amount will be included in a final Decision and Order, at which point potential claimants will be able to compute the refunds for which they may qualify. In addition, the interest which has accrued to the consent order fund will be applied to each paid refund on a pro rata basis. Finally, we intend to set a minimum refund amount to potential claimants. In prior refund cases, we have not granted refunds for less than \$15.00 because the cost of issuing such refunds exceeds the restitutionary benefits which may be achieved. See Office of Special Counsel, 10 DOE [85,048 at 88,214 (1982)]. We will utilize the same minimum refund in the present case.

(3) We will except from this principle cooperative organizations which made spot purchases of products from the consent order firm. In the past, we have treated refund applications by cooperatives as applications made on behalf of their members, who, as ultimate customers, were not in a position to pass along increased costs. Similarly, any refund received by a cooperative would presumably be passed on to its members, in the form of either a price reduction or a distribution of surplus income. Office of Special Counsel, 9 DOE [82,538 at 85,203. See, e.g., Anadarko Production Co./Cities Service Co., 12 DOE [85,060]. Cooperative purchasers therefore will be presumed to have been injured in spot purchases of Allied products and will be eligible to apply for refunds. These firms must explain in their refund applications the manner in which any refunds will be distributed to members.

Appendix

The following 30 ultimate consumers of Allied petroleum products received refunds directly from Allied as a result of the consent order. These firms will not be eligible to apply for additional refunds in the present proceeding.

St. Louis—San Francisco R.R.

(Burlington)

Amis Construction Company

Arkholia Sand and Gravel

Arrowhead Asphalt, Inc.

C & J Trucks, Inc.

Cummings Construction Company

Evergreen Mills

Hodges Trucking Company

J & M Leasing

Leeway Motor Freight

M & W Propane

Missouri Public Service Company

Mistletoe Express

Ralston Purina—Lancaster, Ohio

Ralston Purina—Louisville, Kentucky

Ralston Purina—Madisonville, Texas

Ralston Purina—Memphis, Tennessee

Ralston Purina—Union City, Georgia

Ralston Purina—Zellwood, Florida

Shawnee Paving Company

Southwestern Bell Telephone

Time D.C.

Trojan Transport

Tulia Power and Light

Breeding, Hugh
International Harvester
Quapaw Company
Defense Fuel Supply Agency
St. Clair Lime
L & M Construction Company

[FR Doc. 85-4519 Filed 2-22-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures; Mallard Resources, Inc.

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding \$800,000 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings involving Mallard Resources, Inc. (MRI), a refiner located in Houston, Texas.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0474.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a consent order entered into by Mallard Resources, Inc. which settled all disputes between the firm and DOE concerning allegations that MRI violated DOE regulations governing monthly reports by refiners in connection with the Domestic Crude Oil Allocation (Entitlements) Program during the period July through August 1979.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account funded by MRI pursuant to the consent order. The DOE has tentatively

established procedures under which claims for refunds from the consent order fund may be filed by parties which may have been injured by MRI's reporting practices. Applications for Refund should *not* be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the *Federal Register*, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue SW., Washington, D.C. 20585.

Dated: February 15, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.
February 15, 1985.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Firm: Mallard Resources, Inc.
Date of Filing: October 13, 1983.
Case Number: HEF-0474.

Under the procedural regulations of the Department of Energy, the Economic Regulatory Administration (ERA) may request the Office of Hearings and Appeals (OHA) to formulate and implement a specially-designed process to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of alleged or actual violations of DOE regulations. 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order which it entered into with Mallard Resources, Inc. (hereinafter referred to as MRI). Pursuant to this consent order, MRI agreed to refund \$800,000 in settlement of allegations that it had violated the DOE regulations governing monthly reports by refiners. The portion of those funds which have already been paid to the DOE are being held in an escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their final distribution.

I. Regulatory Background

DOE regulation in effect during the consent order period required crude oil refiners (1) to file monthly reports with the Economic Regulatory Administration (ERA) which specified their crude oil runs to stills (2) and their crude oil receipts, (3) including volumes of lower and upper tier crude oil. See 10 CFR 211.66(b) and (h). The Refiner's Monthly Report also provided a section for the reporting of crude oil receipts for non-refiners. In the event that an error was made in the monthly report, the regulations required the refiner to correct the errors by the filing of an amended report for the particular month in which the error occurred. 10 CFR 211.67(j). The Refiner's Monthly Reports and amended reports were subsequently used by the ERA in determining, among other things, a firm's purchase or sales obligations under the Domestic Crude Oil Allocation (Entitlements) Program.

The Entitlements Program, 10 CFR 211.67, was part of the comprehensive program administered by the DOE for the mandatory pricing and allocation of crude oil, residual fuel oil and refined petroleum products. The federal regulations governing the price of crude oil created a price disparity between, on the one hand, foreign crude and uncontrolled domestic crude oil, and old and upper-tier (price-controlled) oil on the other hand. These price controls had an unequal effect on refiners and their downstream customers because some refiners had greater access to the cheap old oil than others. Firms which had little or no access to price-controlled oil were forced to purchase uncontrolled domestic or similarly expensive foreign crude oil. As a result, many small, independent firms, with little or no access to price-controlled domestic reserves, experienced crude oil acquisition costs so high relative to the industry as a whole that those costs threatened their viability. To remedy these imbalances, the DOE established the Entitlements Program. 39 FR 31650 (1974); 39 FR 39740 (1974). Under the Entitlements Program, refiners with proportionally greater access to cheap price-controlled oil made cash payments, in the form of the purchase of entitlements, to refiners with less access to price-controlled oil. The program was designed generally to equalize among all domestic refiners the benefits associated with access to the lower-priced domestic crude oil. If, however, a firm received excessive entitlement benefits because it violated regulations governing reporting of crude oil receipts and runs to stills, the extra expense was borne by all other participants in the

Entitlements Program and their downstream customers. Because of the way the Entitlements Program worked, the effect of reporting errors like those which formed the basis for the MRI settlement was the same as the effect of crude oil overcharges.

II. Factual Background

MRI is a refiner of crude oil located in Houston, Texas. According to the Petition for Implementation of Special Refund Procedures filed by the ERA, the consent order involving MRI resulted from an audit by the DOE in which it was determined that MRI had under-reported its crude oil receipts in Refiner's Monthly Reports during July and August 1979 and that it had not subsequently filed amended reports correcting the errors. As a result, MRI allegedly received benefits from the Entitlements Program to which it would not otherwise have been entitled. In order to settle the dispute between the parties, MRI and the ERA signed a Consent Order on April 24, 1981, in which the Government agreed to terminate the pending investigation and administrative proceedings and MRI agreed to pay a stipulated sum of money to the DOE in a series of monthly installments. As of December 31, 1984, MRI had paid a total of approximately \$188,500 into the escrow account.

III. Jurisdiction

The procedural regulations of the Department of Energy set forth general guidelines by which the Office of Hearing and Appeals may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. (4) Those regulations provide that the Subpart V process may be used in situations where the Department of Energy is unable to identify readily persons who were or may have been injured by alleged or adjudicated violations or to readily ascertain the amount of their alleged injuries. 10 CFR 205.280. For a more detailed discussion of Subpart V, see *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981). After reviewing the record developed in this proceeding, we have concluded that it may be difficult to identify potentially injured parties and to determine to what extent a refund applicant may have been injured by MRI's entitlements program reporting practices. Under these circumstances, Subpart V provides a useful mechanism for devising a procedure to effect restitution. The Office of Hearings and Appeals therefore will accept

jurisdiction over the funds which MRI paid to the DOE in settlement of the enforcement proceedings underlying the Petition for Implementation of Special Refund Proceedings.

IV. Proposed Refund Procedures

We have previously established refund procedures for consent orders involving crude oil-related violations, such as the alleged entitlements program reporting violations resolved by the MRI consent order. In *Office of Enforcement: In the Matter of Alfred B. Alkek*, 9 DOE ¶ 82,521 (1982) (hereinafter cited as *Alkek*), *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,553 (1982) (hereinafter cited as *Adams*), which involved consent orders and remedial orders with 58 firms, we established a two-stage refund procedure for consent order and remedial order funds received as a result of alleged crude oil regulatory violations. (5) See also *A. Johnson & Co., Inc.*, 12 DOE ¶ 85,102 (1984) (hereinafter cited as *A. Johnson*).

Because the alleged violation underlying the present proceeding would have an impact like that of the alleged and actual violations which were the subject of the *Alkek*, *Adams* and *A. Johnson* proceedings, we have determined that it is appropriate to formulate a two-stage refund proceeding modeled after those proceedings. We therefore propose to establish first-stage refund procedures in which we will accept first-stage refund applications to be adjudicated in the same manner and using the same principles as those refund applications that were filed pursuant to the *Alkek*, *Adams*, and *A. Johnson* determinations. Parties who have filed claims in the *Alkek* and *Adams* proceedings based on their status as Entitlements Program participants, but who have not received a decision on those claims, will be deemed to have filed similar applications in this proceeding.

Because of the difficulty inherent in establishing the level of injury to parties in the present case, there may be a portion of the refund moneys remaining after all successful first-stage claimants have been paid. As in previous cases, we shall hold in abeyance our determination as to appropriate second-stage procedures for these cases until we know how much money will remain after first-stage claims are paid. See *Office of Enforcement*, 9 DOE ¶ 82,508 (1982). Our preliminary views concerning possible second-stage resolutions are contained in *In Re Stripper Well Exemption Litigation*, Case No. HEF-0025, 48 FR 57608 (1983).

It Is Therefore Ordered That:

The refund amount provided in conjunction with the consent order entered into between the Economic Regulatory Administration (ERA) and Mallard Resources, Inc. on April 24, 1981 shall be distributed in the manner set forth in the foregoing Decision.

Notes

(1) The term "refiner" was defined in the regulations as a firm which owns, operates, or controls the operations of one or more refineries. 10 CFR 211.62.

(2) "Crude oil runs to stills" was defined in 10 CFR 211.62 as follows: "Crude oil runs to stills" means in the case of a refiner other than a petrochemical producer, the total number of barrels of crude oil input to distillation units processed by a refiner and measured in accordance with Bureau of Mines Form 6-1300-M and, in the case of a petrochemical producer, the total number of barrels of crude oil input to processing units for conversion into petrochemicals.

(3) "Crude oil receipts" was defined in 10 CFR 211.62, in part, as follows: "Crude oil receipts" means, as to a particular refiner, the volume of crude oil (i) booked into its refineries in accordance with accounting procedures generally accepted and consistently and historically applied by the refiner concerned, for its own account or for the account of a firm other than a refiner or (ii) if not previously so booked into its refineries, delivered by that refiner for its account to another refiner pursuant to a processing agreement with that other refiner. Crude oil receipts shall not include crude oil received by a refiner for the purpose of processing at its refineries for the account of another.

(4) At one time crude oil and refined petroleum products were subject to a comprehensive price regulation scheme which could be utilized to facilitate the channeling of refunds to overcharged parties including ultimate consumers. However, since the President exempted crude oil and all refined petroleum products from the DOE regulatory program, see Exec. Order No. 12287, 48 FR 9909 (1981), price rollbacks are no longer an effective means of refunding money to purchasers who were overcharged in the past.

(5) We subsequently added to the *Alkek*/*Adams* "pool" the portion of the Amoco consent order funds that was allocated for crude oil claims. See *Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,203. We have also discussed the potential distribution of crude oil overcharge funds in *In Re Stripper Well Exemption Litigation*, Case No. HEF-0025, 48 FR 57608 (1983).

[FR Doc. 85-4515 Filed 2-22-85; 8:45 am]

BILLING CODE 6450-01-M

Southwestern Power Administration

Federal Hydroelectric Power; Notice of Intent

AGENCY: Southwestern Power Administration, Energy.

ACTION: Notice of intent to develop policy and procedures for the allocation of power and energy from new Federal hydroelectric power projects which require provision of non-Federal funds prior to the start of construction.

SUMMARY: 1. The Southwestern Power Administration (SWPA), an agency of the Department of Energy, markets Federal hydroelectric power and energy in accordance with section 5 of the 1944 Flood Control Act, as amended. SWPA's marketing area includes Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and a portion of Texas. In 1980, SWPA adopted a power allocation which allocated existing and future Federal hydroelectric power to preference customers in SWPA's marketing area.

2. President Reagan, in a letter to Senator Laxalt in January 1984, set forth policy which requires Federal agencies to negotiate reasonable non-Federal funding prior to the start of construction for new Federal hydroelectric power projects.

3. The U.S. Army Corps of Engineers (Corps) has identified 18 new hydroelectric power projects in SWPA's marketing area that are economically feasible and environmentally acceptable. SWPA has supported the construction of those projects. Additional hydroelectric power projects are being studied by the Corps. All of the projects probably require provision of non-Federal funds prior to the start of construction.

4. The alternate to Federal construction by the Corps is non-Federal construction under a Federal Energy Regulatory Commission (FERC) license. FERC licenses have been issued on some of the 18 proposed Federal projects. SWPA has received informal inquiries from FERC licensees concerning the possibility of providing non-Federal funds in lieu of non-Federal construction for an allocation of Federal hydroelectric power.

5. SWPA's general position is that generation and/or transmission projects should represent the lowest cost long range power supply to customers consistent with sound business principles. In regard to new hydroelectric power generation, SWPA's position is that hydroelectric power projects which are economically feasible and environmentally acceptable should be developed and furthermore, public bodies and cooperatives should have preference in receiving the power from those Federal projects.

6. SWPA's 1980 power allocation does not address the requirement of non-Federal entities willing to provide funds

prior to the start of construction. Additional power allocation policy and procedures should be developed to assure the timely development of hydroelectric power project utilizing non-Federal funding.

7. Prior to developing that policy, SWPA would appreciate your comments and/or concerns regarding the allocation of Federal hydroelectric power from projects which require non-Federal funds prior to the start of construction.

Please send your reply by March 27, 1985.

ADDRESS: Send comments to the address shown in **FOR FURTHER INFORMATION CONTACT** below.

FOR FURTHER INFORMATION CONTACT: Mr. Walter M. Bowers, Director, Power Marketing, Southwestern Power Administration, P.O. Box 1819, Tulsa, OK 74101. Telephone (918) 581-7529.

Issued on February 13, 1985.

Ronald H. Wilkerson,
Administrator, Southwestern Power
Administration.

[FR Doc. 85-4514 Filed 2-22-85; 8:45 am]

BILLING CODE 8450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[EPA Project Number SJ 84-01]

Approval of Modification of Prevention of Significant Air Quality Deterioration (PSD) Permit to Getty Oil Company

AGENCY: Environmental Protection
Agency (EPA), Region 9.

ACTION: Notice.

SUMMARY: Notice is hereby given that on January 31, 1985 the Environmental Protection Agency issued a modified PSD permit (which was originally issued on November 3, 1983 under EPA's federal regulations 40 CFR 52.21) to the applicant named above. The PSD permit grants approval to construct a 300 MW cogeneration system consisting of 4 GE Frame 7 gas turbines and waste heat boilers located in the Kern River Oil Field, Kern County, California. This major modification increases the allowable CO emission rate when firing oil due to new information on emission rates. The permit is subject to certain conditions, including an allowable emission rate as follows: 17#/hr/turbine-gas, 140#/hr/turbine-oil.

FOR FURTHER INFORMATION CONTACT: Copies of the permit modification are available for public inspection upon request; address request to: Cris Tiongsong (P-8-2), U.S. Environmental Protection Agency, Region 9, 215

Fremont Street, San Francisco, CA 94105, 415-454-8201.

DATE: The PSD permit modification is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed within 60 days of the date of this notice.

Dated: February 11, 1985.

David P. Howekamp,

Director, Air Management Division, Region 9.
[FR Doc. 85-4487 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51559]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of forty-two PMNs and provides a summary of each.

DATES:

Close of Review Period:

P 85-476, 85-477, 85-479, 85-480, 85-481, 85-482, 85-483 and 85-484—May 8, 1985.

P 85-487, 85-488, 85-489, 85-490, 85-491, 85-492, 85-493 and 85-494—May 11, 1985.

P 85-495, 85-511, 85-512, 85-513, 85-514, 85-515, 85-516, 85-517, 85-518, 85-519, 85-520, and 85-521—May 12, 1985.

P 85-497, 85-498, 85-499, 85-500, 85-501, 85-502, and 85-503—May 13, 1985.

P 85-504, 85-505, 85-506, 85-507, 85-508, 85-509, and 85-510—May 14, 1985.

Written comments by:

P 85-476, 85-477, 85-479, 85-480, 85-481, 85-482, 85-483 and 85-484—April 8, 1985.

P 85-487, 85-488, 85-489, 85-490, 85-491, 85-492, 85-493 and 85-494—April 11, 1985.

P 85-495, 85-511, 85-512, 85-513, 85-514, 85-515, 85-516, 85-517, 85-518, 85-519, 85-520 and 85-521—April 12, 1985.

P 85-497, 85-498, 85-499, 85-500, 85-501, 85-502 and 85-503—April 13, 1985.

P 85-504, 85-505, 85-506, 85-507, 85-508, 85-509, and 85-510—April 14, 1985.

ADDRESS: Written comments, identified by the document control number

"[OPTS-51559]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Chemical Information Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M St., SW., Washington, 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: A

nonsubstantive change in the prefixes is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act (TSCA). The notices will contain essentially the same information but the prefixes to the specific number assignment will appear in an abbreviated form. Prefixes under the modified format will use the letters "P" (PMN), "T" (TMEA) and "Y" (POLYMER EXEMPTION). The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

P 85-476

Manufacturer: Confidential.

Chemical: (G) Substituted cyclohexene carboxylic acid.

Use/Production: (G) Dispersive use. Prod. range: Confidential.

Toxicity Data: Acute oral: >2.5 gm/kg.

Exposure: Confidential.

Environmental Release/Disposal: Confidential. Disposal by publicly owned treatment works (POTW).

P 85-477

Manufacturer: Confidential.

Chemical: (G) Substituted cyclohexene carboxylic acid.

Use/Production: (G) Destructive use. Prod. range: Confidential.

Toxicity Data: No data submitted.

Exposure: Confidential.

Environmental Release/Disposal: Confidential. Disposal by POTW.

P 85-479

Manufacturer: Quaker Oats Chemicals, Inc.

Chemical: (S) 2,5-Furandimethanol.

Use/Production: (G) Destructive use. Prod. range: 5,000-100,000 kg/yr.

Toxicity Data: Acute oral: Males—Between 2.5 and 5.0 g/kg. Females—

Between 5 and 10 g/kg; Irritation: Skin—Slight to mild; Eye—Irritant; Ames Test: No mutagenic activity.

Exposure. Manufacture: Dermal.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 85-480

Manufacturer. Confidential.
Chemical. (G) Cellulose ester.
Use/Production. (S) Industrial liquid printing inks and dry pigment dispersions. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Release to air. Disposal by biological treatment system and incineration.

P 85-481

Importer. Hitachi Chemical Company, America Limited.
Chemical. (G) Polyamic acid polymer A.

Use/Import. (G) Circuit sealant. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing: Dermal, a total of 3 to 4 workers per factory, up to 3 to 4 hrs/da.
Environmental Release/Disposal. Disposal by incineration.

P 85-482

Importer. Hitachi Chemical Company, America Limited.
Chemical. (G) Polyamic acid polymer B.

Use/Import. (G) Circuit sealant. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing: Dermal, a total of 3 to 4 workers per factory, up to 3 to 4 hrs/da.
Environmental Release/Disposal. Disposal by incineration.

P 85-483

Importer. Hitachi Chemical Company, America Limited.
Chemical. (G) Polyamic acid polymer C.

Use/Import. (G) Circuit sealant. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing: Dermal, a total of 3 to 4 workers per factory, up to 3 to 4 hrs/da.
Environmental Release/Disposal. Disposal by incineration.

P 85-484

Importer. Hitachi Chemical Company, America Limited.
Chemical. (G) Polyamic acid polymer D.

Use/Import. (G) Circuit sealant. Import range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Processing: Dermal, a total of 3 to 4 workers per factory, up to 3 to 4 hrs/da.
Environmental Release/Disposal. Disposal by incineration.

P 85-487

Importer. Confidential.
Chemical. (G) Alkylalcohol ethoxylate, phosphate ester, sodium salt.
Use/Import. (S) Leather auxiliary. Import range: Confidential.
Toxicity Data. Acute oral: Male and female—>5,000 g/kg; Irritation: Skin—Moderate, Eye—Minimal; LC₅₀ 96 hr (Golden orfe): 500 mg/l.
Exposure. Import, processing and use: Dermal.
Environmental Release/Disposal. Release to air.

P 85-488

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Vinyl acetate copolymer.
Use/Production. (G) Intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. None expected.

P 85-489

Manufacturer. E.I. du Pont de Nemours and Company, Inc.
Chemical. (G) Polyvinyl alcohol.
Use/Production. (G) Textile application/adhesive application. Prod. range: Confidential.
Toxicity Data. Ames Test: Non-mutagenic; Human patch test (20 subjects): Non-irritant/non-sensitizer; TL₅₀ 96 hr (Bluegill): >10,000 mg/l.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 85-490

Importer. Confidential.
Chemical. (G) Substituted benzenesulfonamide.
Use/Import. (S) Industrial fluorescent colorant for thermoplastics. Import range: 250–1,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Import and processing: Dermal, a total of 100 workers, at 20 customer sites.
Environmental Release/Disposal. No release.

P 85-491

Manufacturer. General Electric Company.

Chemical. (G) Carbonic acid, polymer with 4,4'-(1-methylethylidene) bis(phenol) and hydroxy arene.

Use/Production. (G) Plastic components for electrical devices, for medical devices, for business machines, for information storage devices, for automobiles and housewares. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Up to 4.0 hrs/da, up to 9 da/yr.
Environmental Release/Disposal. Release to land. Disposal in accordance with local, state and federal regulations.

P 85-492

Manufacturer. General Electric Company.
Chemical. (G) Carbonic acid, polymer with 4,4'-(1-methylethylidene) bis(phenol) and 4-alkyl phenol.
Use/Production. (G) Plastic components for electrical devices, for medical devices, for business machines, for information storage devices, for automobiles and housewares. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Up to 4.0 hrs/da, up to 9 da/yr.
Environmental Release/Disposal. Release to land. Disposal in accordance with local, state and federal regulations.

P 85-493

Manufacturer. General Electric Company.
Chemical. (G) Carbonic acid, polymer with 4,4'-(1-methylethylidene) bis(phenol) and 4-alkyl phenol.
Use/Production. (G) Plastic components for electrical devices, for medical devices, for business machines, for information storage devices, for automobiles and housewares. Prod. range: Confidential.

Toxicity Data. No data submitted.
Exposure. Manufacture and processing: Up to 4.0 hrs/da, up to 9 da/yr.
Environmental Release/Disposal. Release to land. Disposal in accordance with local, state and federal regulations.

P 85-494

Manufacturer. General Electric Company.
Chemical. (G) Carbonic acid, polymer with 4,4'-(1-methylethylidene) bis(phenol) and 4-arcycloalkyl phenol.
Use/Production. (G) Plastic components for electrical devices, for medical devices, for business machines, for information storage devices, for

automobiles and housewares. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Up to 4.0 hrs/da, up to 9 da/yr.

Environmental Release/Disposal. Release to land. Disposal in accordance with local, state and federal regulations.

P 85-495

Manufacturer. Mallinckrodt, Incorporated.

Chemical. (S) Ethanone, 1-[3-fluorophenyl]-.

Use/Production. (G) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 1.81 gm/kg; Acute dermal: >2.00 gm/kg; Irritation: Skin—Not a primary irritant, Eye—Slight; Inhalation: No deaths at 9.3 mg/l for air; Ames test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 85-497

Manufacturer. Ralston Purina Company.

Chemical. (S) 2-Hydroxy-3 epsilon lysino propyl trimethyl ammonium chloride derivatized hydrolyzed soy protein isolate.

Use/Production. (S) Industrial and commercial component of coating adhesive in paper and paperboard industries and as a fiber retention agent in paper and paperboard industries. Prod. range: Confidential.

Toxicity Data. Acute oral: Male and female—>5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture: Dermal and inhalation, a total of 6 workers, up to 3 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. 10-30 kg/batch released to water. Disposal by POTW.

P 85-498

Manufacturer. Ralston Purina Company.

Chemical. (S) 2-Hydroxy-3 epsilon lysino propyl trimethyl ammonium chloride derivatized soy protein isolate.

Use/Production. (S) Industrial and commercial component of coating adhesive in paper and paperboard industries and as a fiber retention agent in paper and paperboard industries. Prod. range: Confidential.

Toxicity Data. Acute oral: Male and female—>5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture: Dermal and inhalation, a total of 9 workers, up to 3 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 10-30 kg/batch released to water. Disposal by POTW.

P 85-499

Manufacturer. Confidential.

Chemical. (G) Polyether polyurethane derivative.

Use/Production. (G) Specialty coating component. Prod. range: 7,800-48,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 34 workers, up to 8 hrs/da, up to 29 da/yr.

Environmental Release/Disposal. 4 to 120 kg/batch released to land. Disposal by landfill.

P 85-500

Manufacturer. Confidential.

Chemical. (G) Modified styrene copolymer.

Use/Production. (G) Industrial coating. Prod. range: 35,000-125,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 25 workers, up to 8 hrs/da, up to 42 da/yr.

Environmental Release/Disposal. 4 to 20 kg/batch released to land. Disposal by incineration and landfill.

P 85-501

Importer. Confidential.

Chemical. (G) Substituted benzopyran.

Use/Production. (S) Industrial fluorescent colorant for thermoplastics. Import range: 250-1,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 100 workers at 20 customer sites.

Environmental Release/Disposal. None expected.

P 85-502

Importer. Confidential.

Chemical. (G) Substituted benzopyran.

Use/Production. (S) Industrial fluorescent colorant for thermoplastics. Import range: 250-1,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: Dermal, a total of 100 workers at 20 customer sites.

Environmental Release/Disposal. None expected.

P 85-503

Manufacturer. E.I. du Pont de Nemours and Company, Inc.

Chemical. (G) Substituted imidic acid, methyl ester, hydrochloride.

Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 8,945 mg/kg; Irritation: Skin—Moderate, Eye—

Mild; Ames Test: Weak mutagenic, Skin sensitization: Moderate; Ten-dose oral subacute Test: 2,200 mg/kg/day.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

P 85-504

Importer. American Cyanamide Company.

Chemical. (G) Substituted diisocyanate polymer.

Use/Import. (G) Resin for urethane coating system. Import range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Moderate, Eye—Moderate; Ames Test: Not mutagenic; Skin sensitization: Negative.

Exposure. Import: Dermal, a total of 8 workers, up to 1 hr/da, up to 15 da/yr.

Environmental Release/Disposal. No release to water.

P 85-505

Manufacturer. Confidential.

Chemical. (G) Propoxylated quaternary ammonium compound.

Use/Production. (G) Gelling agent for hydrocarbons. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW and approved landfill.

P 85-506

Importer. Confidential.

Chemical. (G) Inorganic complex of rosin.

Use/Import. (S) Industrial auxiliary for printing inks. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Import, processing and use: Dermal, 5 min/shipping.

Environmental Release/Disposal. Negligible. Disposal by POTW or customer's own wastewater treatment facility.

P 85-507

Importer. Confidential.

Chemical. (G) Substituted quinoline.

Use/Import. (S) Industrial fluorescent colorant for thermoplastics. Import range: 250-1,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Import, processing and use: Dermal, a total of 100 workers at 20 customer sites.

Environmental Release/Disposal. Release negligible.

P 85-508

Importer. Confidential.

Chemical. (G) Substituted benzopyran.

Use/Import. (S) Industrial fluorescent colorant for thermoplastics. Import range: 250-1,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Import, processing and use: Dermal, a total of 100 workers at 20 customer sites.

Environmental Release/Disposal. Release negligible.

P 85-509

Importer. Confidential.

Chemical. (G) Substituted-substituted-substituted-anthraquinone.

Use/Import. (S) Site-limited and industrial raw material. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Import and processing: Dermal and inhalation.

Environmental Release/Disposal. Release to water. Disposal by navigable waterway.

P 85-510

Manufacturer. Confidential.

Chemical. (S) Poly(oxy-1,2-ethanediyl, alpha-higher alkyl; C > 30, omega-hydroxy).

Use/Production. (S) Surfactant. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 85-511

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₃₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-512

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₃₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial,

commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-513

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₃₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-514

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₃₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-515

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₃₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-516

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₃₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-517

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₃₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-518

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₃₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-519

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₅₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-520

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₅₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

P 85-521

Manufacturer. General Electric Company.

Chemical. (G) Terephthalic acid and C₅₆ saturated dimer acid polymer with polytetramethylene ether glycol and alkane diols.

Use/Production. (S) Consumer and sporting goods, automotive and industrial fasteners for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a total of 130 workers, up to 10 hrs/da, up to 100 da/yr.

Environmental Release/Disposal. Less than 10 kg/batch released to land. Disposal in accordance with local, state and federal regulations.

Dated: February 19, 1985.

Linda A. Travers,
Acting Director, Information Management
Division.

FR Doc. 85-4354 Filed 2-22-85; 8:45 am]

BILLING CODE 5560-50-M

[OPP-00197; FRL-2785-2]

FIFRA Scientific Advisory Panel; Closed Meeting of Subpanel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting of a subpanel of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to review a notification submitted to EPA by Monsanto Company, concerning its intention to conduct a small-scale field test of soil bacteria that have been genetically altered to produce a biological insecticide. The meeting will be closed to the public.

DATE: Tuesday, March 12, 1985, from 9 a.m. to 4 p.m.

ADDRESS: The meeting will be held at: Marriott Gateway Hotel, 1700 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: By Mail: Philip H. Gray, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-766C), 401 M St., Washington, D.C. 20460.

Office location and telephone number: Rm. 1117, Crystal Mall, Building No. 2, Arlington, VA, (703-557-7096).

SUPPLEMENTARY INFORMATION:

A. Notification of Meeting

The Federal Advisory Committee Act (FACA) (5 U.S.C. App. I (1982)) requires that timely notice of each meeting of an advisory committee be published in the *Federal Register*. The interim regulations of the General Services Administration (GSA) (41 CFR Parts 101 through 106) implementing FACA generally require 15 days notice of the meeting. Notice is hereby given that there will be a meeting of a subpanel of the FIFRA Scientific Advisory Panel on March 12, 1985 in Arlington, Virginia.

The subpanel is to meet in order to review a notification submitted to EPA by Monsanto Company concerning its intent to conduct a small-scale field test of soil bacteria which have been genetically altered by inserting a gene from *Bacillus thuringiensis* to form a biological insecticide. The notification from Monsanto was received by EPA

pursuant to its Interim Policy on Small Scale Field Testing, published in the *Federal Register* of October 17, 1984 (49 FR 40659).

B. Reasons for Closed Meeting

Section 10(d) of FACA provides that an advisory committee meeting may be closed to the public "in accordance with subsection (c) of section 552(b) of Title 5." The March 12, 1985 meeting of the subpanel is being closed because the material to be considered at the meeting consists of trade secrets and commercial or financial information obtained from a person and privileged or confidential pursuant to 5 U.S.C. 552(b)(4) and section 10(b) of FIFRA. A written determination that the meeting shall be closed was made by the Administrator on February 11, 1985, pursuant to section 10(d) of FACA for the following reasons:

1. The Monsanto submission contains Confidential Business Information.
2. Making the submission public would disclose information that could do substantial harm to Monsanto's competitive position.
3. The Monsanto product is at an early stage of development, i.e., 1 to 3 years before the company would normally request a registration from EPA. Thus, Monsanto is anxious to protect its product for as long as possible, in order to prevent competitors from unfairly benefitting from its research and development efforts.

The agency intends to make a verbatim transcript of the subpanel meeting. If, upon review of that transcript, EPA should determine that any portions of the transcript do not contain exempt material, EPA will make those portions of the transcript available to the public.

The agenda for this meeting is:

1. Consideration of a notification of intent to conduct a small-scale field test of soil bacteria that have been genetically altered to produce a biological insecticide.
2. Review by the subpanel of EPA's preliminary findings and recommendations in response to the notification. No documents are being made available to the public by the Agency at this time.

Dated: February 19, 1985.

John A. Moore,
Assistant Administrator for Pesticides and
Toxic Substances.

[FR Doc. 85-4634 Filed 2-21-85; 2:26 pm]

BILLING CODE 5560-50-M

[A-4-FRL-2783-5]

Prevention of Significant Deterioration of Air Quality, Tennessee; Subdelegation to Local Agencies**AGENCY:** Environmental Protection Agency.**ACTION:** Informational notice.

SUMMARY: With the prior approval of EPA, the State of Tennessee's air pollution control agency has subdelegated to three local agencies in the State the authority delegated to it by EPA to implement and enforce EPA's regulations for the prevention of significant deterioration (PSD) of air quality (40 CFR 52.21). The local air pollution control agencies in Nashville, Chattanooga, and Memphis now have full PSD authority for sources to be located in Davidson, Hamilton, and Shelby Counties respectively.

EFFECTIVE DATE: These subdelegations by the State of Tennessee were effective November 15, 1982, for Nashville, September 13, 1983, for Chattanooga, and October 3, 1984, for Memphis.

ADDRESSES: Copies of the State's letters of subdelegation are available for public inspection at EPA's Region IV office, 345 Courtland Street, NE, Atlanta, Georgia 30365, at the Office of the Tennessee Division of Air Pollution Control, 150 Ninth Avenue, North, Nashville, Tennessee 37203, and at the office of the three local agencies. All applications, reports, and correspondence from sources to be located in the three counties under the PSD regulations should be submitted to the following addresses:

Pollution Control Division, Metropolitan Nashville-Davidson County Health Department, 311 23rd Avenue, North Nashville, Tennessee 37103

Chattanooga-Hamilton County Air Pollution Control Bureau, 3511 Rossville Boulevard, Chattanooga, Tennessee 37405

Pollution Control Division, Memphis-Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105

FOR FURTHER INFORMATION CONTACT:

Raymond S. Gregory of the EPA Region IV Air Management Branch at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: Section 301, in conjunction with Sections 101 and 110 of the Clean Air Act, authorizes EPA to delegate authority to implement and enforce Federal new source regulations to any State which has adequate implementation and enforcement procedures.

On June 15, 1981, EPA delegated to Tennessee authority to implement and enforce the Federal regulations for the prevention of significant deterioration of air quality, codified as 40 CFR 52.21, including the authority to issue permits to construct new sources subject to PSD requirements. Under this delegation, the State was to issue final permits for sources in local agency jurisdiction after verifying that Federal PSD requirements had been met. On November 9, 1981, the Tennessee Department of Public Health asked EPA to attend its original delegation to provide explicitly for subdelegation of full PSD authority to local agencies. EPA made this amendment by a letter dated February 10, 1982. This amendment specified that subdelegation was to be made in cases where both the State and EPA approved such action.

In letters dated October 25, 1982, August 2, 1983, and September 19, 1984, EPA Region IV gave assent to the State for the subdelegation of full PSD authority to the local agencies in Nashville, Chattanooga, and Memphis respectively. The State then subdelegated PSD authority to these local agencies on November 15, 1982 (Nashville), September 13, 1983 (Chattanooga), and October 3, 1984 (Memphis). These agencies now have full responsibility for all phases of the PSD program in their respective jurisdictions. All applications, reports, and correspondence from sources to be located under PSD requirements in Davidson, Hamilton, and Shelby Counties are to be addressed to these local agencies at the addresses given above.

(Secs. 101, 110, 160-169, and 301 of the Clean Air Act (42 U.S.C. 7401, 7410, 7470-79, and 7601))

Dated: February 13, 1985.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 85-4483 Filed 2-22-85; 8:45 am]

BILLING CODE 6560-50-M)

FEDERAL MARITIME COMMISSION**Agreement(s) Filed**

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C.

20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 221-004075-002.

Title: Oakland Terminal Agreement.

Parties:

The Port of Oakland (Port)

Compagnie Generale Maritime

Hapag-Lloyd AG

Inter-Continental Transport (ICT) BV (Euro Pacific)

Synopsis: Agreement No. 221-004075-002 modifies the basic agreement by amending one of the User's terminal rights provisions to provide that from and after the 5th of February, 1985 User may transfer said Terminal Use Agreement to the Port's Charles P. Howard Terminal immediately following written notice to the Port of such transfer.

Agreement No.: 202-006190-045.

Title: United States Atlantic and Gulf/Venezuela Freight Association.

Parties:

Compania Anonima Venezolana De Navegacion

United States Lines

Coordinated Caribbean Transport, Inc.

Synopsis: The proposed amendment would delete Delta Steamship Lines, Inc. as a party to the agreement and modify the agreement to conform with the format requirements of the Commission's regulations. The parties have requested a shortened review period.

Agreement No.: 204-010064-006.

Title: United States Gulf/Colombia Equal Access Agreement.

Parties:

Flota Mercante Grancolombiana, S.A.

Lykes Bros. Steamship Co., Inc.

Coordinated Caribbean Transport, Inc.

Synopsis: The proposed amendment would (1) expand the geographic scope of the agreement to include United States ports and points and ports and points in Colombia; (2) extend the term of the agreement through March 30, 1988; (3) eliminate present cargo preference reporting requirements; and (4) restate the agreement to conform with the formal requirements of the Commission's regulations. The parties have requested a shortened review period.

Agreement No.: 202-010676-003.

Title: Mediterranean/U.S.A. Freight Conference.

Parties:
 Atlanttrafik Express Services, Ltd.
 Achille Lauro
 C.I.A. Venezolana de Navegacion
 Compania Transatlantica Espanola, S.A.
 Constellation Lines, S.A.
 Costa Line
 d'Amico Societa di Navigazione per Azioni
 Farrell Lines, Inc.
 Flota Mercante Grancolumbiana S.A.
 "Italia" Societa' per Azioni de Navigazione
 Jugolinija
 Jugooceanija
 Lykes Lines
 Nedlloyd Lines
 Nordana Line-Dannebrog Lines AS
 Sea-Land Service, Inc.
 Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would modify the agreement to allow any member to enter into a time or space charter with a non-member on the condition that, with respect to any capacity chartered-out, the member does not participate in earnings above and beyond charter hire payments and that, with respect to any capacity chartered on a non-member's vessel, the member adheres to the terms and conditions of the agreement's tariff.

By Order of the Federal Maritime Commission.

Dated: February 20, 1985.

Bruce A. Dombrowski,
 Assistant Secretary.

[FR Doc. 85-4542 Filed 2-22-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Alliance Bancorp; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the

application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 15, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Alliance Bancorp*, Danville, Indiana; to acquire Poynter Insurance Agency, Inc., Danville, Indiana, and thereby in general insurance in a town of less than 5,000 people. The geographic scope will be Hendricks County.

Board of Governors of the Federal Reserve System, February 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-4460 Filed 2-22-85; 8:45 am]

BILLING CODE 6210-01-M

Kentucky Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may

express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 15, 1985.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63106:

1. *Kentucky Southern Bancorp, Inc.*, Bowling Green, Kentucky; to acquire 100 percent of the voting shares of Citizens Bank and Trust Company, Glasgow, Kentucky.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ganado Bancshares, Inc.*, Ganado, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The Citizens State Bank of Ganado, Ganado, Texas.

Board of Governors of the Federal Reserve System, February 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-4459 Filed 2-22-85; 8:45 am]

BILLING CODE 6210-01-M

Selden Investment, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the

proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 8, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Selden Investment, Inc.*, Selden, Kansas; to engage *de novo* through its subsidiary, Selden State Bank Agency, Selden, Kansas, in acting as insurance agent or broker for any insurance sold by a bank holding company or a nonbanking subsidiary in a community that has a population not exceeding 5,000 pursuant to § 225.25(B)(8)(ii) of Regulation Y. The geographic scope will encompass a 25 mile radius around the town of Selden, Kansas.

Board of Governors of the Federal Reserve System, February 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-4461 Filed 2-22-85; 8:45 am]

BILLING CODE 6210-01-M

United Community Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y 49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in

§ 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 15, 1985.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Community Corporation*, Shawnee, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Federal National Bancshares, Inc., Shawnee, Oklahoma, and thereby indirectly acquire National Bank and Trust Company of Shawnee, Shawnee, Oklahoma and Security State Bank, Comanche, Oklahoma; First Stillwater Bancshares, Inc., Stillwater, Oklahoma, and thereby indirectly acquire The First National Bank and Trust Company of Stillwater, Stillwater, Oklahoma; First Guthrie Bancshares, Inc., Guthrie, Oklahoma, and thereby indirectly acquire The National Bank, Guthrie, Oklahoma; Konawa Bancorp, Inc., Konawa, Oklahoma, and thereby indirectly acquire Oklahoma State Bank, Konawa, Oklahoma; First Seminole Bancorp, Inc., Seminole, Oklahoma, and thereby indirectly acquire First National Bank, Seminole, Oklahoma; Sand Springs Bancshares, Inc., Sand Springs, Oklahoma, and thereby indirectly acquire First Bank and Trust Company,

Sand Springs, Oklahoma; ABC Bancshares, Inc., McAlester, Oklahoma, and thereby indirectly acquire American Bank of Commerce, McAlester, Oklahoma; and Wilburton State Bancshares, Inc., Wilburton, Oklahoma, and thereby indirectly acquire Wilburton State Bank, Wilburton, Oklahoma. Applicant also has applied to acquire 9.9 percent of the voting shares of Liberty State Bancshares, Inc., Tahlequah, Oklahoma, and thereby indirectly acquire Liberty State Bank, Tahlequah, Oklahoma.

United Community Corporation has also applied to engage *de novo* in providing management consulting advice to nonaffiliated bank and nonbank depository institutions, including accounting and auditing services, asset quality review services, and economic development consulting services pursuant to § 225.25(B)(11) of Regulation Y.

Board of Governors of the Federal Reserve System, February 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-4462 Filed 2-22-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget; GSA/OIRM Market Study

AGENCY: Office of Policy and Management Systems, GSA.

SUMMARY: GSA has requested the Office of Management and Budget to approve a new information collection.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, D.C. 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Annie Barr (GSA), Office of Information Resources Management (566-1341).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* The information collected will be used to improve Government awareness of GSA/OIRM telecommunication equipment and services.

b. *Annual reporting burden.* Respondents and responses 3,200; hours 800.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (ATRAI).

Room 3007, GS Building, Washington, D.C. 20405 (202-566-0666).

Dated: February 14, 1985.

William W. Hiebert,

Acting Director, Information Management Division.

[FR Doc. 85-4465 Filed 2-22-85; 8:45 am]

BILLING CODE 6820-34-M

[GSA Order ADM 1095.1D]

Environmental Considerations in Decisionmaking

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Notice of final revisions to internal procedures.

SUMMARY: This notice announces that GSA is publishing final revised internal GSA procedures to be followed in implementing the requirements of section 102(2) of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321, et seq.); Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality;" and in compliance with Regulations of the Council on Environmental Quality (40 CFR Parts 1500-1508). The intended effect of this document is to exclude certain program actions from the requirement to prepare an environmental assessment or impact statement, and to make minor changes reflecting current GSA organization structure. These changes affect GSA internal procedures only.

EFFECTIVE DATE: February 11, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Mattheis, Acting Director, Environmental Affairs Staff, Office of Space Management, Public Building Service, General Services Administration, Washington, D.C. 20405 (202-566-0654).

SUPPLEMENTARY INFORMATION: This revision updates and supercedes the November 14, 1979, (44 FR 65675) and January 2, 1980 (45 FR 83), GSA Order ADM 1095.1C. A draft of the procedures was published for public review and comment on July 18, 1984 (49 FR 29143). Interested persons were given until August 17, 1984, to submit comments. Responses to comments plus other technical changes are described below.

(1) Summary

Revisions are administrative and procedural improvements intended to enhance GSA's ability to comply with a variety of legislative mandates and Executive orders without unnecessarily delaying and duplicating steps in the decisionmaking process while ensuring

public involvement in decisionmaking. These improvements result from a better understanding of agency roles and responsibilities relative to NEPA. The revised ADM Order 1095.1D is based on working knowledge gained during a decade of experience with NEPA.

A notable change in this version of ADM Order 1095.1D is that categorical exclusions for Class I (actions that normally do not require either an environmental impact statement or an environmental assessment) has been greatly expanded in appendices A, B and C. A major reason for these revisions is that the agency has at times burdened itself and the public with excessive administrative requirements and time delays. GSA anticipates that use of specific criteria will reduce the number of actions deemed to require an Environment Impact Statement (EIS) or an Environmental Assessment (EA). At the same time, we expect that this new procedure will not infringe on the quality of GSA's environmental analysis or on the opportunity for meaningful public involvement, but will enable the agency to focus its attention on actions where environmental concerns are substantive.

(2) Comments and Responses

GSA received seven comments on the proposed revisions, four from Federal agencies [Advisory Council on Historic Preservation (ACHP), National Trust for Historic Preservation (NTHP), Department of the Interior (DOI), Environmental Protection Agency (EPA), two from state agencies: California (CA), Wisconsin (WI) and one from the Public: American Mining Conference (AMC)]. Each party offered recommendations for further improvements. These are quoted or paraphrased in a thru q below and identified at the conclusion of each by the aforementioned abbreviations. GSA's response to each is also provided as are explanations of additional internally generated changes.

a. Concern was expressed about the potential that GSA's approach raises for either (1) permitting effects on historic properties to be ignored because they are not identified in the course of scoping under NEPA or (2) allowing the existence of a conflict between a GSA action and an historic property to force the development of an EIS or elaborate EA when one would not otherwise be needed and (3) the confusion over the reference to "conflicting use" in paragraphs 2.a(2)(d) et. seq. A proposed text was offered to resolve the matter. (ACHP)

In response to the ACHP, a new section (11) has been added to the order

entitled "Integration of historic preservation review." This section cross-references GSA's specific historic preservation order ADM 1020.1 and the ACHP's regulations, and standard language has been inserted into each of the following appendices referring the reader back to the new section, Appendix A, sections 4.c (2), 5.i, Appendix B, sections 3.b(1)(d) and 3.b(2)(e), and Appendix C, section 4. In addition the paragraph 2.a(2)(d) et. seq. have been clarified by deleting the reference to "conflicting use".

b. Section 106 of the National Historic Preservation Act requirements remain an environmental afterthought in GSA decisionmaking, arising at the end of a user's analysis of a particular set of circumstances. (NTHP)

With the existence of the GSA documents ADM 1020.1 and PBS P 1022.2, both entitled, "Procedures for Historic Properties," the proposed order 1095.1D is sufficient since they are coordinated with it. Also, GSA uses PBS P 1095.4A HB in coordinating Section 106 with its EA's and EIS's. Furthermore, by including the ACHP's suggested changes, as indicated in (2)a. above, many of the areas in the order that NTHP is concerned with have been strengthened.

c. Wildlife refuges should be added to sections 4f and 5g of Appendix A, and sections 3(b)(1)(a) and 3b(2)(c) of Appendix B, as sensitive areas that may trigger more detailed documentation. (DOI)

These changes have been made.

d. GSA has done a good job in identifying and addressing environmental problems and issues. EPA concurs with GSA's approach of considering environmental impact criteria (as "Indicators of Significance") in determining whether an otherwise categorically excluded action may require an environmental assessment (EA). (EPA)

GSA appreciates the comment.

e. Appendix C, which applies to the Federal Supply Service, requires some revision. Suggest GSA Order section 3.b(3) specify that the detailed statement include a sixth requirement, mitigation. Measures that could be used to mitigate adverse environmental impacts should be included in the detailed statement. (EPA)

This comment is well taken. A sixth requirement, "measures to mitigate any adverse environmental impact of proposed action" has been added to section 3.b(3) of the order.

f. Appendices D, E, and F referred to in section 11 are not provided. (EPA)

Appendices D, E, and F were provided in the FR of July 18, 1984, on pages 29150, 29151 and 29152 respectively.

g. Section 7, of the GSA Order, on the role of EA's and EIS's, includes the sentence: "The assessment process will provide for complete public disclosure of proposed GSA actions. . . ." The procedures should also mention involvement of environmental agencies where necessary and practicable (40 CFR 1501.4(b)). (EPA)

GSA believes the phrase, "complete public exposure" is broad enough to cover environmental agencies involvement.

h. Appendix A, in section 5.f, the word "critical" should be added to make the sentence read: "The proposed action may adversely affect an endangered or threatened species or its critical habitat." (EPA)

This change has been made.

i. The actions described in Appendix B, subsections 2(p) (i), (ii) and (iv) may more appropriately be placed in Class III. Alternatively, FPRS may choose to define "acquisitions or disposals" more narrowly to ensure that such actions are environmentally insignificant. (EPA)

GSA disagrees with this comment. Section 2.a.(1) makes it very clear that FPRS officials shall be alert to any extraordinary circumstances that would require an EIS or an EA. Agency experience has not shown that there is a need for a change.

j. In Appendix B, section 3.b(1)(a)(v), the term "Endangered species habitat" should be changed to Endangered species critical habitat." (EPA)

This change has been made in section 3.b(1)(a)(v).

k. The beginning section of the Appendix B appears to be missing or misnumbered. (EPA)

A printing error put the heading for Appendix B thirty two lines below the beginning of its text in the third column of page 29147.

l. Appendix C, section 3, "Class II, actions that normally require an EIS," does not list any such actions. Is this an oversight, or are there no Class II FSS actions? (EPA)

This section has been revised to state that Class II actions do not apply to FSS. However, where the responsible official determines that any action, activity, or program may have a significant effect on the environment because of extraordinary circumstances, an EIS will be prepared. Also, Class III, actions that normally require EA's but not EIS's has been revised to read: "An EA is normally prepared for these FSS actions to determine and document environmental concerns and mitigating actions. They seldom if ever are

anticipated to lead to a requirement for an EIS. Their principal purpose is to ensure environmental consideration are given to certain FSS actions which effect the environment, albeit, less than significantly."

m. Appendix C, section 5, "Indicators of Significance," seems considerably weaker and less clear than the analogous section in Appendices A and B. From the manner in which "indicators of significance" are used in Appendices A and B, section 5 in appendix C makes little sense in reference to Classes I and II. As applied to Class III items ("actions that normally require EA's but not EIS's"), section 5 uses no environmental criteria, but arbitrary percentage criteria which seem to bear little connection to the environmental impact of the Class III FSS actions. Section 5 in Appendix C should be redrafted. (EPA)

GSA agrees. Section 5 in Appendix C has been revised to show that indicators of significance are employed to define thresholds beyond which EIS's are required. By definition, Class II actions normally do not exist in FSS except in extraordinary circumstances which must be evaluated on a case-by-case basis. Therefore, there are no established indicators of significance for FSS.

n. Support given for Appendix B, 2., listing of categorical exclusions. Commends GSA's efforts to reduce paperwork. (CA)

GSA appreciates the comments.

o. There does not appear to be much emphasis on early coordination, scoping, nor public participation. (WI)

GSA did not intend to emphasize these areas in this order. However, they will be addressed in supporting service orders and regional orders.

p. The document also does not significantly address contents of EIS's and EA's, review time periods for commenting, ROD's, nor environmental mitigation. (WI)

GSA did not intend to significantly address these areas in this order. They will be covered thoroughly in other GSA documents. This ADM Order deals mainly with the mechanics of implementing NEPA and not with analytical factors in environmental assessment review.

q. Appendix B, (2) Class I, p. questions the need for the listing of commodities in subcategories (i) to (v). Suggest that categorical exclusion simply read: "(p) Stockpile acquisitions or disposals." (AMC)

GSA-FPRS opposes categorically excluding all National Defense Stockpile commodities from the requirement to conduct environmental assessments or the preparation of environmental impact statements. Several of the Stockpile

commodities presently in storage are hazardous, toxic or radioactive and there is no reason to believe that certain new commodities designated for the stockpile in the future will not have these potentially dangerous characteristics. Before undertaking the acquisition, disposal, relocation or other projects dealing with the storage or movement of certain commodities, the appropriate aspects of the proposed action should be considered to determine the potential effects on the environment.

(3) Other changes

GSA has also identified other paragraphs in this directive that need to be revised. The more substantive changes include the following.

a. *Subpar. 5a(2)(c)*. Deleted item (c) since Historic Preservation is under the responsibility of another GSA staff function.

b. *Subpar. 5d*. Deleted d (Decisionmaker) as it is an unnecessary definition.

c. *Par. 10*. This paragraph has been revised to clarify the level of documentation for environmental response to a proposed GSA action.

d. *Appendix A, subpar. 3b*. The requirement of an EIS for space acquisition programs has been expanded to provide clearer guidance.

e. *Appendix A, subpar. 4d*. The requirement that an EA may be required for construction of facilities primarily devoted to special purpose use has been clarified.

f. *Appendix A, subpar. 4g*. The requirement that an EA may be required for actions that result in changes in land use has been clarified.

g. *Appendices D, E, and F*. The center section of these charts entitled "Official" has been deleted so clarity could be enhanced.

General Services Administration

[ADM 1095.1D]

February 11, 1985.

GSA Order

Subject: Environmental considerations in decisionmaking

1. *Purpose*. This order provides procedures for implementing the laws, Executive orders, and directives concerning all major GSA actions that significantly affect the quality of the human environment.

2. *Cancellation*. ADM 1095.1C published at 45 FR 1, January 2, 1980 is canceled.

3. Background.

a. The laws, Executive orders, and directives to be implemented include the

National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321, et. seq.), hereinafter referred to as NEPA; Executive Order 11514 of March 5, 1970, entitled "Protection and Enhancement of Environmental Quality," as amended by Executive Order 11991 of May 24, 1977; the GSA Policy Manual, ch. 2-11 (ADM P 1000.2B); the GSA Delegations of Authority Manual, ch. 2-17 (ADM P 5450.39C); and the Council on Environmental Quality (CEQ) Regulations (40 CFR Parts 1500-1508) issued for implementing section 102(2) of NEPA. These are referred to as the Regulations in this directive.

b. Section 102 of NEPA directs all Federal agencies to: (1) Use a systematic, interdisciplinary approach ensuring the integrated use of natural and social sciences and the environmental design arts in planning and decisionmaking which may have an impact on man's environment; (2) in developing methods and procedures, consider economic and technical factors ensuring environmental factors are included; (3) include in each recommendation or report on proposals for legislation and other major actions, a detailed statement including:

- (1) The environmental impact;
- (2) Any adverse environmental effects which cannot be avoided;
- (3) Alternatives;
- (4) The relationship between local short-term uses and the maintenance and enhancement of long-term productivity of man's environment;
- (5) Any irreversible and irretrievable commitments of resources if the proposed action is implemented; and
- (6) Measures to mitigate any adverse environmental impact of proposed action.

c. Environmental mandates shall be addressed as an integral part of the NEPA compliance outlined in b above. These include:

- (1) *Historic properties*: (a) The National Historic Preservation Act of 1966 as amended (16 U.S.C. 470 et. seq.); (b) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et. seq.); (c) The Archeological and Historic Preservation Act of 1974, which amends the Reservoir Salvage Act of 1960 (16 U.S.C. 469 et. seq.); (d) Procedures for the Protection of Historic and Cultural Properties (Advisory Council on Historic Preservation—36 CFR Part 800); (e) GSA ADM 1020.1, Procedures for historic properties (August 20, 1982) and PBS P 1022.2 Procedures for Historic Properties (March 2, 1981).

- (2) *Floodplain management and wetland protection*: (a) Flood Disaster

Protection Act of 1973 (42 U.S.C. 4001, et. seq.); (b) Executive Order 11988, Floodplain Management, May 24, 1977 (42 FR 26951 et. seq.) and Executive Order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. seq.) in accordance with the procedures set forth in Part II—Decision-Making Process, Floodplain Management Guidelines, U.S. Water Resources Council (43 FR 6030, February 10, 1978); (c) GSA ADM 1095.2, Consideration of floodplains and wetlands in decisionmaking, July 23, 1979.

(3) *Coastal zone management*. The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.)

(4) *Wildlife*. The Fish and Wildlife Coordination Act of 1958 (16 U.S.C. 661 et. seq.)

(5) *Endangered species*. The Endangered Species Act of 1973 (16 U.S.C. 1531 et. seq.)

(6) *Wild and scenic rivers*. The Wild and Scenic Rivers Act (16 U.S.C. 1271 et. seq.)

(7) *Water quality*. The Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 et. seq.) and later enactments.

(8) *Air quality*. The Clean Air Act (42 U.S.C. 7401, et. seq.)

(9) *Solid waste management*. The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, et. seq.)

(10) *Farmlands protection*. Farmlands Protection Policy Act of 1981 (7 U.S.C. 4201 et. seq.).

4. *Nature of revision*. This revision broadens the definition of Class I actions which are categorically excluded from the requirement to prepare an environmental assessment or impact statement. Experience gained in relating GSA programs and projects with the NEPA process indicates the threshold which initiates detailed environmental study can be safely raised without compromise of environmental responsibilities. This order clarifies existing directions and responsibilities, and minor changes reflecting current GSA organizational structure.

5. Responsibilities.

a. *Commissioner, Public Buildings Service (P)*. The Commissioner, as head of the GSA lead environmental service, acts for the Administrator on environmental matters, develops agency policy, reviews service procedures, and reconciles differences between reviewing and program officials regarding the need for environmental impact statements (EIS) or for more environmental information. The

Commissioner may also require the preparation of, or revision to, EIS's if determined necessary and instruct a service or staff office to prepare EIS's on legislative proposals.

(1) *Assistant Commissioner for Space Management (PR)*. The Assistant Commissioner initiates and directs GSA's environmental program policy with the responsibility for reviewing environmental documents and procedures and dealing with entities outside the agency on environmental policy matters.

(2) *Director, Environmental Affairs Staff, Office of Space Management (PRE)*.

(a) Is the principal advisor on environmental affairs to the Commissioner.

(b) Serves as the responsible agency official under the CEQ Regulations (Section 1597.2(a)).

(c) Advises the Assistant Commissioner for Space Management on the adequacy of EA's, EIS's and all environmental documents;

(d) Develops and recommends to the Commissioner, agency procedures for complying with other environmental legislation, Executive orders, and regulations;

(e) Reviews GSA's activities and program involvements, and recommends approval, disapproval or modification by the Commissioner, based upon the requirements of this Order.

(f) Develops controls for adverse environmental impacts;

(g) Serves as GSA liaison at conferences, meetings, and public hearings, and on interagency committees dealing with environmental matters;

(h) Maintains liaison on environmental matters with public groups and local, State and Federal agencies;

(i) Reviews and evaluates legislative and administrative proposals for environmental concerns;

(j) Assists in resolving questions from other agencies;

(k) Provides guidance in addressing environmental issues which surface after project approval;

(l) Provides policy guidance and training for the Regional Office staff;

(m) Monitors and audits GSA's performance in carrying out this order;

(n) Performs other assignments of a policy, administrative or operational nature, as requested by the Assistant Commissioner for Space Management; and

(o) Acts as Environmental Coordinator for programmatic and

legislative issues and EIS's prepared at the headquarters office.

b. *General Counsel.* The General Counsel has the responsibility for interpreting statutes, Executive orders, guidelines, and regulations.

c. *Responsible official.* The responsible official is the Head of a Service or Staff Office or Regional Administrator under whose jurisdiction the action is being planned.

d. *Other.*

(1) Responsibilities within the services and staff offices are delineated in their corresponding orders. (See par. 6.)

(2) Regulations 40 CFR Parts 1500-1508 (43 FR 55978-56007, Nov. 29, 1978) are not transmitted by this order, responsible GSA employees shall be familiar with the regulations.

6. *Directives.*

a. The head of each major program area within GSA having a significant impact on the human environment develops and implements directives (and handbooks, as appropriate) consistent with this order and the Regulations.

b. The directives shall provide, at least the following instructions concerning the processing of environmental assessments, environmental impact statements, and Regional Administrators' responsibilities.

(1) *Environmental assessments.* (a) The responsible official forwards the environmental assessment (EA) and finding of no significant impact (FONSI) to the appropriate Central Office program official (e.g., Assistant Administrator or Commissioner) upon the determination of a FONSI. The Central Office program official should then, forward one copy to the Assistant Commissioner for Space Management PBS (Attention: Environmental Staff) for purposes of agencywide monitoring of GSA's NEPA responsibilities. A copy of any comments generated by public review shall also be forwarded to the Central Office program official as part of the documentation.

(b) The Commissioner, PBS, reconciles any differences concerning additional information or revision that may arise between program officials and other reviewing officials. Final approval for legal sufficiency is the responsibility of the General Counsel or designee.

(2) *Environmental impact statements.*

(a) The responsible official forwards copies of each draft EIS (DEIS), final EIS (FEIS), and any supplement to the appropriate GSA Central Office program official (e.g., Asst. Administrator or Commissioner) concurrent with distribution to the public and local, state and other Federal agencies. The Central

Office program official forwards one copy of the document to the Assistant Commissioner for Space Management, PBS (Attention: Environmental Staff, PRE), for purposes of agencywide monitoring of GSA's NEPA responsibilities. PBS environmental documents will be sent directly to PRE which acts as the PBS program review office and the GSA monitoring office.

(b) The Commissioner, PBS, reconciles any differences concerning additional information or revision that may arise between the program officials and other reviewing officials, except that final approval for legal sufficiency shall be the responsibility of the General Counsel or designee. Service orders will state individuals the public can obtain information from or status reports on EIS's and other elements of the NEPA process.

(3) *Environmental responsibilities of the Regional Administrator.* For regional actions the Regional Administrator retains the nondelegable authority for final approval of FONSI's, DEIS's, FEIS's, and Records of Decision. Further, the Regional Administrator will transmit DEIS's and FEIS's to EPA, heads of Federal agencies, Governors, Senators, and Members of Congress.

7. *Role of the environmental assessment (EA) and the environmental impact statement (EIS) process in GSA.* It is GSA's practice to analyze all reasonable alternatives and all environmental factors having a direct or indirect bearing on a proposed action throughout the decisionmaking process. The assessment of the environmental effects of a proposed action and its alternatives must begin with the inception of the proposed action and continue throughout the planning, action development, operation, and disposal stages. The assessment process will provide for complete public disclosure of proposed GSA actions as a means of ensuring that all reasonable alternatives have been seriously considered and analyzed. All the alternatives available and considered shall be documented. The assessment process can be used to determine whether the threshold for the environmental impact statement process has been met and should be initiated. The relevant environmental documents will accompany other decision documents as they proceed through the decisionmaking process. By using the assessment process, it is the goal of GSA to avoid or minimize potential adverse environmental impacts.

8. *Applicability.* GSA actions and activities covered by NEPA include but are not limited to:

a. Major actions that would result from recommendations or favorable

reports on legislation, originating from either inside or outside the agency when GSA has primary responsibility for implementation;

b. Major new and continuing actions by GSA, including real property acquisition by Federal construction, purchase, or lease; disposal of any interest in surplus real property to non-Federal public or private parties; personal property disposal, public building alterations; procurement actions; and stockpile management, acquisition; and disposal actions; and

c. Major actions that would result from establishment or modification of rules, regulations, procedures, and policies.

d. This order applies to all GSA actions of both Central Office and Regional Offices, and implements NEPA, including the supporting Regulations.

9. *Early notice system.* Each service, staff, and regional office shall keep for public inspection a current list of contemplated actions for which (a) EIS's are being prepared, (b) EIS's are planned for preparation, and (c) FONSI's have been approved. As required by the Regulations (sec. 1501.7), a notice shall be placed in the **Federal Register** notifying the public of GSA's intent to prepare an EIS.

10. *Level of documentation.*

a. All GSA actions indicated in appendices A, B, and C will receive appropriate environmental review and, when necessary, documentation commensurate with the significance of their environmental impact. These actions fall into three classes; Class I, actions are normally categorically excluded from the preparation of EA's and EIS's. Class II, designation normally requires an EIS; and Class III, normally requires an EA. An EIS is, of course, the most thorough response and is required for a proposed Federal action significantly affecting the environment. The second level of response is the development of the EA which is prepared when there is insufficient immediate knowledge to determine if environmental impacts are significant and therefore require the preparation of an EIS. The EA is a compilation of information sufficient to determine if the proposed action has significant impact. If so, documentation is upgraded to a full EIS; if not, a finding of no significant impact (FONSI) is prepared. The third level of response is a simple environmental checklist or brief narrative for file documentation verifying that neither an EA or EIS is necessary. This documentation is optional and the need for its development is left to the judgment of

the office responsible for environmental review of the proposed action. Its purposes are: (1) To aid the reviewer of borderline Class I actions ("normally" categorically excluded from EA/EIS preparation) where initial analysis has indicated a potential for extraordinary circumstances could negate that exclusion. (2) to provide a *simple* analysis of proposed actions which have not been identified as a Class I, II, or III action. In addition, the checklist or brief narrative documentation can be used to counter external challenges to the agency's thoroughness in reviewing proposed borderline Class I actions, which have potential to be elevated to Class III because of possible extraordinary circumstances.

b. The principle services involved with environmental NEPA responsibilities have identified in the following appendices broad categories of actions falling into each of the three classes of actions: PBS, appendix A; FPRS, appendix B; FSS, appendix C.

c. Note that the three classes of action in each of the appendices is flexible. Class I actions, which are exclusionary, require alertness to unusual circumstances which could modify the exclusion. Special circumstances can raise or lower the response level. All reviews shall consider, in addition to the primary impact resulting from the proposed action, secondary and cumulative impacts.

11. *Integration of historic preservation review.* To the maximum extent feasible, review of effects on historic properties pursuant to section 106 and (where applicable) section 110(f) of the National Historic Preservation Act and the Advisory Council's Regulations shall be integrated with the preparation of environmental documents. Responsible officials shall be guided by GSA Order ADM 1020.1 in ensuring that, during preparation of environmental documentation, effective action is taken to: (a) Identify historic properties subject to effect by the GSA action, (b) determine the potential effect of the action on such properties, and (c) comply with the Advisory Council's regulations. The responsible officials shall document the result of compliance with the Advisory Council's regulations in any EIS, EA, FONSI, or documentation of files prepared pursuant to par. 10 of this order.

12. *Decision points.* The designation of major decision points (par. 1505.1(b) of the Regulations) for PBS appears in appendix D; for FPRS, in appendix E; and for FSS, in appendix F.

13. *Effective date.* Every effort shall be made to immediately implement the

provisions of the Regulations and this order.

Ray Kline,

Acting Administrator of General Services,
February 11, 1985.

Figure 1.—Supplemental Distribution

Office	Copies
All Regional PEP	10
Central Office, PRE	200

Appendix A—Classes of PBS Actions and Indicators of Significance

[ADM 1095.1D]

1. *Classes of actions.* The classes of PBS actions (pars. 2 thru 4) and indicators of significance (par. 5) are listed below. The indicators shall be used as a part of the review process to determine level of reviews necessary. Except for those actions that are categorically excluded from the requirement to prepare an EIS or EA (Class I, par. 2) the range of appropriate review runs from completion of an Environmental Checklist to preparation of a final EIS and record of decision.

2. *Class I, actions that normally do not require either an environmental impact statement (EIS) or an environmental assessment (EA).* The actions in subparagraphs a thru u below are excluded from the requirement to prepare an EIS or an EA. The responsible regional official shall be alert to unusual conditions that would require an EIS or an EA. The following PBS actions are categorically excluded because Agency experience has shown that they do not significantly affect the quality of the human environment. However, where the responsible official determines that any action, activity, or program identified in this section may have an environmental effect because of extraordinary circumstances, the requirements of NEPA apply.

a. Repair to or replacement in kind of equipment, e.g., electrical distribution and HVAC systems in GSA-controlled facilities;

b. Repair to or replacement in kind of components; e.g., windows, doors, or roof in GSA-controlled non-historic facilities;

c. Weatherization of non-historic properties;

d. Environmental monitoring;

e. Procurement contracts for EIS's, EA's, A&E's, supplies, etc;

f. Preparation of regulations, directives, manuals, or other guidance that implement, but do not substantially change these documents, or other guidance of higher organizational levels or another Federal agency;

g. Routine facility maintenance and grounds keeping activities;

h. Minor construction conducted in accordance with approved facility master plans and construction projects on the interiors of non-historic GSA-owned and leased buildings including:

(1) Safety and fire deficiencies (relocate and update fire alarm System) (dead-end corridor stairs);

(2) Air conditioning;

(3) Additional elevators;

(4) Automatic sprinkling systems;

(5) Smoke partitions;

(6) Seismic corrections; and

(7) Interior renovation: Modification, modernization of non-historic buildings;

i. Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances, or other similar causes;

j. Studies that involve no commitment of resources other than manpower and funding;

k. Acquisition of space within an existing previously occupied structure, either by purchase or lease, where no change in the general type of use and minimal change from previous occupancy level is proposed (previous occupant need not have been a Federal tenant);

l. Acquisition of less than 20,000 square feet of occupiable space by: (1) Federal construction, (2) lease construction, and (3) new lease for a structure substantially completed prior to solicitation for offers and not previously occupied;

m. Lease extensions, renewals, or succeeding leases;

n. Relocation of employees into existing Federally-owned or commercially leased office space within the same metropolitan area not involving a substantial number of employees, or a substantial increase in the number of motor vehicles at a facility;

o. Expansion or improvement of an existing facility where the gross square footage is not increased by more than 40 percent, and the site size is not increased substantially;

p. Individual personnel actions, administrative actions, collective bargaining with employee unions, ministerial actions, and routine activities normally conducted to protect and maintain GSA controlled properties;

q. Outlease, or license of government-controlled space, or sublease of government-leased space to a non-federal tenant when the use will remain substantially the same;

r. Assisting Federal agencies in public utilities management (excluding communications), negotiating for public

utility services on behalf of Federal agencies, and providing expert testimony before public utility regulatory bodies:

s. Various easement acquisitions:

t. Repair and alteration projects involving but not adversely affecting properties listed on or eligible for listing on the National Register of Historic Places. Review of these projects is sufficiently achieved under section 106 of the National Historic Preservation Act review process and do not normally require further environmental documentation; and

u. Acquisition of land which is not in a floodplain or other environmentally sensitive area and does not result in condemnation.

3. *Class II, actions that normally require an EIS.* The actions in a through f. below, normally require the preparation of an EIS because they either meet the indicators of significance, they are required by other Agency directives, or experience has shown that significant impacts are normally associated with such actions.

a. Master plans for federally-owned property (major building complexes and sites);

b. Space acquisition programs projected for a given major metropolitan area for a 3 to 5 year period when there is a likelihood that more than one of the individual actions making up that program could separately require an EIS as opposed to a single comprehensive EIS for the area-wide program;

c. Federal construction or lease construction projects in excess of 275,000 occupiable square feet of general-purpose space;

d. Actions in a coastal zone that do not comply with an approved Coastal Zone Management Plan;

e. Construction of a critical action within the boundaries of a critical action floodplain, as defined by the Water Resources Council; and

f. Construction of a prison facility where GSA is the lead agency. (Excluding facilities for temporary detention as found in border stations, courthouses, etc.).

4. *Class III, actions that normally require EAs.* An EA will normally be prepared for these actions to determine if an EIS is necessary:

a. Acquisition of general-purpose office space between 20,000 and 275,000 occupiable square feet of space whether by Federal or lease construction or the leasing of existing space in a new structure never before occupiable;

b. Leases for space in existing buildings when an environmental controversy has been identified;

c. Repair and alteration projects which:

(1) Have not been categorically excluded.

(2) Adversely affect those characteristics that qualify a property or objects as historically or culturally significant (as defined by the Advisory Council on Historic Preservation in 36 CFR Part 800); projects which have the potential to affect historic properties or the characteristics which qualify properties for inclusion in the National Register of Historic Places, as determined with reference to GSA Order ADM 1020.1 and par. 11 of this order;

(3) Are for alteration of space for a major laboratory that will use large amounts of dangerous or hazardous chemicals, drugs, or radioactive materials; or

(4) Are for control of hazardous and toxic materials/substances such as asbestos, polychlorinated biphenyls (PCBs), explosives, radioactive material, and others.

d. Construction of facilities primarily devoted to special purpose uses which because of their nature, may create environmental impacts necessitating mitigating measures, or are judged to have potential for environmental controversy;

e. Any action located in or potentially affecting the values and functions of a floodplain or wetland;

f. Action that may affect prime farmlands; wildlife refuges; or wild and scenic rivers; and

g. Actions that result in significant changes in land use or when the new use does not conform to city zoning.

5. *Indicator of significance.* The indicators of significance below are to assist in determining the necessity to prepare an EA or EIS. They point out unusual or sensitive conditions or issues that may require the preparation of an EA for an otherwise categorically excluded action or an EIS for an action that normally requires only an EA. Classes I and II were established in part on the indicators of significance. The determination of whether Class III actions require an EIS or a lesser form of environmental review shall be made based on the following indicators. This order does not arbitrarily establish the number of indicators of significance that must be exceeded before an EIS is required on an action, because each proposed action must be evaluated on a case-by-case basis. While it is possible that exceeding a single indicator may trigger the necessity for an EIS, it should be recognized that the degree of threshold exceedance, not the number of

thresholds exceeded, is the important consideration.

a. Consultation with appropriate local or regional officials reveals that demands generated by the project have potential for, or are recognized as being a burden on part(s) of the local infrastructure. This includes sewer, water, electricity, gas, street system and public transit.

b. The action may lead to a violation of Federal, State, or local law or requirements imposed for the protection of the environment; for example, if air quality standards have been violated within the past year and the project is expected to increase emissions, or construction traffic or project noise will be in violation of GSA, OSHA, State, or local noise standards, and one or more types of sensitive receptors would be at risk.

c. The proposed GSA project, its contractors, or final solid waste disposal site(s) will not be in compliance with the EPA's "Solid Waste Management Guidelines" for thermal processing and land disposal, storage and collection, source separation, and resource recovery facilities; or with any other Federal, State, or local regulations, standards, or health codes. The final disposal site(s) will not have adequate capacity for the solid waste from the proposed GSA project.

d. The action is located on or near an active geological fault or unique geological features.

e. The proposed project will not be compatible with the present zoning or the official land use plan for the specific site and/or affected delineated area.

f. The proposed action may adversely affect an endangered or threatened species or its critical habitat.

g. The proposed action may adversely affect or be located on parklands, prime farmlands, floodplains, wetlands, wildlife refuges, wild and scenic rivers, or other ecologically critical areas.

h. The proposed action will result in the use of a significant amount (defined as an amount that if spillage occurs it will result in a health hazard or damage to the ecosystem; or if accidentally dumped into the sewage system will damage treatment facilities or contaminate rivers or streams) of toxic, hazardous, or radioactive materials.

i. Historic properties may be affected by the proposed action, as determined with reference to GSA Order ADM 1020.1 and par. 11 of this order. Where this indicator of significance is the only indicator present, however, the responsible official need not prepare an EA or EIS but must comply with the Advisory Council's regulations.

j. The proposed project will permanently alter or severely affect an area that has been formally recommended for protection by Federal, State, regional, or local government agencies as part of a land use or development plan.

k. The proposed project will be located on or near an active or abandoned toxic, hazardous or radioactive waste disposal site.

l. The proposed action will result in the displacement or relocation of numerous businesses, residences, or farm operations.

m. The proposed project has generated an environmental controversy on a local, State, and/or national level, whether due to factors mentioned in a thru 1 above, or for other reasons of an environmental nature.

6 and 7 Reserved.

Appendix B—Classes of FPRS Actions and Indicators of Significance

1. *General.* This appendix lists the classes of action and indicators of significance for actions sponsored by the Federal Property Resources Service (FPRS).

2. *Classes of action.* In accordance with par. 1501.4(a) of the Regulations, FPRS actions are classified as follows:

a. *Class I, actions that normally do not require either an environmental impact statement (EIS) or environmental assessment (EA).*

(1) The actions listed below in par. 2.a.(2), under normal circumstances, are categorically excluded from the requirement to prepare an EIS or an EA. The criteria used to help determine those categories of actions that normally do not require either an EIS or an EA include the assumptions that the action is expected to have:

(a) Minimal or no significant effect on environmental quality.

(b) No significant or environmentally controversial change to existing conditions.

(c) No significant individual or cumulative environmental effects.

(d) Minimal effects, other than social and economic effects.

(e) Similarity to actions previously examined and found to meet the above criteria.

(2) *Class I:* The actions below are normally considered categorical exclusions. However, FPRS officials should consider any unusual or sensitive conditions, especially those conditions, defined in par. 3., indicators of significance, in determining the necessity to prepare an EA or EIS.

(a) Federal real property utilization surveys in accordance with Executive Order 12348.

(b) Real property inspections for compliance with deed restrictions.

(c) Administrative actions such as procurement of consultant services for appraisal or environmental analysis.

(d) Transfers of real property to Government agencies.

(e) Assignments of real property to another Federal agency for subsequent conveyance to a State or local agency or to eligible nonprofit institutions, for health, education, or park and recreation uses.

(f) Disposal of real property to State or local agencies for wildlife conservation and historic monument purposes.

(g) Disposal required by Public Law wherein GSA has no discretionary authority and where no indicators of significance are present. (This would mean duty under law is purely ministerial).

(h) Disposal of permits, licenses, or leases for 1-year term or less.

(i) Disposal of related personal property, demountable structures, transmission lines, utility poles, railroad ties and track.

(j) Disposal of line-of-sight, utility, aviation, flight clearance, right-of-way, or other easements.

(k) Disposal of properties where size, area, topography, and zoning are similar to existing surrounding properties and/or where current and reasonable anticipated uses are/would be similar to current surrounding uses. (For example: Commercial store in a commercial strip, farmland in an area of similar sized farms, warehouse in a warehouse complex, row house or vacant lot in an urban area, or office building in a downtown area.)

(l) Off-site disposal and removal either intact or by demolition of improvements is anticipated, but where site restoration is required.

(m) Abrogations of use restrictions contained in the conveyance documents of previous disposals when:

(i) Upon request of another Federal agency for concurrence, GSA only provides concurrence subject to the requesting agency's compliance with NEPA as appropriate, or

(ii) GSA has no reason to believe that the abrogation will result in a significant change in property use, or

(iii) The abrogation is for a reduction of time only.

(n) Administrative action by GSA to remove clouds on titles.

(o) Sale of improvements to underlying property fee owner and disposal of fee ownership to parties who have had possession and/or use of the property for a period of five years or

more, through permit, lease, license, or easement.

(p) Stockpile acquisitions or disposals of:

(i) Metals: Aluminum, antimony, cobalt, copper, gold, lead, nickel, platinum group, silver, tin, titanium, and zinc.

(ii) Agricultural products: Opium and its derivatives, castor oil and its derivatives, quinine and its derivatives, and pyrethrum.

(iii) Other: Diamonds, jewel bearings, quartz, manganese dioxide-natural battery grade, mica, rubies, rutile and synthetic sapphires.

(iv) Transportation of hazardous material in conformance with appropriate transportation requirements.

(v) Rotation or upgrading of current inventories.

b. *Class II, actions that normally require an EIS.*

(1) The proposed actions listed below under normal conditions require the preparation of an EIS since the actions normally meet some of the indicators of significance and:

(a) Have potential for significant degradation of the environment,

(b) Have potential for a hazard to the public,

(c) Are similar to actions that previously were found to require an EIS, and/or,

(d) Tend to be controversial with respect to environmental impact.

(2) *Class II actions are:*

(a) Disposal of surplus real property as follows:

(i) Property where complex multiple-use options are contemplated,

(ii) Property formerly used as, or proposed for use as, a hazardous waste disposal site, and

(iii) Property considered to be environmentally contaminated so as to restrict future use.

(b) Stockpile actions that result in the placing into a 100-year floodplain a commodity that would cause a public health, safety, or environmental problem in an aquatic environment.

c. *Class III, actions that normally require EA's but not EIS's.*

(1) The actions listed below cannot be readily placed in the Class I or II and require the preparation of an EA prior to the decision as to whether or not to prepare an EIS.

(2) *Class III actions are:*

(a) Disposal of surplus real property actions not covered in Class I or II, and

(b) Stockpile actions for:

(i) Disposal of materials which have become contaminated or unstable while in storage and have the potential for

causing detrimental environmental impact.

(ii) Relocation of hazardous materials that do not qualify for exclusion by law or categorical exclusion.

3. Indicators of significance.

a. The indicators of significance, hereinafter referred to as indicators, are intended to assist FPRS personnel in determining the necessity to prepare an EA or EIS. The indicators point out unusual or sensitive conditions or issues that may require the preparation of an EA, for an otherwise categorically excluded action, or an EIS for an action that normally requires only an EA. Indicators, when present, show there is potential for significance. The determination of significance must be judged on a case by case basis.

b. FPRS indicators are:

(1) For real property actions, the property:

(a) Is in, or would significantly and adversely affect, a

(i) 100-year floodplain,

(ii) Wetland,

(iii) Prime or unique farmland,

(iv) Ecologically critical area,

(v) Endangered species critical habitat,

(vi) Parkland,

(vii) Active geological fault area or unique geological feature, and

(viii) Wild and scenic rivers, wildlife refuges.

(b) Is not or will not be operated or utilized in consonance with local zoning regulations or land use plans;

(c) Will probably not continue in its present or a similar use;

(d) May itself be or may contain historic properties subject to effect as determined with reference to GSA Order ADM 1020.1 and par. 11 of this order. Where this indicator of significance is the only indicator present, however, the responsible official need not prepare an EA or EIS but must comply with the Advisory Council's regulations.

(e) Is in a coastal zone;

(f) Is environmentally contaminated so as to restrict use; or

(g) Is subject to significant controversy with respect to the environmental impact of the disposal.

(2) For actions involving acquisition or disposal of stockpile materials, the action:

(a) May lead to a violation of Federal, State, or local environmental law or regulations;

(b) May adversely affect an endangered or threatened species or its critical habitat;

(c) May adversely affect parklands, prime farmlands, floodplains, wetlands,

wildlife refuges, wild and scenic rivers, or ecologically critical areas;

(d) Will result in the storage, handling, use, and disposal of large quantities of dangerous, hazardous, or radioactive materials, the significance to be determined on a case-by-case basis;

(e) May have an effect on an historic property or properties, as determined with reference to GSA Order ADM 1020.1 and par. 11 of this order. Where this indicator of significance is the only indicator present, however, the responsible official need not prepare an EA or EIS but must comply with the Advisory Council's regulation.

(f) Will permanently alter an area that has been formally recommended for protection by Federal, State, regional, or local government agencies as part of a land use or development plan;

(g) Will result in an increase of normal stockpile depot traffic flow greater than 100 percent on an annual basis;

(h) Will entail movement of material in containers not meeting minimum industrial standards/practices;

(i) May result in increased air or water pollution from production facilities resulting from new production directly attributable to the acquisition of stockpile materials when total pollutants would exceed Federal or State standards; or

(j) May entail a 10-percent change in the labor force of the industry producing the material.

Appendix C—Classes of FSS Actions and Indicators of Significance

[ADM 1095.10]

1. *Classes of actions.* Classes of FSS actions and indicators of significance are listed below.

2. *Class I, actions that normally do not require either an EIS or an environmental assessment (EA).* The actions in a thru j, below, are categorically excluded from the requirement to prepare an EIS or an EA under normal circumstances. However, the responsible official will be alert to unusual conditions that would require an EIS or an EA. They are categorically excluded because they normally do not meet any of the indicators of significance and they are routine, will not create greater demands or loads on environmental impact areas, allow the current agency action to continue, or do not alter physical conditions.

a. Acquisition of products, materials, and services for Government agencies to meet normal requirements;

b. Preparation of specifications and purchase descriptions for products, materials, and services for the normal requirements of Government agencies;

c. Inspection of products, materials, and services to meet normal requirements; and

d. Distribution of products and materials to meet normal requirements of agencies.

e. Rehabilitation, transfer, donation, sale or other disposal of federally-owned personal property (except as provided in 4.d.).

f. Assisting Federal agencies in improving transportation management and practices,

g. Negotiating transportation rates and providing expert testimony before transportation regulatory bodies,

h. Auditing Federal transportation documents,

i. Providing Federal fleet management and assisting in energy conservation in the Federal vehicle fleet,

j. Providing motor vehicle support to Federal executive, legislative, and judicial activities through a nationwide system or motor pools.

3. *Class II, actions that normally require an EIS.* None that apply to FSS. However, where the responsible official determines that any action, activity, or program may have a significant effect on the environment because of extraordinary circumstances, an EIS will be prepared.

4. *Class III, actions that normally require EA's but not EIS's.* An EA is normally prepared for these FSS actions to determine and document environmental concerns and mitigating actions. They seldom if ever are anticipated to lead to a requirement for an EIS. Their principal purpose is to ensure environmental consideration is given to certain FSS actions which effect the environment, albeit, less than significantly.

a. Acquisition of products and materials representing a significant percentage of the total market for products and materials with known toxic or hazardous ingredients;

b. Distribution of these products and materials; and

c. Acquisition of products or materials whose manufacture may have a significant impact on the environment and where FSS purchases represent a significant portion of the total market production.

d. Rehabilitation, transfer, donation, sale or other disposal of federally-owned personal property which contains toxic or hazardous substances or may lead to a violation of Federal, state or local environmental law or regulation. (The following exception applies in actions impacted by the National Historic Preservation Act and the Advisory Council for Historic

Preservation Regulations. The Regulations and GSA's Order ADM 1020.1, Procedures For Historic Properties will be complied within all cases involving or affecting a historic property. However, documentation of this compliance will be included in an EA/EIS only when the need to develop an EA/EIS has already been established by other requirements for Class II or III actions, including extraordinary circumstances.)

5. Indicators of significance.

Indicators of significance are employed to define thresholds beyond which EISs are required. By definition, Class II actions normally do not exist in FSS except in extraordinary circumstances which must be evaluated on a case-by-case basis. Therefore, there are no established indicators of significance for FSS.

Appendix D—PBS Decision Points When Appropriate

SPACE ACQUISITION ACTIONS

(ADM 1095.1D)

Action	Non-prospective lease	Prospective lease	Prospective action other than lease	Available environmental data
Determine space needs exist.	•	•	•	Begin gathering information.
Select method.	•	•	•	Preliminary environmental analyses.
Determine delineated area.	•	•	•	Do.
Transmit prospectus to OMB.	•	•	•	Draft EIS or EA/FONSI.
Approve prospectus.	•	•	•	Do.
Request offers for space.	•	•	•	Do.
Accept lessor's offer.	•	•	•	Final EIS or EA/FONSI.
Transmit prospectus to PWC.	•	•	•	Draft EIS or EA/FONSI.
Approve prospectus.	•	•	•	Do.
Site selection.	•	•	•	Final EIS or EA/FONSI.
Request offers for space.	•	•	•	Draft EIS or EA/FONSI.
Accept lessor's offer.	•	•	•	Final EIS or EA/FONSI.

REPAIR AND ALTERATION ACTIONS

Action	Available environmental data
Determine need for R&A Project (initial space alteration, reimbursable, alteration and repair).	Begin gathering information.
Select extent of alterations.	Preliminary environmental analyses.
Approval of prospectus to:	
1. OMB.	Draft EIS or EA/FONSI.
2. Congress.	Do.
OMB approves prospectus.	Do.
PWC approves prospectus.	Do.
Approve design (R&A and new construction).	Final EIS or EA/FONSI.

Appendix E—FPRS Decision Points When Appropriate

REAL PROPERTY DISPOSAL ACTIONS

(ADM 1095.1D)

Action	Available environmental data
1. GSA receives reports of excess of real property from a Federal holding agency and notifies other Federal agencies of the availability of this property for further utilization.	Begin to gather environmental information.
2. If a Federal agency desires property, and GSA approves, property is transferred to the Federal agency.	Environmental assessment with a EA/FONSI or recommendation for DEIS.
If no Federal agency desires property or if GSA disapproves request, GSA determines the property surplus and notifies State and local governments of the availability of the property for local public use.	Preliminary environmental analysis.
3. GSA reviews State and local public agency or non-profit institution requests to acquire the property as well as the comments of other Federal agencies sponsoring these requests, and for real property considers the public sale potential.	Environmental assessment with a FONSI or recommendation for a DEIS.
4. GSA Central Office reviews regional office recommendation for FONSI or DEIS, notifies regional office only if the Central Office disagrees with regional office.	Do.
5. GSA regional office maintains EA/FONSI or initiates DEIS.	Do.
6. GSA Central Office advises Regional Administrator of final disposal determination in cases where Central Office approval is required.	Final EIS or EA/FONSI.
7. GSA regional office disposes of property.	EA/FONSI or final EIS.

STRATEGIC AND CRITICAL MATERIALS ACQUISITION AND DISPOSAL ACTIONS

Action	Available environmental data
1. FPRS receives directive from Federal Preparedness Agency (FPA) to acquire or dispose of strategic and critical materials.	Take Offices of Property Management and Stockpile Disposal to initiate action and identify potential adverse impacts.

STRATEGIC AND CRITICAL MATERIALS ACQUISITION AND DISPOSAL ACTIONS—Continued

Action	Available environmental data
2. Preparation of legislative proposal.	Tasks environmental team to develop environmental checklist (EC) on case by case basis, if EC indicates potential adverse impact, tasks team to prepare environmental assessment (EA) or environmental impact statement (EIS).
3. Submission of legislative proposal.	Submission of draft EIS or finding of no significant impact (FONSI) and EA.
4. Implementation of legislation.	Final EIS or FONSI and EA.

Appendix F—FSS Decision Points When Appropriate

SUPPLY ACQUISITION ACTIONS

(ADM 1095.1D)

Action	Negotiated contract	Formally advertised contract stock	Formally advertised contract direct delivery	Available environmental data
Determine agency needs and requirements.	•	•	•	Begin gathering information.
Review alternative method of acquisition and supply.	•	•	•	Preliminary environmental analysis.
Select method of acquisition and supply.	•	•	•	Draft EIS or EA/FONSI.
Prepare and approve technical description.	•	•	•	Do.
Determine stocking pattern.	•	•	•	Do.
Approve/issue solicitation.	•	•	•	Do.
Contract award.	•	•	•	Final EIS or EA/FONSI.

PERSONAL PROPERTY DISPOSAL ACTIONS

Action	Available environmental data
1. GSA receives reports of excess of personal property from a Federal holding agency and notifies other Federal agencies of the availability of this property for further utilization.	Begin to gather environmental information.
2. If a Federal agency desires property, and GSA approves, property is transferred to the Federal agency.	Environmental assessment with a EA/FONSI or recommendation for DEIS.
If no Federal agency desires property or if GSA disapproves request, GSA determines the property surplus and notifies State and local governments of the availability of the property for local public use.	Preliminary environmental analysis.

PERSONAL PROPERTY DISPOSAL ACTIONS—
Continued

Action	Available environmental data
3. GSA reviews State and local public agency or non-profit institution requests to acquire the property as well as the comments of other Federal agencies sponsoring these requests.	Environmental assessment with a FONSI or recommendation for DEIS.
4. GSA Central Office reviews regional office recommendation for FONSI or DEIS and notifies regional office only if the Central Office disagrees with regional office.	Environmental assessment with a FONSI or recommendation for DEIS.
5. GSA regional office maintains EA/FONSI or initiates DEIS.	Environmental assessment with a FONSI or recommendation for a DEIS.
6. GSA Central Office advises Regional Administrator of final disposal determination in cases where Central Office approval is required.	Final EIS or EA/FONSI.
7. GSA regional office disposes of property.	EA/FONSI or final EIS.

[FR Doc. 85-4383 Filed 2-22-85; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH AND
HUMAN SERVICES

Food and Drug Administration

[Docket No. 85F-0036]

American Cyanamid Co.; Filing of Food
Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that American Cyanamid Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sulfosuccinic acid 4-ester with polyethylene glycol nonylphenyl ether, disodium salt as a component of adhesives intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3845) has been filed by American Cyanamid Co., One Cyanamid Plaza, Wayne, NJ 07470, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of sulfosuccinic acid 4-ester with polyethylene glycol nonylphenyl ether, disodium salt as a component of adhesives intended for use in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: February 15, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-4454 Filed 2-22-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84F-0416]

Calgon Corp.; Filing of Food Additive
Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Calgon Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(diallyldimethylammonium chloride) in coatings for paper and paperboard used in contact with food.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5A3833) has been filed by Calgon Corp., Calgon Center, Box 1346, Pittsburgh, PA 15230, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended in paragraph (a)(5) to provide for the safe use of poly(diallyldimethylammonium chloride) in coatings for paper and paperboard used in contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21

CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: February 14, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-4455 Filed 2-22-85; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[ORD-051-N]

Medicare and Medicaid Programs,
Health Care Financing Research and
Demonstration Cooperative
Agreements and Grants and
Availability of Funds for Cooperative
Agreements and Grants

Correction

In FR Doc. 85-2480, beginning on page 4480 in the issue of Wednesday, January 30, 1985, make the following correction: On page 4480, in the third column, the first bold-print heading should read "FY 1986 (10/1/85-9/30/86)".

BILLING CODE 1505-01-M

Health Resources and Services
AdministrationTitle III, PHS Act, Part H, Organ
Transplants; Delegation of Authority

Notice is hereby given that in furtherance of the January 14, 1981 delegation by the Secretary of Health and Human Services to the Assistant Secretary for Health (46 FR 10016) of authority under Title III of the PHS Act, the Acting Assistant Secretary for Health has delegated to the Administrator, Health Resources and Services Administration, with authority to redelegate, all of the authorities under Title III, Part H of the PHS Act (42 U.S.C. 273 *et seq.*), as amended, Organ Transplants, excluding the authority to issue regulations and submit reports to the Congress or a congressional committee.

Provisions has been made for all previous delegations and redelegations made to officials within the Public Health Service of authorities under Title III of the PHS Act, as amended, to continue in effect, provided they are consistent with the above delegation to the Administrator, Health Resources and Services Administration.

The above delegation to the Administrator, Health Resources and Services Administration, became effective on February 5, 1985.

Dated: February 5, 1985.

James F. Dickerson III,

Acting Assistant Secretary for Health.

[FR Doc. 85-4499 Filed 2-22-85; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Organ Transplant Act; Delegation of Authority

Notice is hereby given that in furtherance of the January 22, 1985 delegation by the Secretary of Health and Human Services to the Assistant Secretary for Health of authority under the National Organ Transplant Act, Pub. L. 98-507 (50 FR 3840), the Acting Assistant Secretary for Health has delegated to the Director, National Institutes of Health, with authority to redelegate, all the authorities under Title IV of Pub. L. 98-507 (42 U.S.C. 273 note), Bone Marrow Registry Demonstration and Study, excluding the authority to submit the reports to the Congress and congressional committees.

The above delegation to the Director, National Institutes of Health, became effective on February 5, 1985.

Dated: February 5, 1985.

James F. Dickson III,

Acting Assistant Secretary for Health.

[FR Doc. 85-4498 Filed 2-22-85; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Board of Scientific Counselors Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Toxicology Program Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on March 28, 1985.

The meeting will be open to the public from 1:30 p.m. until adjournment for the purpose of providing peer review of the data regarding carcinogenicity from lifetime studies in which irradiated chicken was fed to CD-1 mice. The studies were sponsored initially by the U.S. Army and subsequently by the U.S. Department of Agriculture, conducted by Raltech Scientific, Inc., and submitted to the Food and Drug Administration (FDA) for their review. The review was requested by the Center for Food Safety and Applied Nutrition, FDA, and will be conducted by the Technical Reports Review Subcommittee of the Board in

conjunction with an *ad hoc* panel of experts.

The meeting will commence with a brief overview of the studies. This will be followed with presentations by scientific staff from the Center for Food Safety and Applied Nutrition concerning the pathology findings. Sufficient time will be allowed for public comment.

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919) 541-3971, FTS 629-3971, will furnish program information prior to the meeting and summary minutes subsequent to the meeting.

Dated: February 15, 1985.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 85-4472 Filed 2-22-85; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Board of Scientific Counselors Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences, Research Triangle Park, North Carolina, on March 29, 1985.

The meeting will be open to the public from 9:00 a.m. until adjournment. The primary agenda topic is the completion of peer review on draft technical reports of long-term toxicology and carcinogenesis studies from the National Toxicology Program. Reviews will be conducted by the Technical Reports Review Subcommittee of the Board in conjunction with an *ad hoc* panel of experts.

Draft technical reports on the following chemicals (listed alphabetically with Chemical Abstracts Service registry numbers, routes of administration, and NTP chemical managers for each study) are tentatively scheduled to be peer reviewed on March 29.

Chemical (CAS registry No.)	Route	Chemical manager (phone No.)
C.I. Basic Red 9 (569-61-9)	Feed	Dr. W.C. Eastin (919-541-7941)
C.I. Disperse Blue 1 (2475-45-8)	Feed	Dr. E. Rauckman (919-541-7963)
H.C. Red 3 (2671-01-4)	Gavage	Dr. J.H. Menear (919-541-4178)
Methylene Chloride (Dichloromethane) (75-09-2)	Inhalation	Dr. J.H. Menear (919-541-4178)
o-Phenylphenol (90-43-7)	Dermal	Dr. M.I. Luster (919-541-4188)

Chemical (CAS registry No.)	Route	Chemical manager (phone No.)
4-Vinylcyclohexene (100-40-3)	Gavage	Dr. J.J. Collins (919-541-2264)

The Executive Secretary, Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709, telephone (919-541-3971), FTS (629-3971), will furnish final agenda, rosters of subcommittee and panel members, and other program information prior to the meeting, and summary minutes subsequent to the meeting.

Dated: February 15, 1985.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 85-4471 Filed 2-22-85; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Final Determination To Extend Certification of No Adverse Impact on Theodore Roosevelt National Park and Lostwood National Wildlife Refuge Under Section 165(d)(2)(C)(iii) of the Clean Air Act

AGENCY: Department of the Interior.

ACTION: This notice announces the Federal Land Manager's final determination to extend the September 1982 certification of no adverse impact under section 165(d)(2)(C)(iii) of the Clean Air Act with respect to two Prevention of Significant Deterioration permits under consideration for extension by the North Dakota State Department of Health.

SUMMARY: On September 20, 1982 (47 FR 41480), the Department of the Interior announced the final determination made by the Federal Land Manager of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge that five proposed sources in North Dakota subject to Prevention of Significant Deterioration of air quality requirements (PSD) would not adversely affect the resources of the park and refuge (wilderness portion). The Federal Land Manager made the final determination after full consideration of the best available information and the public comments received on the issues involved. On January 12, 1983, the North Dakota State Department of Health (NDSHD) issued Air Pollution Control Permits to Construct to four of these sources. The Nokota Company (Nokota) and Basin Electric Power Cooperative

(Basin Electric), two of the sources that received permits, have requested that the NDSHD grant an eighteen-month extension of the permits issued for their respective proposed coal-to-methanol plant in Dunn County, North Dakota and electric generating unit in Mercer County, North Dakota. The purpose of this notice is to notify the interested public of the Federal Land Manager's final determination to extend the certification of no adverse impact with respect to these two sources, to provide a statement of reasons supporting this determination, and to inform interested persons of the availability of a detailed "Response to Public Comments" for inspection and copying.

DATE: The certification extensions, not to exceed eighteen consecutive months, are effective as of the date the State of North Dakota issues its permit extensions provided such issuance date is on or before June 1, 1985.

ADDRESSES: Copies of the "Response to Public Comments" are available for public inspection and copying between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations: National Park Service, Main Interior Building, Room 3021, 18th and C Streets NW., Washington, D.C.; Air and Water Quality Division, 11011 W. Sixth Avenue, Room 306, Denver, CO; and Theodore Roosevelt National Park Headquarters, Medora, ND. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mark A. Scruggs, Air and Water Quality Division, National Park Service-AIR, P.O. Box 25287, Denver, CO 80225, telephone number (303) 236-8765.

SUPPLEMENTARY INFORMATION: The Federal Land Manager (FLM) has the affirmative responsibility under section 165(d)(2)(B) of the Clean Air Act (CAA) to protect the air quality related values of any lands within an area designated as a PSD class I area. A review by the FLM in 1982 of Nokota's proposed coal-to-methanol project and Basin Electric's generating unit indicated that the projects would not adversely affect the air quality related values of Theodore Roosevelt National Park or Lostwood National Wildlife Refuge (wilderness portion), which are both designated as PSD class I areas. Therefore, based on this review, on September 15, 1982, the FLM certified under section 165(d)(2)(C)(iii) of the CAA that the Nokota and Basin Electric projects would not adversely affect the class I areas (47 FR 41480 (September 20, 1982)). The NDSHD issued PSD permits to Nokota and Basin Electric on January 12, 1983. The permits were to expire on

July 11, 1984, if construction of the projects did not commence on or before that date. Nokota and Basin Electric informed the NDSHD that, due to circumstances beyond their control, they could not commence construction of the projects by July 1984. Subsequently, on March 16, 1984, and June 1, 1984, respectively, Nokota and Basin Electric formally requested an eighteen-month extension of their PSD permits.

Under the North Dakota air regulations, the NDSHD may extend a PSD permit upon a satisfactory showing that the extension is justified. The NDSHD has developed a policy paper entitled "Procedures and Requirements for the Consideration of Time Extensions to PSD Permits," which states that the permittee must submit a written request that makes such a showing and must include specific supporting information so the NDSHD can make its decision. Among other things the supporting documentation should include information documenting that there will be no change in the determination that there will be no adverse impacts on class I air quality related values if the extension is granted. Nokota and Basin Electric informed the NDSHD that they are not aware of any changes relating to the FLM's 1982 certification of no adverse impact.

Nokota and Basin Electric as well as the NDSHD have requested the FLM to comment on the permit extension requests and the permittees' assertion that the previous certification of no adverse impact is still valid.

Discussion of Public Comments

On September 27, 1984 (49 FR 38197), the FLM announced the preliminary decision to extend the certification of no adverse impact for Nokota and Basin Electric, and provided for a 30-day public comment period. Three public comment letters were received during the comment period. The letters contained a total of six comments. These comments and the FLM's responses are summarized below: A document entitled "Responses to Comments Received on the Federal Land Manager's Decision to Extend the Certification of No Adverse Impact for Basin Electric and Nokota Company" which includes the public comments and the FLM responses is available for inspection and copying. (See **ADDRESSES** section above).

One comment letter was a combined letter from four different concerned organizations. They contend that the Federal Land Manager should reverse the preliminary decision as they do not believe it provides proper protection for

the affected class I areas. Specifically, they contend that the Federal Land Manager's preliminary decision: (A) Failed to consider the 1984 environmental assessment for Theodore Roosevelt National Park (NP); (B) failed to consider options (such as offsets) other than a certification extension and used outdated information; (C) lacked a policy for future extension requests and did not contain a time limit for this extension; and (D) lacked documentation as to what would constitute an adverse impact.

We agree that energy development facilities outside Theodore Roosevelt National Park are significant sources of air pollution. However, the proposed Nokota and Basin Electric projects should not contribute to the air quality problems raised in the referenced environmental assessment, namely odors from hydrogen sulfide (H_2S) and visibility impairment from smoke and particulate matter. Regarding H_2S odors, the proposed Nokota and Basin Electric projects will not be significant sources of H_2S , and consequently will not significantly contribute to any H_2S odor problems that may exist at Theodore Roosevelt NP. Also, analysis of the cumulative effects of Nokota and Basin Electric as well as other proposed and existing projects reviewed previously, indicates that no adverse impacts on visibility within the park should occur from any or all these sources.

Regarding options other than a certification extension, the Federal Land Manager (FLM) has no authority to require offsets under the Clean Air Act. Only the permitting authority, the North Dakota State Department of Health (NDSHD) in this case, may have discretion to require offsets under its new source review program. The FLM's responsibility under the Act is to protect the air quality related values (AQRV's) of class I areas. If no evidence of adverse impacts on AQRV's exists, the FLM has no basis to deny a certification or certification extension request.

Nevertheless, the FLM has worked (and will continue to work) closely with the NDSHD to minimize emissions near Theodore Roosevelt NP. One area of discussion in particular has been the tying in of flaring gas wells with gas processing plants. This, in essence, is offsetting (if a net air quality benefit is achieved in the park) because emissions from new gas processing plants can be more than offset by reducing emissions from the flaring wells. In the draft permit for the Northern Gas Products (NGP) proposed project, the NDSHD has included a condition concerning the tying in of flaring wells. Thus, although

the FLM has not mentioned offsetting specifically, this is certainly one approach that has been discussed with the NDSHD.

Regarding use of outdated information, no new technical information has become available that alters the conclusions of the 1982 certification. Therefore, the analysis in the 1982 certification, although somewhat dated, is still valid. Also, the observed ambient sulfur dioxide concentrations in 180, 1981, 1983, and 1984 are less than the 1982 background data used in our 1982 analyses. Therefore, the FLM's reliance on 1982 data is actually conservative—i.e., errs, if at all, on the side of the resources—since the concentrations before and since 1982 are less than in our previous analysis. Consequently, there is no basis for the FLM to support a denial of the Nokota and Basin Electric certification extension requests.

Regarding future extension requests and a time limit on the certification extension, the FLM bases the adverse impact determination on a particular permit application. Any certification of no adverse impact, therefore, applies only to the terms of the permit issued on the basis of that application. Accordingly, the certification necessarily expires with that permit.

In North Dakota, the term of the original permits for Nokota and Basin Electric was eighteen months if the sources did not commence construction within that time period. To obtain a subsequent permit extension, the State requires the sources to submit documentation, including verification of the continued validity of the FLM's certification of no adverse impact. NDSHD further gives the FLM an opportunity to review this information before issuing its decision on the permit extension.

Under the Clean Air Act, the State is the permitting authority. It is the State, not the FLM, that decides how to allocate the "clean air resource" among potential sources of pollution within certain constraints. One of these constraints is adverse impact on protected areas. The FLM, under the Clean Air Act, serves as resource expert for protected class I areas. The FLM, therefore, determines only whether a given potential source of pollution will cause an adverse impact on the air quality related values of the class I area. The FLM does not have authority to deny a permit extension request because a source may not build. Only the State has this authority. Furthermore, the FLM largely depends on the State for information about changes in the permit or construction

situations. In making an adverse impact determination, however, the FLM does not depend exclusively on the information submitted by the source and the State. Rather, the FLM uses all available information. In the case of a permit extension request, for example, the FLM reviews recent relevant permit determinations, results of current research, and reports in recent scientific literature.

Under both the Clean Air Act and the National Park Service Organic Act, the Department of the Interior as the land managing agency is charged with protecting the purposes and values of Theodore Roosevelt National Park from adverse impact. Even after a permit (or permit extension) has been issued to a source, should the FLM identify an adverse impact on the park from that source, the FLM would notify the State, EPA, and the source immediately, and take other appropriate actions to safeguard the park.

Regarding what constitutes an adverse impact, the FLM has established a working definition of "adverse impact" under the Clean Air Act as any air pollution impact that: (1) Diminishes the national significance of the area, and/or (2) impairs the structure and functioning of ecosystems, and/or (3) impairs the quality of the visitor experience. To date, based on conservative analyses, none of the North Dakota sources requesting certification from the FLM would violate any of these three criteria.

The above definition of adverse impact has worked well in the factual contexts in which it has been applied. Admittedly, the working definition contains an element of subjectivity, but an element of subjectivity cannot be avoided when placing a value on park resources and experience. The FLM has not found a "numerical level" definition of adverse impact capable of protecting the resources of all the parks. Therefore, the FLM has felt most confident basing each determination on a case-by-case approach using the most current information available on the sensitivities of the particular park resources, the importance of park features, and the concentration of pollutants expected to occur in the park.

Nevertheless, this comment, like similar comments received in other certifications of no adverse impact, raises issues that merit further consideration. The FLM recognizes the desirability of eliciting comments from all interested persons on the significant philosophical, legal, and factual questions inherent in defining what impacts are adverse with respect to park and wilderness resources.

Consequently, the FLM is now preparing a Notice of Intent to propose an interpretive rule on the definition of adverse impact under the Clean Air Act.

The second commenter, a resident of Zap, North Dakota, suggests that the proposed projects not be certified until all existing projects are on line and fully operating so that the pollution effects from existing sources can be accurately assessed. Because there are already pollution problems in the area, the commenter questions whether the proposed sources would not have an adverse impact.

The Federal Land Manager's 1982 Determination of No Significant Adverse Impact on the Resources of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge addressed only the impacts on the park and refuge which are located over eighty miles from the Basin Electric site; it did not address health and resource effects in any other area of North Dakota. It is up to the State (the permitting authority) to assess effects at Zap, North Dakota. (approximately ten miles from the park site), and elsewhere in the State. In making this Determination the FLM used very conservative mathematical models to determine the impact of Basin Electric Company on the park and refuge. This analysis included doing a worst case analysis. Hence, the estimated contributions of these proposed sources to ambient levels are most probably much higher than would be measured by in-park monitors once all these sources become operational. Therefore, the FLM is confident that the resources of the class I areas will not be adversely affected.

The third commenter, a resident of Hazen, North Dakota, is concerned about visible pollution, odor problems, and health effects. He feels that every additional coal conversion facility will degrade the air quality of the entire area.

As discussed above, the North Dakota State Department of Health has overall responsibility for assessing the impacts of the proposed project on air quality and human health in all areas of North Dakota (including Hazen). The FLM is responsible for determining the impacts of the proposed resources of Theodore Roosevelt National Park and Lostwood National Wildlife Refuge.

Analysis of the cumulative effects indicates that Nokota and Basin Electric, in addition to other proposed projects reviewed previously, should not cause an adverse impact on visibility in Theodore Roosevelt NP. Regarding odors (most likely due to hydrogen sulfide) the proposed Nokota and Basin

Electric projects will not be significant sources of hydrogen sulfide (H₂S) and should not contribute to any H₂S odor problems in the park.

Findings and Determination

The FLM concurs with Nokota and Basin Electric that no new technical information has become available that would alter the conclusions of the FLM's original review of the Nokota and Basin Electric projects. Assuming the Nokota and Basin Electric projects are constructed and operated in accordance with the conditions of the original permits, the conclusions of the FLM's previous review are still valid. This assessment is supported by the FLM's more recent certification of no adverse impact on Theodore Roosevelt National Park. On September 27, 1984, the Department of the Interior published a notice in the *Federal Register* announcing its final determination that Northern Gas Products' proposed natural gas processing facility, in conjunction with all other sources in the area including the proposed Nokota and Basin sources, will not cause an unacceptable, adverse impact on the park (47 FR 38197).

In conclusion, because no new information has become available since September 1982 that would alter the FLM's previous conclusions regarding the Nokota and Basin Electric projects, and because recent analyses support the FLM's original determination, the Department of the Interior does not object to the proposed eighteen-month extension of the Nokota and Basin Electric PSD permits and hereby extends the certification of no adverse impact for the same time period.

Dated: February 14, 1985.

J. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks, Federal Land Manager of Theodore Roosevelt National Park and Lostwood Wildlife Refuge.

[FR Doc. 85-4490 Filed 1-22-85; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Indian Affairs

Crow Indian Irrigation Project; Montana Annual Operation and Maintenance Charges, and Related Information

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public Notice.

SUMMARY: This notice sets forth changes to the operation and maintenance charges and related information applicable to presently assessable lands

located within the Crow Indian Irrigation Project, Montana. The annual assessment rate for operation and maintenance is being changed from \$8.30 to \$10.50 per acre for the presently assessable lands to properly reflect the actual costs for labor, materials, equipment, and services. This notice does not change the per acre assessment rate of \$5.20 for presently assessable lands served by the Two Leggings Water Users Association; the per acre assessment rate of \$1.20 for presently assessable lands served by the Two Leggings Water Users Association Drainage System; the per acre assessment rate of \$2.20 for the presently assessable lands served by the Bozeman Trail Ditch Company; nor, the per acre assessment rate of \$0.30 for the presently assessable lands served by the Willow Creek Storage Facilities.

EFFECTIVE DATE: This notice shall become effective when published and remain in effect until changed by public notice.

FOR FURTHER INFORMATION CONTACT:

Walter Egged, Bureau of Indian Affairs, Crow Indian Agency, MT 59022; telephone: (406) 638-2671.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to 25 CFR 171.1 under authority delegated to the Assistant Secretary for Indian Affairs and the Deputy Assistant Secretary—Indian Affairs (Operations) by the Secretary of the Interior in 209 DM 8. This authority is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 385. The current operation and maintenance charge was established by notice published in the *Federal Register* (49 FR 7002, February 24, 1984) and (49 FR 10711, March 22, 1984). A public notice declaring the intent to raise the operation and maintenance assessment rate to \$10.50 per acre was published in the local newspapers and placed in several of the Federal Post Offices and other public buildings throughout the reservation. The Project Engineer presented the need to raise the irrigation operation and maintenance assessment rate at a meeting with project water users on October 18, 1984. Interested persons, including the Crow Tribe and its leadership, were given 30 days, from the posting date of the public notice to submit written comments regarding the proposed operation and maintenance assessment rate. This 30-day period ended December 3, 1984. No written comments were received during the 30-day comment period.

In accordance with the above, the annual operation and maintenance charges for presently assessable lands

within the Crow Indian Irrigation Project, for calendar year 1985 and subsequent years until further notice, are hereby fixed at \$10.50 per acre. This notice does not change the per acre assessment rate for presently assessable Indian owned lands served by the Two Leggings Water Users Association, Two Leggings Water Users Association Drainage System, Bozeman Trail Ditch Company, and the Willow Creek Storage Facilities. The annual billing date will be March 1, of each year. The annual operation and maintenance assessment for calendar year 1985 shall be due and payable on April 1, 1985. Thereafter, until further notice, the annual operation and maintenance assessment shall be due on April 1 of each year and payable on or before that date. To all charges assessed against lands in non-Indian ownership and Indian lands under lease to non-Indian lessees which are not paid on or before July 1 of each year, following the due date, there shall be added a penalty of one-half of one percent per month or fraction thereof, from the due date, as long as the delinquency continues. No water shall be delivered until such charges have been paid; except that Indian water users who are financially unable to pay the assessment on the due date may be furnished water, provided the Superintendent of the reservation certifies to the Project Manager or other official in charge of the project that such Indian is not financially able to pay the assessment or has made satisfactory arrangement to pay the assessment from proceeds of crops or from other sources. Penalty interest charges shall not be assessed against lands owned by an Indian water user, nor against Indian lands under lease to an Indian lessee.

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-4523 Filed 2-22-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[S 581, S 582, S 598, S 599, S 669, S 1262, S 1263, S 1353, S 1477, S 2183, S 2635 A, and S 2701 A]

California; Termination of Classifications for Multiple Use Management

Correction

In FR Doc. 85-2533, beginning on page 4599 in the issue of January 31, 1985, make the following corrections:

1. On page 4599, the number in the bracketed heading at the beginning of

the document should read as they appear in the bracketed heading above.

2. Also on page 4599, in the third column, the number at the beginning of the next to last line should read "38202".

3. On page 4600, in the first column, the document number in the forty-third line should read "FR Doc. 84-25604".

BILLING CODE 1505-01-M

Federal-State Coal Advisory Board; Meeting

Correction

In FR Doc. 85-3863 beginning on page 6406 in the issue of Friday, February 15, 1985, make the following correction:

On page 6407, in the first column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the first line, "9:30 a.m." should read "9:00 a.m."

BILLING CODE 1505-01-M

Fish and Wildlife Service

Issuance of Permit for Marine Mammals; the University of Michigan-Museum of Zoology

On October 26, 1984, a notice was published in the *Federal Register* (49 FR 43118) that an application had been filed with the Fish and Wildlife Service by the University of Michigan-Museum of Zoology (PRT 684673) for a permit to import a salvaged dugong (*Dugong dugon*) skull from Egypt. This application was inadvertently advertised only as an Endangered Species permit application. It was also a Marine Mammal permit application.

Notice is hereby given that on December 19, 1984, as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Endangered Species Act of 1972 (16 U.S.C. 1539), the Fish and Wildlife Service issued a permit subject to certain conditions set forth therein.

The permits are available for public inspection during normal business hours at the Fish and Wildlife Service's Office in Room 601, 1000 North Glebe Road, Arlington, Virginia.

Dated: February 19, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-4509 Filed 2-22-85; 8:45 am]

BILLING CODE 4310-55-M

with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-690041

Applicant: Kansas City Zoological Gardens, Kansas City, MO

The applicant requests a permit to import one captive-born female cheetah (*Acinonyx jubatus*) from Whipsnade Park, Whipsnade, England, for enhancement of propagation.

PRT-690032

Applicant: Clinton Victor Kellner, El Cerrito, CA

The applicant requests a permit to take samples of Smith's blue butterfly (*Euphilotes enoptes smithi*) for scientific research purposes.

PRT-690324

Applicant: Robert J. White, Sr., Cold Springs, KY

The applicant requests a permit to purchase in interstate commerce one male and one female masked bobwhite (*Colinus virginianus ridgwayi*) from Steve W. Klan, Maynard, Ohio, for enhancement of propagation.

PRT-690237

Applicant: Jackson Zoological Park, Jackson, MS

The applicant requests a permit to import one captive-born female cheetah (*Acinonyx jubatus*) from Whipsnade Park, Whipsnade, England, for enhancement of propagation.

PRT-690257

Applicant: International Animal Exchange, Ferndale, MI

The applicant requests a permit to purchase in foreign commerce one pair of captive-born Asian elephants (*Elephas maximus*) and two captive-born female black rhinoceros (*Diceros bicornis*) from the Sri Chamarajendra Zoological Gardens, Karnataka, India. These animals will be sold in foreign commerce to the Seoul Grand Park Zoo, Seoul, Korea, for enhancement of propagation.

PRT-690228

Applicant: Bruce Allen Haak, Eagle, ID

The applicant requests a permit to import captive-bred male peregrine falcon (*Falco p. peregrinus*) from the Sulman Falcon Centre, Bahrain, for enhancement of propagation.

PRT-684158

Applicant: John M. Miller, Oregon State University, Corvallis, OR

The applicant requests an amendment to permit PRT-684158 to allow the take of two specimens of each of the following: *Echinocereus fendleri* var.

kuenzleri, *E. lloydii*, *E. reichenbachii* var. *albertii*, *E. triglochidiatus* var. *arizonicus*, and *E. l.* var. *inermis*. Specimens to be taken from an area which includes Federal lands in Arizona, Colorado, Utah, New Mexico, and Texas.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: February 19, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-4510 Filed 2-22-85; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

Coordinating Council on Juvenile Justice and Delinquency Prevention; Meeting

The first quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will be held in Washington, D.C., on March 26, 1985. The meeting will take place in the Main Auditorium of the Department of Health and Human Services, 200 Independence Avenue, N.W., from 9:30 a.m. to 12 noon. The public is welcome to attend.

The agenda will include: (1) A report on the newly appointed advisory Board on Missing Children, (2) a presentation concerning the proposed Federal Directory of Juvenile Justice and Delinquency Prevention Programs, (3) a report by the Department of Health and Human Services on the status of Delivery level Review, and (4) a presentation by ACTION on the Foster Grandparents' Program.

For further information, please contact Reberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW., Washington, DC 20531, (202) 724-7655.

Dated: February 20, 1985.

Receipt of Application for Permit; Kansas City Zoological Gardens, et al.

The following applicants have applied for permits to conduct certain activities

Approved:

Alfred S. Regnery.

Administrator, Office of Juvenile Justice and
Delinquency Prevention.

[FR Doc. 85-4484 Filed 2-22-85; 8:45 am]

BILLING CODE 4410-18-M

**NATIONAL FOUNDATION ON THE
ARTS AND THE HUMANITIES****Expansion Arts Advisory Panel;
Meeting**

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Performing Arts/Theater Section) to the National Council on the Arts will be held on March 13-15, 1985 from 9:00 am-5:30 pm in Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, D.C. 20506.

A portion of this meeting will be open to the public on March 13, 1985, from 9:00 am-10:30 am, to discuss general program overview.

The remaining sessions of this meeting on March 13, 1985 from 10:30 am-5:30 pm and March 14-15, 1985 from 9:00 am-5:30 pm are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(d) of section 552b of title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council & Panel
Operations, National Endowment for the Arts.
February 19, 1985.

[FR Doc. 85-4475 Filed 2-22-85; 8:45 am]

BILLING CODE 7537-01-M

Humanities Panel; Meeting

AGENCY: National Endowment for the
Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

DATE: March 14-15, 1985.

Time: 8:30 a.m. to 5:00 p.m..

Room: M-14.

Program: This meeting will review applications submitted for the "Humanities Instruction in Elementary and Secondary Schools" programs, for projects beginning after July 1985.

The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 85-4478 Filed 2-22-85; 8:45 am]

BILLING CODE 7536-01-M

**NUCLEAR REGULATORY
COMMISSION****Use of Sodium Pertechnetate for
Nasolacrimal Imaging and Sulfur
Colloid for Esophageal Imaging**

AGENCY: Nuclear Regulatory
Commission.

ACTION: Notice of allowed new medical
uses.

SUMMARY: Persons who hold a Nuclear Regulatory Commission (NRC) license that authorizes the use of radiopharmaceuticals for nuclear medicine imaging must usually follow the manufacturer's package insert instruction when using the radiopharmaceutical. This notice provides that licensees may use sodium pertechnetate for nasolacrimal imaging and sulfur colloid for esophageal imaging. NRC is allowing these uses because the Food and Drug Administration has recently approved these drugs for these uses.

EFFECTIVE DATE: February 25, 1985.

FOR FURTHER INFORMATION CONTACT:
Norman L. McElroy, Office of Nuclear
Material Safety and Safeguards, U.S.
Nuclear Regulatory Commission,
Washington, DC 20555, (301) 427-4108.

Background

When a new method of use for a radiopharmaceutical is developed, the Food and Drug Administration (FDA) considers listing the new method of use on the package insert, which describes how the drug should be used. The FDA has recently approved the following new methods of use:

(1) Technetium-99m Sodium Pertechnetate for imaging the nasolacrimal drainage system in adults: Instill into the eye using a micropipette or similar device. The maximum recommended dosage is 100 microcuries.

(2) Technetium-99m Sulfur Colloid for imaging esophageal transit, gastroesophageal reflux, and pulmonary aspiration of gastric contents in adults and children: Administer orally mixed with a meal (milk, liver, fruit juice, etc.). For gastroesophageal imaging the suggested oral dosage is 150 to 300 microcuries for adults and 100 to 300 microcuries for infants and children. For pulmonary aspiration imaging the suggested oral dosage is 300 to 500 microcuries for adults and 100 to 300 microcuries for infants and children.

However, FDA believes that some manufacturers will not be able to print new package inserts for several months.

Section 35.14(b)(6) of 10 CFR Part 35 requires that a licensee using a diagnostic radiopharmaceutical for a clinical procedure not listed in the package insert must comply with the package insert instructions regarding chemical and physical form, route of administration, and dosage. This requirement prohibits licensees from

using sodium pertechnetate for nasolacrimal imaging and sulfur colloid for esophageal imaging until new package inserts are prepared. Therefore, I have determined under § 30.11 that licensees authorized to use the radiopharmaceuticals listed in 10 CFR 35.100 (b) or (c) (Groups II and III respectively) may also use sodium pertechnetate for nasolacrimal imaging and sulfur colloid for esophageal imaging.

Legal Basis

Section 30.11(a) of 10 CFR Part 30 allows the Nuclear Regulatory Commission, on its own initiative, to grant exemptions from the requirements of Part 35 if they are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest.

This action is authorized by law because it is permitted under section 81 of the Atomic Energy Act of 1954, as amended.

This action will not endanger life or property or the common defense and security because the NRC has reviewed the radiation safety programs of the affected licensees, and the radiation safety measures needed when using sodium pertechnetate for nasolacrimal imaging and sulfur colloid for esophageal imaging are part of their programs.

This action is in the public interest because it will provide a new diagnostic tool for physicians.

Scope, Effective Date, and Expiration

Effective on publication in the **Federal Register** and until all authorized suppliers have added sodium pertechnetate for nasolacrimal imaging and sulfur colloid for esophageal imaging to the respective package inserts, NRC licensees who are authorized to use the radiopharmaceuticals listed in 10 CFR 35.100 (b) or (c) (Groups II and III, respectively) may use sodium pertechnetate for nasolacrimal imaging and sulfur colloid for esophageal imaging.

Signed this 15th day of February 1985.

John G. Davis,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 85-4521 Filed 2-23-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14378; (File No. 812-5967)]

Application and Opportunity for Hearing; American Balanced Fund, Inc., et al.

February 15, 1985.

Notice is hereby given that American Balanced Fund, Inc., AMCAP Fund, Inc., American Mutual Fund, Inc., The Bond Fund of America, Inc., EuroPacific Growth Fund, Fundamental Investors, Inc., The Growth Fund of America, The Income Fund of America, Inc., The Investment Company of America, The New Economy Fund, New Perspective Fund, Inc., The Tax-Exempt Bond Fund of America, Inc., and Washington, Mutual Investors Fund, Inc.; each registered under the Investment Company Act of 1940 (the "Act") as a diversified, open-end, management investment company and any other member fund to be formed in the American Funds Group of Funds (collectively, "Funds"), and American Funds Distributors, Inc. ("Distributor"), the principal underwriter of the Funds (the Funds and Distributor referred to hereinafter as "Applicants"), c/o Roberta A. Conroy, Esq., Capital Research and Management Company, 333 South Hope Street, Los Angeles, California 90071, filed an application on October 25, 1984, and an amendment thereto on January 25, 1985, for an order pursuant to section 6(c) of the Act exempting Applicants from the provisions of section 22(d) of the Act to the extent necessary to permit sales of shares of the Funds at prices other than the public offering price described in the prospectus of each Fund. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions relevant to any consideration of the application.

According to the application, each Fund is currently engaged in a continuous public offering of its shares through Distributor at a public offering price equal to the net asset value plus a sales charge. Applicants state that the sales charge on purchases of shares of the Funds vary with the size of purchase and The Tax-Exempt Bond Fund of America, Inc. and EuroPacific Growth Fund have a sales charge which differs from the other funds.

Applicants state that Capital Research and Management Company ("Adviser"), a Delaware corporation, serves as the investment adviser for

each of the Funds. Distributor, a California corporation, is a wholly owned subsidiary of Adviser which in turn wholly owned by The Capital Group, Inc. ("CG"). CG is the parent company of other subsidiaries that specialize in investment management services. Two of these subsidiaries, Capital Guardian Trust Company ("CGTC") and Capital Guardian Trust Company of Nevada ("CGTN") provide investment and fiduciary services to a limited number of agency accounts and individual or family trusts. These services are provided by Personalized Investment Management Services ("PIMS"), a division of CGTC and CGTN. Presently, all of the clients of CGTN are PIMS clients. In addition, CGTC provides investment management services to large institutional clients.

Applicants propose to permit the sale of Fund shares to all accounts managed by the PIMS division of CGTC and CGTN at the net asset value next determined after receipt of a purchase order without the imposition of any sales load or sales charge that would otherwise be applicable to purchases of such shares.

Applicants maintain that investment companies such as the Funds provide excellent investment opportunities for may of the PIMS accounts managed by CGTC and CGTN. The management of small accounts is not practical because of difficulties in providing adequate portfolio diversification and liquidity and because management costs are relatively high in relation to the size of the account. Applicants assert that investment companies such as the Funds would provide a suitable alternative investment medium for such accounts.

Applicants submit that CGTC and CGTN, by virtue of their relationship with the Funds, are totally familiar with the Funds; thus sales of Fund shares to PIMS clients would involve no sales effort or expense. Applicants further represent that neither CGTC nor CGTN will promote their services by featuring the availability of Fund shares at net asset value for such prospective clients' accounts. Rather, they will disclose to prospective clients the possibility that their assets may be invested in one or another of the Funds if such clients give advance or specific transactional authority to so invest their assets. Further, Applicants represent that they will disclose these arrangements, if and when put into place, in the Prospectus or Statement of Additional Information of the affected Funds in the manner prescribed in Commission Forms N-1 and N-1A, whichever is applicable. It is also represented that the normal charges

for investment and fiduciary services assessed against clients of CGTC or CGTN will be reduced for assets invested in the Funds by an amount designed to approximate fees paid by the fund to the Adviser attributable to the assets of such clients.

Applicants represent that the selling expense which is ordinarily incurred (i) by Distributor directly in calling upon broker/dealers and otherwise helping such firms to seek out and personally contact prospective investors and (ii) by such broker/dealers will not be incurred with respect to any of the types of sales covered by the application. No unusual administrative and processing costs are expected, and no extraordinary or distribution costs will be borne by the Funds.

Applicants assert that the proposed sales of Fund shares to clients of CGTC and CGTN could be deemed to violate section 22(d) of the Act, insofar as they would constitute sales at other than the current public offering price described in the prospectuses. Nevertheless, Applicants assert that the exemption sought on their behalf is not contrary to the purposes of section 22(d) and that granting of the requested order is appropriate. It is asserted that the relief requested would be available under proposed Rule 22d-6, if that Rule is adopted as proposed. It is further contended that the sale of fund shares as proposed would not have an adverse effect on the interests of shareholders and that such sales do not involve any of the abuses against which section 22(d) was directed. Furthermore, Applicants argue that the requested relief would not create price discrimination among shareholders based upon any unjustified distinctions. Applicants submit that substantial equities exist when, as here, neither the Funds nor principal underwriters incur any of the customary selling expenses, the majority of investors receiving the exemptive benefits have employed others to manage their investments, and such sales could benefit all shareholders by decreasing the per-share expenses incurred in managing the Funds.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 11, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above.

Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 85-4552 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14379 (File No. 812-5962)]

Application and Opportunity for Hearing; Bowen Basin Capital Corp. Limited

February 15, 1985.

Notice is hereby given that Bowen Basin Capital Corporation Limited (the "Company"), c/o Randolph J. Hill, Esq., Cravath, Swaine & Moore, One Chase Manhattan Plaza, New York, New York 10005, filed an application on October 16, 1984, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting the Company from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, a summary of which is set forth below, and to the Act and rules thereunder for the provisions thereof which are relevant to a consideration of the application.

The Company states that it is organized under the laws of the State of Queensland, Australia, and was incorporated in connection with the proposed debt financing of purchases of equity interests in two separate unincorporated joint ventures (known as the Central Queensland Coal Associates Joint Venture and the Gregory Joint Venture, respectively) which own and operate certain coal mines and associated facilities in Queensland, Australia. All the shares of the Company will be owned by an Australian trust company and the Borrowers referred to below. The participants in the joint ventures are known as "Ventures".

The Company asserts that its sole purpose will be to assist prospective purchasers of (i) the shares of stock of certain of the Ventures or any entities into which such Ventures may be divided (the "Subsidiaries") or (ii) all or a portion of the joint venture interest of the Subsidiaries in the Central

Queensland Coal Associates Joint Venture and the Gregory Joint Venture, in financing their purchase of such shares or joint venture interest by issuing bearer promissory notes ("Commercial Paper") in the United States commercial paper market and assigning to the Subsidiaries in the case of clause (i) above and such purchasers in the case of clause (ii) above (the "Borrowers") interests in the net proceeds of the issuance and sale by the Company of Commercial Paper. According to the application, except for the prospective purchasers which already have options to acquire the stock of certain of the Subsidiaries, prospective purchasers are subject to the approval of the Participants referred to below and the Ventures. The Company states that the Commercial Paper will be supported by (i) letters of credit ("CP Letters of Credit") issued by a group of banks (the "Participants") and (ii) a surety bond (the "Surety Bond") issued by a United States surety company (the "Surety") in favor of the CP Depository referred to below for the benefit of the holders of the Commercial Paper. The Company asserts that the Participants will issue the CP Letters of Credit in favor of the CP Depository for the benefit of the holders of the Commercial Paper to cover recurring payments due on the Commercial Paper as it matures and for the benefit of the Surety to reimburse the Surety for any amounts it pays on the Surety Bond to support the Commercial Paper. The application represents that the Borrowers will, on a limited recourse basis, indemnify each Participant for amounts drawn under its CP Letter of Credit and the Surety for amounts paid under the Surety Bond, and that in consideration of the on-lending to the Borrowers to be effected by the assignment of the net proceeds of the issuance and sale by the Company of Commercial Paper, each of the Borrowers will severally agree with the Company, on a limited recourse basis, to make payments in their respective portions to effect the discharge of the Company's obligations to the holders of Commercial Paper. (Such obligations of the Borrowers to the Company are herein called the "Proceeds Assignment Obligations".) According to the application, the Proceeds Assignment Obligations of the respective Borrowers to the Company will not be separately evidenced by a note or other instrument.

The Company states that the activities outlined above will be governed by two separate Loan and Credit Agreements (the "Credit Agreements") for each Borrower (one in respect of the interest

of such Borrower in the Central Queensland Coal Associates Joint Venture and the other in respect of the interest of such Borrower in the Gregory Joint Venture) among the Company, the relevant Borrower, the Participants, the Surety, the CP Depositary and others and will contain, among other things, (i) the commitments of the respective Participants to issue CP Letters of Credit in support of the issue of (x) the Company's Commercial Paper and (y) the Surety Bond supporting such Commercial Paper, (ii) the Company's assignment of interests in the net proceeds of the issuance and sale of the Commercial Paper to the relevant Borrower and (iii) if required under the terms of such Credit Agreement with respect to such Borrower, the relevant entity's guarantee of certain full recourse obligations of the relevant Borrower. The Company further states that the Participants will have no recourse to the Company and only limited recourse to the respective Borrowers in respect of the unreimbursed disbursements made by the Participants under the CP Letters of Credit.

The Company's Commercial Paper will be issued under the respective Credit Agreements and a depositary agreement among the Company, the Participants and a United States bank, acting as issuing agent, drawing agent, trustee and depositary thereunder (the "CP Depositary"). The Company states that the Commercial Paper will (i) have maturities not exceeding 180 days, (ii) be issued in denominations of not less than \$100,000 (United States dollars), (iii) not be advertised for sale to the general public and (iv) be sold in the commercial paper market only to institutional investors or other entities which normally purchase commercial paper in large denominations. In connection with the issuance and sale of the Commercial Paper, the Company will appoint a corporate entity which normally acts in such capacity to accept service of process in any action commenced in any State or Federal court in the United States by any holder of the Commercial Paper against the Company based on the Commercial Paper. It is represented that the Company will expressly accept the jurisdiction of any State or Federal court in the City and State of New York in respect of any such action. Such appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Commercial Paper shall have been paid.

The Company represents that it will also be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering of the Commercial Paper or otherwise.

The Company represents that it is expected that the respective issues of Commercial Paper will be accorded the rating of the Surety which will issue the Surety Bond (currently the highest rating granted). The Company further represents that the Commercial Paper will be exempt from registration under the Securities Act of 1933 pursuant to section 3(a)(2) thereof and that the Surety Bond will be exempt from registration under such Act pursuant to section 3(a)(8) thereof. There are no existing plans or proposals for the Company to issue any debt securities other than Commercial Paper.

The Company has undertaken, as a condition to granting the requested exemptive order, that it will not sell any equity securities other than to the Venturers or the Australian trust company referred to above and in the application or sell any debt securities other than debt securities which (i) have the benefit of letters of credit or guarantees furnished by the Participants under the Credit Agreements (which Participants should they be called upon to honor such letters of credit or guarantees will have limited recourse reimbursement rights against the respective Borrowers and the benefit of certain collateral pledged by such Borrowers) and a surety bond furnished by the Surety and (ii) are (A) offered and sold in transactions not involving any public offering to institutions, located in the United States of America and elsewhere, which are not "underwriters" of the securities within the meaning of the Securities Act of 1933, (B) sold outside the United States of America pursuant to agreements and procedures reasonably designed to prevent such debt securities from coming into the hands of a United States of America national or resident, or (C) are exempt from the provisions of the Securities Act of 1933 by virtue of section 3(a)(2) or section 3(a)(3) thereof, unless the Company shall have first given written notice to the Commission as described in the application.

The Company concedes that it may be deemed an "investment company" as defined in the Act in view of the fact that its only substantial assets will be its contractual rights under the respective Credit Agreements to require each of the Borrowers, on a limited recourse basis, to perform their respective Proceeds Assignment

Obligations, which may be deemed to be securities under section 2(a)(36) of the Act. The Company contends, however, that it should be granted the requested exemption because (i) the only significant assets of the Company will be its aforementioned contractual rights under the Credit Agreements, (ii) the Company will not sell or trade in such rights or other securities, (iii) none of the equity securities of the Company will be held by anyone other than an Australian trust company and the Borrowers, and (iv) the only other securities of the Company will be the Commercial Paper (other than debt securities described above).

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 11, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the Company at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

FR Doc. 85-4551 Filed 2-22-85; 8:45 am]

BILLING CODE 2010-01-M

[Release No. IC-14380; File No. 812-5833]

Application and Opportunity for Hearing; Narragansett Capital Corp., et al.

February 15, 1985.

Notice is hereby given that Narragansett Capital Corporation ("Narragansett"), 40 Westminster Street, Providence, RI 02903, and Narragansett Venture Corporation ("NVC") (jointly referred to as the "Corporate Applicants"), Arthur D. Little, Robert D. Manchester, William P. Lane, (collectively, the "Individual Applicants"), Narragansett Capital Associates, Narragansett Capital Partners, Narragansett Acquisition Corporation, Inc., Narragansett General Partners, Narragansett Venture Partners,

and Narragansett Management Company (collectively referred to as the "Management Partners' Companies"), Narragansett Administration Corporation, Narragansett Management Partners, Narragansett First Fund, NFF Investments, Inc., and Cable Investments, Inc. (the "Other Applicants") (the Corporate Applicants, Individual Applicants, Management Partners' Companies, and the Other Applicants are hereinafter collectively referred to as the "Applicants"), filed an application on April 23, 1984, requesting an order of the Commission (1) pursuant to sections 17(b) and 57(c) of the Investment Company Act of 1940 ("Act") and Rule 17d-1 thereunder exempting from sections 17(a) and 57(a) and permitting under sections 17(d) and 57(a)(4) and Rule 17d-1 thereunder the transactions described below between the registered companies and their affiliates. Amendments were filed on September 19, 1984, and on October 31, 1984, requesting a further order of the Commission pursuant to section 6(c) exempting Narragansett Capital Partners, a Rhode Island limited partnership ("Partners") from all of the provisions of the Act except sections 9, 17, 30, 31, 36(a), and 37, and pursuant to sections 6(c) and 17(b) and Rule 17d-1 exempting certain transactions from sections 17(a) and 17(e) and permitting certain transactions under Rule 17d-1. A third amendment, filed on December 14, 1984, requested a further order of the Commission pursuant to section 6(c) exempting Narragansett Venture Partners ("Venture") from all provisions of the Act in the event Venture assumes certain obligations of NVC. A fourth amendment, filed on February 4, 1985, added sections 42 and 44 to those sections of the Act to which Partners will be subject. A fifth amendment, filed on February 14, 1985, elaborated and clarified the tax accounting treatment of the payment to Narragansett shareholders. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

Narragansett, a Rhode Island corporation, and NVC, a wholly-owned subsidiary of Narragansett, also a Rhode Island corporation, are registered under the Act as closed-end, non-diversified management investment companies. Both Narragansett and NVC have elected to be taxed as "regulated investment companies" ("RICOs") under section 851 of the Internal Revenue Code, as amended (the "Code").

Narragansett is a publicly-held company whose stock is traded in the over-the-counter market. The application states that the Individual Applicants are officers of Narragansett and NVC, and, in the case of Messrs. Little and Manchester, are directors of Narragansett and NVC. The Individual Applicants may also be referred to hereinafter as the "Management Partners."

The Applicants state that Management Partners have recently organized Narragansett Capital Associates, a Rhode Island limited partnership ("Associates"), of which Messrs. Manchester, Lane, Barber and Vandenberg and a corporation controlled by Arthur D. Little are the general partners and of which Mr. Guisti will be a limited partner. Associates is the sole general partner of Partners. The Applicants state that Narragansett Acquisition Corporation, Inc. ("NEWCO") is a corporation wholly-owned by Partners, Associates, Partners, and NEWCO have been formed solely for the purpose of effecting the merger described in the application, have not conducted any business operations to date, and do not have any material assets or liabilities other than as described in the application. Applicants have requested an order of the Commission with respect to the proposed transactions described below, in which NVC will be merged into Narragansett and Narragansett will immediately thereafter be merged into NEWCO (together with the transactions contemplated thereby, the "Merger"), whereupon each of Narragansett and NVC will cease to be an investment company, as defined in the Act.

The application states that Narragansett's management ("Management") has experienced increasingly more complex managerial problems operating Narragansett and NVC as RICOs under section 851 of the Code and as registered investment companies under the Act. Management's analysis of the seriousness of the impact of these problems upon future operations and the possible methods of eliminating or mitigating the most serious of them was presented to Narragansett's board of directors at a special meeting held December 15, 1983. Management believes that the difficulties presently encountered in meeting the RICO income and diversification tests would become more severe in the future and would impinge on Narragansett's ability to manage its entire risk capital portfolio as aggressively as necessary to generate a return on investment acceptable to a

venture capital organization. Management also cited the time and expense of obtaining exemptive orders from the Commission under the Act to permit transactions by Narragansett and NVC with affiliates and the lack of flexibility in providing key executives with the long-term capital gain compensation arrangements typical in the venture capital industry today as the two primary areas where the provisions of the Act pose difficulties.

Management asserts that the regulatory scheme of the Act was designed primarily to regulate the mutual fund industry and creates restrictions on registered venture capital companies which inhibit their ability to be fully competitive. Management also advised the Narragansett board of directors that many private venture capital firms compensate management primarily on a capital gains basis (which may not comport with the provisions of the Act or the Investment Advisers Act of 1940) and stated that Narragansett had to do likewise to be competitive in the industry or risk losing experienced executives to competitors.

Management then presented the Narragansett board of directors its analysis of several alternatives it had considered to alleviate or mitigate the problems described above. The application states that Management advised the Narragansett directors at their December 15, 1983, special meeting that, having examined the available alternatives, Management believed that the best course of action was the sale of Narragansett. Management recommended that the board appoint a special committee of independent directors to explore various alternatives with a view to making a report to the directors at the next director's meeting. A special committee was appointed (the "Special Committee") and charged with the duty of exploring the motivations of Management and examining the entire future of Narragansett and the various solutions proposed to the problems raised, together with any other proposals that the Special Committee deemed appropriate.

At the Narragansett board of director's meeting held January 19, 1984, the Management Partners (other than Mr. Guisti) delivered a written proposal (the "Proposal") to the directors pursuant to which NEWCO would acquire Narragansett in a cash merger at \$50 per share, payable in cash. Applicants aver that, after reviewing the Proposal and taking into account the recommendations of the Special Committee, the board voted not to accept the Proposal at that time, but did

authorize the Special Committee to negotiate with the Management Partners in connection with the Proposal and with any other parties that expressed an interest in purchasing Narragansett. No commitment with respect to the sale of Narragansett was made at that time; the Narragansett board retained the flexibility to consider other proposals. The board further authorized the Special Committee to retain an investment banker to evaluate the fairness of the Proposal and render financial advice with respect to the Proposal, the securities law aspects of the Proposal, and related matters. The Special Committee then engaged special counsel and retained Salomon Brothers Inc. ("Salomon Brothers") as its investment banker to evaluate the fairness of the consideration to be received by Narragansett shareholders in the Proposal.

The application states that at a directors' meeting held on March 8, 1984, the directors considered the terms of the proposed Agreement of Merger, a Salomon Brothers' presentation finding that the \$50 per share consideration was fair to stockholders, and the Special Committee's report on the status of the negotiations with the Management Partners, and unanimously concluded (Mr. Little and Mr. Manchester not participating) that Narragansett should agree in principle to the Merger on substantially the terms set forth in the draft of the Agreement of Merger submitted at the meeting, and delegated to the Special Committee the authority to negotiate the final details of the Agreement and to execute same. The application states that the agreement of Merger was executed as of March 27, 1984, following resolution of its final terms.

One of the principal conditions to the consummation of the Merger from Narragansett's perspective was the Small Business Administration's ("SBA") approval of the assumption by Narragansett Venture Partners ("Venture") of approximately \$32,000,000 of SBA Debentures and the transfer to Venture of NVC's Small Business Investment Company ("SBIC") license. On June 13, 1984, however, Narragansett became aware of the SBA's strong reservations against permitting the assumption and transfer. In subsequent meetings, the SBA indicated that, based upon Partners' proposed capitalization of Venture at that time, its accounting policies would require that Partners capitalize Venture with at least \$20,000,000 more in assets in order to support the proposed assumption of SBA Debentures and that

no significant change would be made in these policies.

As a result of the SBA decision, Narragansett formulated alternative financing plans which would allow the SBA Debentures to be retired and provide the Narragansett stockholders with a current value of at least \$50 per share, among other things. After extensive negotiations in August and September, 1984, Management Partners offered a cash payment of \$43.10 per share, and \$6.90 per share in 10% subordinated notes maturing in 8 years (with a .5% increase in interest for each year the notes were outstanding) ("New Offer"). The revised Plan of Merger provides for an election procedure under which a Narragansett stockholder will have the right to elect the percentages of his holdings of shares of Narragansett stock which he desires to have converted respectively into cash and notes, and a method by which cash or notes can be allocated among Narragansett stockholders if more or less than \$19,921,434.56 in principal amounts of notes are subscribed for.

On September 19, 1984, the Narragansett directors considered the report and favorable recommendation of the Special Committee, the terms of the Revised Merger Agreement and the opinion of Salomon Brothers that the consideration to be received under the New Offer by Narragansett stockholders is fair from a financial point of view, and unanimously concluded (Messrs. Little, Manchester, and William P. Considine not participating) that the terms of the New Offer were in the best interests of Narragansett stockholders and should be accepted.

The second alternative financing plan, while not changing the basic format of the Revised Merger, would permit the SBA Debentures to remain outstanding. As an alternative to the repayment of the SBA Debentures by NVC, the Revised Merger Agreement provides that at Partners' option Venture will assume NVC's obligations under the Debentures if a satisfactory agreement with the SBA can be reached. The preliminary response of senior representatives of the SBA at a meeting on December 12, 1984, was that they would favorably consider the proposal. The Applicants assert, however, that there can be no assurance that the SBA ultimately will permit the transfer of the SBIC license to Venture or the assumption of the Debentures on a basis that Partners will deem acceptable. In that event, the Revised Merger will be consummated on the basis set forth in the Revised Agreement and the related Amended and Restated Plan of Merger.

The Applicants represent that Partners' proposal to have Venture operate an SBIC was reviewed by the Narragansett board of directors (excluding Messrs. Little, Manchester and Considine) pursuant to the same criteria and in the same manner as it has reviewed all of the other elements of the Revised Merger and approved, subject to receipt of the updated opinion of Salomon Brothers that the consideration to be received by Narragansett shareholders is fair from a financial point of view.

Applicants assert that the Merger and the transactions contemplated thereby may be deemed to violate the provisions of section 17(a) of the Act, and therefore request exemptive relief from the provisions thereof pursuant to section 17(b). Applicants state that because Narragansett and NVC have committed to become business development companies as soon as such election is possible without the loss of their RICO status under the Code, and because it is possible that such an election could be made prior to the effective date of the Merger, relief comparable to that sought under section 17 is also sought pursuant to section 57 of Act. According to the application, the Revised Merger and the transactions contemplated thereby in which the Management Partners and Narragansett are participating may also be deemed to be joint enterprises or transactions in which they have a joint participation in the profits, and accordingly an order of the Commission permitting such transaction pursuant to Rule 17d-1 may be required.

The application asserts that the terms of the New Offer were negotiated in an arms-length transaction. Applicants also state that the board of directors of Narragansett unanimously approved the Merger Agreement and believes that the consummation of the Merger is in the best interests of and is fair to the Narragansett shareholders. According to the application, from the inception of Management's recommendation in December, 1983, that Narragansett be sold and the indication that the Management Partners should be considered among the potential buyers, the Narragansett board of directors has sought to assure that the terms of the sale were fair to the shareholders from an economic standpoint and that the procedures involved in obtaining shareholder approval were fair. In doing so, they considered a variety of alternatives of cash and cash and note transactions, negotiated the economic terms and financial covenants of each proposal made by Partners, and required the delivery of a written opinion of Salomon Brothers, determining that the

consideration to be received by the Narragansett stockholders pursuant to the Revised Merger is fair from a financial point of view.

The application states that the proposed Merger involves benefits and risks for all the parties to the transactions; and those risks and benefits were weighed by Narragansett's board and the Management Partners through the course of the negotiation process. Applicants aver that during the negotiations, certain benefits and risks were shifted back and forth as the parties sought to come to an agreement satisfactory to each side, as, for example, the right of Narragansett to accept a better offer even after the Merger Agreement was executed. Applicants aver that on balance and in the context of the overall transaction the proposed Merger provides no party an unfair or undue benefit or risk. Applicants further assert that the terms of the Revised Merger do not favor any party. The Management Partners, as "sellers," have the same right to elect the form of consideration they would like to receive as all other Narragansett stockholders.

Applicants assert that the participation of Narragansett and NVC in the proposed Merger is, by definition, on a fair basis because all of its shareholders are participating on a fair basis both as "sellers" and "buyers." Applicants contend that there is no evidence that Management partners are obtaining any special benefit, either as "buyers" or "sellers," and the Special Committee and Narragansett's board took every reasonable precaution to assure such a result in terms of both economic and procedural fairness.

The application states that none of the investment policies of Narragansett or NVC restricts them from entering into transactions of the nature contemplated by this application. The application states that the provisions of section 17(b)(2) of the Act, which require that the transaction be consistent with the registered company's investment policies, has no bearing on this transaction since the registered companies will go out of existence. The application states that the proposed transactions are also consistent with the general purposes and policies of the Act, which are set forth in section 1 thereof.

As further described in the application, the Revised Merger and Amended and Restated Plan of Merger must be approved by Narragansett shareholders in accordance with Rhode Island law and by holders of more than 50 percent of the shares of Narragansett Common Stock present in person or by

proxy at a Shareholder's Meeting, excluding shares beneficially owned by the Management Partners or by Rhode Island Hospital Trust National Bank as Trustee ("RIHT") under an Agreement with The Little Family Foundation. The Applicants have agreed that, for purposes of section 17(b), approval of the merger transaction will be conditioned upon approval by an affirmative vote of holders of more than 50 percent of the shares of Narragansett common stock present at the Shareholders Meeting, excluding shares beneficially owned by the Management Partners and RIHT, as described above, and those shares which to the knowledge of Narragansett are beneficially owned within the meaning of rule 13d-3 under the Securities Exchange Act by persons who have executed a commitment to purchase limited partnership interests in Partners.

The Applicants state that although Partners will be an investment company as defined in section 3(a)(1) of the Act, as the Merger was originally structured it was expected that Partners would not be required to register under the Act in reliance upon section 3(c)(1). Under the Revised Merger, however, it must be assumed that enough Narragansett shareholders will receive the notes to be issued by Partners that, when added to the number of beneficial owners of limited partnership interests in Partners, Partners will have more than 100 beneficial owners of its outstanding securities. Further, the notes to be issued by Partners will be offered during the Revised Merger pursuant to a registration statement filed with the Commission under the Securities Act of 1933. Applicants state that it could be argued that Partners would not comply with the non-public offering condition of section 3(c)(1) of the Act because of the manner in which Partners would have issued the notes during the Revised Merger.

While Applicants assert that Partners has no intention of making a public offering of its securities other than during the Revised Merger and that Partners would expect to prepay, call, and otherwise retire all of the notes to be issued as quickly as possible, thereby reducing its security holders to less than 100, to resolve any doubts as to its status under the Act in the interim, Partners seeks an order pursuant to section 6(c) of the Act exempting it from complying with the 100 beneficial owner condition of that section on a temporary basis until less than 100 persons are beneficial owners of its securities.

In the alternative, Applicants request an order pursuant to section 6(c) of the Act exempting Partners from all of the

provisions of the Act except sections 9, 17, 30, 31, 36(a), 37, 42 and 44, exempting to the extent necessary from the prohibitions in section 17(e) investment banking fees to be received by Associates for services rendered incident to a particular transaction involving Partners, and consulting or directors fees to be received by Narragansett Management Company ("NMC") or Narragansett Administration Corporation ("NAC") from companies Partners has invested in or reasonably expects to invest in for services rendered to such company by one or more of employees of NMC or NAC, pursuant to section 17(b) exempting certain transactions involving Partners and certain persons who are partners of Associates (and certain persons who are affiliated with persons who are partners of Associates) from the prohibitions of sections 17(a), and pursuant to Rule 17d-1 permitting certain joint transactions as further described in the application.

Applicants assert that such exemptive relief is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants further assert that the terms of the proposed transactions are fair and reasonable and that the transactions do not involve overreaching on the part of any person concerned and are consistent with the policy and the general purposes of the Act. Moreover, Applicants state that no party will participate in a joint transaction on a basis different from or less advantageous than that of any other participant.

Applicants state that Venture may emerge from the Revised Merger as a limited partnership small business investment company, and, as such, it might not at all times fully satisfy the 100 beneficial owner condition of section 3(c)(1). Applicants request, however, that the Commission issue an order pursuant to section 6(c) exempting Venture from all of the provisions of the Act. The Applicants assert that it is necessary and appropriate in the public interest for Venture to be exempted from complying with the information dissemination provisions of the Act and that the remote public interest in protecting the investors in Venture (the SBA, Partners and Narragansett General Partners) is sufficiently protected by applying sections 9, 17, 30, 31, 36(a), 37, 42 and 44 to Partners.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 11, 1985, at 5:30 p.m., do so

by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-4545 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14381; (File No. 812-5848)]

Application and Opportunity for Hearing; PaineWebber Tax-Exempt Income Fund, Inc.

February 15, 1985.

Notice is hereby given that PaineWebber Tax-Exempt Income Fund, Inc. ("Fund"), registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, and PaineWebber, Incorporated ("PaineWebber"), the Fund's distributor (collectively "Applicants"), 140 Broadway, New York, New York 10005, filed an application on May 15, 1984, and an amendment thereto on December 19, 1984, for an order pursuant to section 6(c) of the Act exempting Applicants from the provisions of section 22(d) of the Act to the extent necessary to permit certificate holders of certain unit investment trusts to invest interest income and principal distributions received from the investment trusts in shares of the Fund at other than the then current public offering price. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable sections.

Applicants state that the Fund is intended for investors seeking diversification of risk and high current income exempt from federal income tax. Applicants state that shares of the Fund are offered at the net asset value next determined after receipt of an order plus a sales charge at a maximum of 4.25% of the offering price.

Applicants further state that the Municipal Bond Trust, Series 44 and subsequent series (the "Trust") is a registered unit investment trust with more than 120 similar but separate series outstanding. The objective of the Trust is to achieve federally tax-exempt interest income consistent with preservation of capital and diversification of risk through investment in a fixed portfolio of interest bearing municipal bonds. Applicants state that PaineWebber is the sponsor of the Trust series and United States Trust Company of New York is trustee of each Trust series. Applicants state that PaineWebber deposits municipal bonds into the Trust, publicly offers units of participation in the Trust and may maintain a secondary market for the units. Applicants state that the Trust offers shares of its recently issued series at a fixed price, based on the aggregate offering price of the bonds in its portfolio, plus a maximum sales charge of 4.25% of the offering price plus accrued interest to the date of sale. Applicants state that net interest income distributions are made monthly or semi-annually at the option of the investor and distributions of principal, if any, are made semi-annually. Certificate holders ordinarily receive all of these distributions in cash. Applicants further state that the Trust currently offers investors in a Trust series the opportunity to reinvest automatically interest income distributions from the series in fractional shares of additional units of existing Trust series or of subsequent series of Trust without a sales charge. The reinvestment program will be terminated shortly as soon as reasonably practicable.

Applicants propose to permit certificate holders of outstanding and future series of the Trust to purchase shares of the Fund at net asset value without a sales charge in exchange for the net interest income and principal distributions on the Trust units. Once such a reinvestment option is selected by a certificate holder, purchase of shares of the Fund would be effected automatically unless and until the certificate holder notified the Trust of his decision to select another distribution option. Applicants state that certificate holders of the Trust will continue to have the option of receiving distributions in cash.

Several other registered unit investment trusts sponsored by PaineWebber have the objective of federally tax-exempt interest income and are in all relevant respects, such as sales charges and interest income and principal distribution arrangements,

generally comparable to the Trust. Applicants represent that they differ in their individual portfolio characteristics and special investment objectives. These trusts are The Municipal Bond Trust, Multi-State Program, Series 1 and subsequent series; The Municipal Bond Trust Multiple Mature Series 1 and subsequent series; The Municipal Bond Trust, Puerto Rico Series 1 and subsequent series; and The Municipal Bond Trust, California Series A and subsequent series. Applicants propose to make the identical offer as described above to investors in outstanding and future series of each of these trusts and in any other unit investment trusts which are (i) sponsored by PaineWebber, (ii) established to seek federally tax-exempt interest income and (iii) registered under the Act (collectively with the Trust, "Trusts"). In addition, trust indentures for each of the Trusts require that, in the event the reinvestment program is terminated, the trustee shall require redemption of those units or fractional units which are held in the several reinvestment series and were acquired through the reinvestment program. Applicants propose to permit investors to invest the proceeds of such redemptions in shares of the Fund on the same basis as the other distributions will be made.

Applicants request an exemption from section 22(d) of the Act to permit the Fund to offer to sell its shares to certificate holders of the Trusts who invest interest income and/or principal distributions from the Trust (including distributions of principal and interest from the redemption of whole and fractional units of the Trusts acquired through their previous reinvestment programs) in shares of the Fund at a price based on their then current net asset value without any sales charge and to permit those certificate holders to invest interest income and/or principal distributions received from such unit investment trusts at such a price.

Applicants state that the proposed sale of shares of the Fund without a sales charge will benefit both the Fund and the certificate holders of the Trusts. Applicants further state that the proposed sale is intended to make these shares available at a price which reflects the fact that investors have already received selling services, either from PaineWebber or from a dealer with which PaineWebber has a dealer agreement, relating to an investment in a portfolio of federally tax-exempt, income-producing securities in connection with their investment in at least one of the Trusts. Applicants argue that little, if any, additional sales effort

would be required in describing or presenting shares of the Fund which similarly represent an investment in a portfolio of tax-exempt, income-producing securities. Applicants also assert that certificate holders of the Trusts have already paid a sales charge when they purchased units of the Trusts of generally equivalent magnitude to that which an investor would initially pay when investing in shares of the Fund.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 11, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 85-4550 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14377; 812-6001]

Banca Nazionale Del Lavoro and BNL U.S. Corp.; Application for an Exemption

February 15, 1985.

Notice is hereby given that Banca Nazionale Del Lavoro, 25 West 51st Street, New York, New York 10019, a commercial bank organized under the laws of Italy ("BNL"), and its wholly-owned subsidiary, BNL U.S. Corporation, a Delaware corporation, ("Issuer") (BNL and Issuer collectively, "Applicants") filed an application on December 10, 1984, and an amendment thereto on February 12, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from all provisions of the Act in connection with the proposed issuance and Sale of commercial paper in the United States. All interested persons are referred to the application on file with the Commission for a

statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

The application states that BNL, on the basis of assets, is the largest bank in Italy and the forty-fifth largest bank in the world with assets exceeding \$42.5 billion. The largest shareholder of BNL is the Italian Treasury (85.7%) which by law must hold at least 51% of BNL's ordinary capital. As a short-term credit institution under Italian Law, BNL is generally limited to granting loans of maturities not exceeding 18 months, but has obtained special authorization to make loans for period of longer duration, subject to restrictions.

BNL's principal business is the receipt of deposits and extension of loans to individuals and businesses. Other BNL activities include the issuance of guarantees, securities trading, mortgage banking, foreign exchange trading and commercial letters of credit. BNL conducts operations through its principal office in Rome and an international network of 418 offices. BNL employs more than 24,000 persons world-wide. BNL conducts its corporate wholesale activities in the United States through branch offices in Chicago and New York, and agency offices in Atlanta, Los Angeles and Miami. The United States offices are licensed and regulated by the appropriate state regulatory authorities, and pursuant to the International Banking Act of 1978, are subject to various restrictions of the Federal Reserve Board.

According to the application, BNL is subject to extensive supervision and regulation by Italian law and banking authorities that are comparable in many respects to the supervision of United States commercial banks. The Banking Act of 1936, Applicants state, established a highly regulated environment to assure that banking activity is conducted in the public's interest. The Bank of Italy, as the central depository, promulgates regulations and monitors compliance by inspections. In general, Applicants state, the Bank of Italy formulates government policy and has responsibility for the solvency of the banking system.

Applicants state that Issuer was incorporated on September 7, 1984, with an initial capitalization of \$15,000. All of Issuer's outstanding stock is held by BNL, and Applicants represent that there has not been, nor will Issuer ever make, a public offering of Issuer's capital stock or any other of its equity. Issuer's sole business will consist of issuing and selling commercial paper ("Notes") and advancing the proceeds

thereof ("Advances") to BNL and its direct or indirect subsidiaries. Applicants also propose that Issuer issue and sell other debt securities and loan the proceeds thereof to BNL in a manner similar to the Advances.

Substantially all of Issuer's assets will consist of the Advances. The Notes, Applicants represent, will be unsecured, negotiable short-term promissory notes of prime quality, issued in denominations of \$100,000, bearing maturities not exceeding 270 days. The Notes will not be payable on demand prior to maturity or eligible for an extension, renewal or automatic "rollover" at the option of the holders, Issuer or BNL. The Notes will rank *pari passu* among themselves and equally with all other unsecured indebtedness of Issuer and superior to the rights of shareholders. Sale of the Notes to finance current transactions is intended to qualify for the exemption from registration requirements provided by section 3(a)(3) of the Securities Act of 1933 ("Securities Act"). The Notes will not be sold until Issuer receives an opinion of United States legal counsel that the proposed offering qualifies for such exemption. Issuer does not request or seek approval by the Commission of the counsel's opinion. Applicants state that Issuer is not subject to the reporting requirements under the Securities Exchange Act of 1934, and will not become subject to it in connection with the issuance and sale of the Notes.

Applicants propose to issue and have outstanding an aggregate of \$750,000,000 in Notes, sold through one or more commercial paper dealers in the United States to institutional investors and other persons who customarily purchase commercial paper. Applicants will not advertise or offer the Notes to the general public. Issuer undertakes to ensure that each dealer selling the Notes will provide to offerees, prior to sale, a current memorandum ("Memorandum") which describes the business of Issuer and BNL and contains the most recent publicly available financial statements, which will be presented in such manner as is customarily done for BNL by its auditors. The Memorandum, Applicants represent, will describe differences in accounting principles applied in the preparation of the financial statements for Applicants under Italian law and GAAP employed by United States banks.

Applicants also undertake to keep the Memorandum updated as promptly as possible, and that it will be at least as comprehensive as those normally used in offering prime quality commercial paper in the United States.

Applicants state that a United States bank will be appointed as an authorized agent of Issuer, and BNL will consent to the appointment, to function as a depository ("Depository") in order to issue and pay the Notes from time to time. Each of the Applicants will appoint an agent ("Agent") for service of process for any action based on the Notes and instituted in any state or Federal court by a Note holder. Applicants will accept jurisdiction of any state or Federal court in the City and State of New York with respect to any such action. The appointment of Agent and acceptance of jurisdiction will be irrevocable until all amounts due and to become due with respect to the Notes have been paid by Issuer. Applicants will also be subject to suit in all other courts in the United States which would have jurisdiction resulting from the offering of the Notes or otherwise as provided by law.

BNL will unconditionally guarantee the payment of principal, interest and premium, if any, on Notes issued by Issuer, and expressly consents to the enforcement of such obligations directly by the holders of the Notes or by the Depository on behalf of the holders. Applicants state that the unconditional guarantee will be endorsed on the Notes. BNL's obligations with respect to the liabilities of Issuer (including its liabilities with respect to Issuer's guarantee of the Notes) will rank *pari passu* and equally with all deposit liabilities and other unsecured, unsubordinated indebtedness of BNL, and superior to any subordinated indebtedness of BNL and to claims of BNL shareholders.

Applicants intend the Notes to be of prime quality and to be eligible for discounting by a Federal Reserve Bank. Issuer represents that, prior to issuance, the Notes will have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that Issuer's United States counsel will certify that such rating has been received.

Applicants state BNL will use the proceeds of the Notes in the ordinary course of its banking business for current transactions within the meaning of section 3(a)(3) of the Securities Act. BNL and its subsidiaries will be obligated to repay to Issuer on the maturity date of each Advance, the principal amount thereof, together with interest thereon payable from time to time, in an amount sufficient to enable Issuer to satisfy its liabilities under the Notes. Applicants may, from time to time, offer debt securities other than the

Notes for sale in the United States. The proceeds of any such debt offering would, in a similar fashion to the Notes, be advanced directly or indirectly to BNL or one of its branches, and utilized in a likewise manner. The obligations of Issuer with respect to any such debt securities will be supported by BNL's guarantee to pay the obligations of Issuer.

Future offerings of Applicants' securities in the United States will be done on the basis of disclosure documents at least as comprehensive as those for the Notes, and in no event less comprehensive as is customary for similar debt offerings in the United States. In connection with future offerings, Applicants will irrevocably appoint an agent to accept process for actions based on the debt securities, and irrevocably consent to jurisdiction until all amounts due and to become due with respect to such debt have been paid. Applicants also condition future offerings on the receipt of one of the three highest investment grade ratings from at least one nationally recognized United States rating organization, and Issuer's counsel will have certified such rating; however, no such rating shall be obtained if Applicants' counsel, having considered the doctrine of integration under the Securities Act and Rule 502 promulgated thereunder, opines that an exemption from registration with respect to such issue is available under section 4(2) of the Securities Act or Regulation D thereunder.

Applicants do not believe that Issuer is an investment company as defined under the Act; however, to resolve any uncertainties concerning Issuer's status under the Act, Applicants submit that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 12, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission

orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-4544 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23605; 70-7086]

The Connecticut Light & Power Co. and Western Massachusetts Electric Co.; Proposed Pollution Control Financing; Exception From Competitive Bidding

February 15, 1985.

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, and Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts 01089, electric utility subsidiaries (the "Companies") of Northeast Utilities, a registered holding company, have filed a declaration with this Commission pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

The proposed transactions relate to the financing of each Company's portion of the cost of acquiring, constructing, and installing certain pollution control and/or sewage or solid waste disposal facilities (the "Facilities") at the Millstone 3 nuclear-electric generating station, located in the Town of Waterford, Connecticut. CL&P and WMECO own 52.6115 percent and 12.2385 percent of the Facilities, respectively. The Connecticut Development Authority (the "Issuer") intends to issue pollution control revenue bonds (the "Bonds") in the principal amount of not more than \$85,000,000 for CL&P and \$25,000,000 for WMECO, \$110,000,000 in total. The Bonds will be issued under separate CL&P and WMECO Indentures of Trust (the "Indentures") each between the Issuer and a trustee to be determined (the "Trustee"). Pursuant to Loan Agreements between each of CL&P and WMECO and the Issuer (the "Loan Agreements"), the Issuer will loan to CL&P and WMECO the proceeds of the Bonds. CL&P and WMECO will agree to make payments corresponding to the amounts needed to pay the principal, interest, and premium, if any, on the Bonds as they become due. The obligations of each of the Companies to repay its loan will be evidenced by a

promissory note (the "Notes"). The proceeds of the Bonds will be deposited with the Trustee. From funds established under the Indentures, each of the Companies will draw the proceeds of the Bonds to pay, or to reimburse itself for, its portion of the cost of acquiring, constructing, and installing the Facilities.

The Bonds will be issued with a variable interest rate as Floating Rate Demand Bonds and will mature in not more than thirty years from the date of issuance, subject to certain conditions. At the option of the Companies, the interest rates on the Bonds may be converted to a fixed interest rate upon 45 days notice. The various interest rates on the Bonds, fees, and other charges are described in the declaration.

Pursuant to the terms of each of the Indentures, each Bondholder will have the option of tendering any even multiple of \$100,000 principal amount of the Bonds for purchase upon at least seven days' prior notice. The Remarketing Agent and the Placement Agent, respectively, upon receiving notice of a Bondholder's intention to present its Bonds for purchase is obligated to use its best efforts to secure other purchasers of Bonds. If the Remarketing agent or the Placement Agent is unsuccessful, the Trustee may draw upon an irrevocable letter of credit (the "Letter of Credit") to be issued by Morgan Guaranty Trust Company of New York for the funds required to pay the tendering Bondholder. Following conversion to a fixed interest rate, Bondholders will no longer have the right to tender their Bonds for repurchase.

The declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March 11, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as filed or as it may be amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 85-4548 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14382; (File No. 812-6007)]

Counsellors New York Tax Exempt Fund, Inc.; Application for Exemptive Order Relating to Acquisition and Valuation of Puts

February 15, 1985.

Notice is hereby given that Counsellors New York Tax Exempt Fund, Inc. ("Applicant"), 466 Lexington Avenue, New York, NY 10017, an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), filed an application on December 20, 1984, for a Commission order, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of sections 2(a)(41) and 12(d)(3) of the Act to the extent necessary to permit Applicant to acquire rights to resell its portfolio securities to brokers, dealers or other financial institutions, and to value such rights at zero. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions cited in the application.

Applicant states that substantially all of its assets will be invested in tax-exempt debt obligations issued by or on behalf of the State of New York and other states, territories and possessions of the United States, the District of Columbia and their respective authorities, agencies, instrumentalities and political subdivisions ("Municipal Securities"). Applicant intends to maintain a constant net asset value per share of \$1.00 by using the amortized cost method of valuation in conformance with Rule 2a-7 under the Act. According to the application, when Applicant purchases a Municipal Security for its portfolio from a bank, broker, dealer or other financial institution, it may acquire the option to sell the same principal amount of such security back to the selling institution at a specified price ("Puts").

Applicant represents that its investment policies will permit acquisition of Puts solely to provide liquidity to meet redemptions of Applicant's shares. Applicant represents

that neither maturing securities nor one-day settlements are viable means of assuring that cash will be available when needed to meet redemption requests. Applicant states that, unless prior arrangements assuring immediate liquidity have been made, the negotiation of next-day settlements on sales of portfolio securities within the brief time available will frequently be difficult, or may require Applicant to receive a less favorable execution price on the sale. Applicant states further that, while other investment techniques used by taxable money market funds to obtain liquidity are available to Applicant, such techniques are not desirable either because they are expensive or because they would produce undesirable taxable income.

Applicant represents that each Put: (1) Will be in writing and will be physically held by Applicant's custodian; (2) will be exercisable by Applicant at any time prior to the underlying securities' maturity; (3) will provide Applicant with an unconditional and unqualified right to exercise the Put; (4) will be entered into only with dealers, banks and broker-dealers who in the opinion of Applicant's investment adviser and sub-investment adviser present a minimum risk of default; (5) will not be transferable, although Municipal Securities purchased subject to Puts may be sold to a third party at any time, even though the Put remains outstanding; and (6) will have an exercise price equal to (a) Applicant's acquisition cost of the Municipal Securities subject to Puts (excluding any accrued interest that Applicant paid on their acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owned the securities, plus (b) all interest accrued on the securities since the last interest payment date during the period the securities were owned by Applicant. Applicant expects that Puts will generally be available without the payment of any direct or indirect consideration. Applicant states that Payment of consideration for Puts, either separately in cash or by paying a higher price for portfolio securities acquired subject to Puts, will be made if such payment is deemed necessary or advisable. Applicant represents that the total amount "paid" in either manner for outstanding Puts held in Applicant's portfolio will not exceed 1/2 of 1% of the value of Applicant's total assets calculated immediately after any Put is acquired.

Applicant states that, during the term of a Put, it will be difficult to evaluate

the likelihood that the Put will be exercised or the potential benefit to Applicant should the Put be exercised. In light of such uncertainties, Applicant's board of directors will determine that the "fair value" of a Put is zero, regardless of whether any direct or indirect consideration is paid for the Put. Applicant states that, where it has paid for a Put, the cost will be reflected as unrealized depreciation for the period during which the Put is held by Applicant. Applicant expects to refrain from exercising Puts where such exercise would impose a loss on a selling broker, dealer or other financial institution and jeopardize Applicant's business relationship with that institution.

Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant asserts that the proposed acquisition of Puts will not affect Applicant's net asset value per share for purposes of sales and redemptions and will not pose new investment risks, but rather will improve its liquidity and ability to pay next-day redemption proceeds in federal funds. Further, Applicant's investment adviser and sub-investment adviser intend to evaluate periodically the credit of institutions issuing stand-by commitments to the Applicant.

Notice is further given that any interest person wishing to request a hearing on the application may, not later than March 12, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 85-4549 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14375; 812-6021]

Copenhagen Handelsbank North America Inc.; Application

February 15, 1985.

Notice is hereby given that Copenhagen Handelsbank North America Inc. ("Applicant") c/o Kevin F. Barnard, Esq., White & Case, 1155 Avenue of the Americas, New York, New York 10036, a Delaware corporation, filed an application on January 10, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the text of the applicable provisions.

Applicant states that it was formed by Copenhagen Handelsbank ("the Bank"), a commercial bank organized under the laws of Denmark, solely as a financing vehicle for the Bank. Applicant represents that all of its capital stock will be purchased for cash and held by the Bank and that no other common or capital stock will be issued. Applicant's sole business will be the provision of funds to the Bank and substantially all of Applicant's assets will consist of accounts receivable from the Bank. Applicant states that in connection with prior issuance of commercial paper in the United States, the Bank obtained an exemptive order under section 6(c) of the Act (Investment Company Act Release No. 11112, April 2, 1980). Applicant states that because certain institutional purchasers of commercial paper may limit their purchases of debt obligations to domestic issuers, the Bank has organized Applicant to provide a vehicle through which it may sell commercial paper to such purchasers and others.

According to the application, under section 8(a) of the International Banking Act of 1978, the Bank is subject to most of the provisions of the Bank Holding Company Act of 1956 ("BHCA"). Accordingly, the Bank is required to file with the Board of Governors of the Federal Reserve System ("Board") an annual report containing detailed information with respect to the Bank and its U.S. subsidiaries, including Applicant, and must furnish such additional information as the Board requests. Applicant's business activities are limited by and regulated under the BHCA and regulations promulgated thereunder.

Applicant proposes to issue and sell in the United States short-term negotiable promissory notes of the type generally referred to as commercial paper ("Notes"). Applicant's Notes will be direct liabilities of Applicant and will rank *pari passu* among themselves and equally with all other unsecured and unsubordinated indebtedness of Applicant and prior to the claims of the holder of Applicant's common stock. Applicant represents that payment of principal, interest and premium, if any, on the Notes will be unconditionally guaranteed by the Bank and thus holders of the Notes could be considered holders of the Bank's obligations. Proceeds from the sale of the Notes (to the extent not applied to the repayment of maturing Notes or current expenses) will be placed on short-term deposit with, or lent to, the Bank ("Advances"). Applicant states that the Advances will be withdrawn by or repaid to Applicant on terms substantially identical to those of the Notes and will thereby allow Applicant to make timely payment on the Notes. Applicant states that the guarantee of the Bank will rank *pari passu* with other unsecured and unsubordinated indebtedness of the Bank (including its deposit liabilities) and prior to the claims of the Bank's common stock holders.

Applicant represents that the Notes will be of prime quality and will be issued in minimum denominations of \$100,000 and other terms of the Notes, including maturity and manner of offering, will be structured so as to qualify the Notes for the exemption from registration under section 3(a)(3) of the Securities Act of 1933 ("Securities Act"). Applicant will not issue and sell the Notes until it has received an opinion of its special counsel in the United States ("Counsel") to the effect that, under the circumstances of the proposed offering, the Notes would be entitled to the section 3(a)(3) Securities Act exemption. Applicant does not request Commission review or approval of Counsel's opinion regarding the availability of exemption under section 3(a)(3) of the Securities Act. Applicant states that it is not subject to the reporting requirements of the Securities Exchange Act of 1934 and will not become subject to such requirements in connection with issuance and sale of the Notes.

The proposed issue of Notes, and all future issues of Applicant's securities in the United States, Applicant represents, will have received prior to issuance one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization and that its Counsel will certify receipt

of such rating; provided, however, that no such rating will be required if in the opinion of Counsel, having considered the integration doctrine under the Securities Act and Rule 502 promulgated thereunder, as well as other releases and no-action letters made public by the Commission an exemption is available respecting such issue under section 4(2) of the Securities Act.

The Notes will be issued and sold by Applicant to a commercial paper dealer or dealers ("Dealers") in the United States who will reoffer the Notes as principal in the United States. The Notes will not be advertised or otherwise offered for sale to the general public, but instead will be sold to institutional investors and other persons or entities who customarily purchase commercial paper. Applicant undertakes to ensure that Dealers will provide to each offeree indicating an interest in the Notes, and prior to any sale, a memorandum which: (1) Describes Applicant's business, and (2) contains all the information with respect to the Bank which it is required, pursuant to the Bank's exemption order under section 6(c) of the Act, to provide offerees of its commercial paper. The memorandum will be at least as comprehensive as those customarily used in commercial paper offerings in the United States and the memorandum will be updated periodically to reflect material changes in the Bank's financial status not previously reported in the memorandum.

Applicant states that it may, from time to time, offer other debt securities for sale in the United States which will be guaranteed by the Bank by means of an unconditional guarantee or an irrevocable letter of credit. The proceeds of such securities will be similarly deposited with, or loaned to the Bank. Future offerings by Applicant of securities in the United States will be made only pursuant to a registration statement under the Securities Act or pursuant to an exemption therefrom, and any such offering will be made on the basis of disclosure documents appropriate for such offering. In no event will the disclosure be less comprehensive than that customarily provided for similar offerings in the United States. Applicant also undertakes to periodically update such disclosure, to provide the same to offerees expressing interest in the Notes and prior to any sale; however, in the case of an offering made pursuant to a registration statement under the Securities Act, disclosure will be made in such manner as may be required under the Securities Act. Applicant consents to any order granting the relief

requested being expressly conditioned upon Applicant's compliance with the foregoing undertakings regarding disclosure.

The Bank and Applicant will appoint United States Corporation Company as their agent ("Agent") to accept service of process in any action based on the Notes or the guarantee by the Bank and instituted in any State or Federal court by the holder of any Note. Applicant and the Bank also expressly consent to jurisdiction of any state or Federal court in the City and State of New York with respect to any such action and will also be subject to suit in any other court in the United States which has jurisdiction. Such appointment of Agent and consent to jurisdiction will be irrevocable until all amounts due with respect to the Notes have been paid by Applicant or by the Bank under its guarantee.

Applicant undertakes, in connection with any future offering in the United States of Applicant's securities, to appoint an agent and have the Bank appoint an agent to accept service of process in any action based on such securities and instituted in any Federal or state court by the holder of any such security. Applicant and the Bank further undertake to accept jurisdiction of any state or Federal court in the City and State of New York with respect to any such action, and to be subject to suit in any other court in the United States which has jurisdiction. The appointment of the agent for service of process and consent to jurisdiction will be irrevocable so long as such securities remain outstanding and until all amounts due with respect to such securities have been paid.

Applicant does not believe that it is an investment company as defined by the Act. In order to resolve any uncertainties concerning its status under the Act, Applicant seeks exemption therefrom. Applicant submits that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 12, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an

attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-4554 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. I.A.-955 (803-43)]

**Prudential-Bache Securities Inc.;
Application for Order Permitting
Performance-Based Compensation
Fee and Granting Confidential
Treatment to an Exhibit**

February 15, 1985.

Notice is hereby given that Prudential-Bache Securities Inc. ("Applicant"), One Seaport Plaza, New York, NY 10292, a registered investment adviser under the Investment Advisers Act of 1940 ("Act"), filed an application on November 1, 1984, and an amendment thereto on January 31, 1985, requesting an order of the Commission pursuant to section 206A of the Act granting an exemption from section 205(1) to the extent necessary to permit MGP Limited Partnership (the "Managing General Partner") to receive a performance fee based upon a share of the profits and losses of Special Situations Fund, L.P. ("Partnership"). Applicant further requests an order pursuant to section 210(a) of the Act granting confidential treatment to the limited partnership agreement ("Agreement") attached as Exhibit B to the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions thereof.

Applicant states that the Partnership will be formed as a Delaware limited partnership and will invest its funds primarily in equity securities of companies with a small capitalization and limited trading markets. Applicant also states that the limited partnership interests in the Partnership will be sold in private offerings exempt from registration under the Securities Act of 1933 ("1933 Act"). Further, Applicant states that the Partnership will be exempt from registration as an investment company under section

3(c)(1) of the Investment Company Act of 1940.

According to the application, the Managing General Partner will be formed as a Delaware limited partnership, consisting of its general partner, Special Situations Management, Inc. ("Management Inc.") and one limited partner ("MGP Limited Partner"). Applicant represents that Management Inc. will be wholly-owned by the Bache Group Inc., which also wholly-owns Applicant, and that MGP Limited Partner will be an individual who is an employee and registered representative of Applicant. Applicant represents that the Managing General Partner will, after its formation, join in this application as an applicant and register as an investment adviser under the Act.

Applicant represents that each limited partner ("Limited Partners") of the Partnership will make a minimum contribution of \$100,000 except that certain officers and employees ("Qualified Persons") of Applicant may make an initial contribution of \$50,000. Applicant also represents that each Limited Partner must have at least \$150,000 under management by Applicant or one of its affiliates. Further, Applicant represents that the Managing General Partner must reasonably believe that each investor, together with his client representative, if any, at the time of purchase of the Partnership interest has such experience in financial and business matters that he is capable of evaluating the risks and merits of the proposed method of compensation. In addition, Applicant states that each Limited Partner must be an "accredited investor" under Regulation D of the 1933 Act and have a net worth of at least \$500,000 (\$250,000 for Qualified Persons who invest \$100,000) and that, except for Qualified Persons who invest \$100,000, such contribution may not exceed 20% of that Limited Partner's net worth.

Applicant states that the Managing General Partner will contribute at least \$300,000 to the Partnership and will not reduce its capital account to an amount less than the greater of 1% of the aggregate contributions to the Partnership or \$50,000. The minimum funding goal for the Partnership is \$5,000,000. Applicant also states that neither the Limited Partners nor the Managing General Partner may withdraw any amount from their capital accounts for the life of the Partnership and that a Limited Partner may transfer his interest only with the Managing General Partner's consent. The

Partnership will have a five-year life but may be extended for one year by either the Managing General Partner or the Limited Partners.

Applicant represents that the Managing General Partner will be solely responsible for the management and administration of the Partnership's business, including the making of all investment decisions on behalf of the Partnership. Applicant states that, within the Managing General Partner, Management Inc. will provide the management and administration of the Partnership's business and MGP Limited Partner will provide the investment management on behalf of the Partnership. According to the application, the board of directors of Management Inc. will consist of officers of Applicant and will be responsible for supervising the investment management and administrative functions that the Managing General Partner performs for the Partnership. Applicant further represents that the Managing General Partner will be responsible for all operating expenses of the Partnership, and that the Partnership will pay its own expenses related to its securities portfolio and any cost of professional services rendered to the Partnership.

Applicant states that the Managing General Partner will maintain financial records for the Partnership and will provide quarterly reports to the Limited Partners on the affairs of the Partnership. Applicant further represents that the Partnership will be audited annually by an independent certified public accountant selected by the Managing General Partner. Further, the Managing General Partner will provide to the Limited Partners an annual report of the Partnership accompanied by the independent accountant's report. According to the Agreement, the Limited Partners (excluding interests held by Applicant) must approve any action to be taken with respect to the following matters: Early termination of the Partnership, admission of general partners, transfer of the general partnership interest, removal of the general partner and dissolution of the Partnership upon the occurrence of certain events. Limited Partners also have the right to amend the Agreement. Applicant represents further that no Limited Partner may be expelled.

According to the application, the Partnership will allocate "Profits and Losses" (net realized capital gains/losses plus dividends received and other Partnership income less net unrealized

capital losses, Partnership expenses and cumulative losses from prior years) as follows: (1) An initial allocation of Profits and Losses for each fiscal year will be made in proportion to the balances of capital accounts at the beginning of that year of the Limited Partners, taken as a whole ("Gross Profit Amount"), and the Managing General Partner; (2) a reallocation of the Gross Profit Amount will then be made whereby the Managing General Partner will be allocated 20.0% of the Gross Profit Amount as equals the first 35.0% of the Limited Partners' share in Partnership capital at the beginning of such fiscal year, plus 35.0% of the Gross Profit Amount as equals the next 45.0% of the Limited Partners' share in Partnership capital at the beginning of such fiscal year, plus 50.0% of the remaining Gross Profit Amount; and (3) the Gross Profit Amount in excess of the amounts allocated to the Managing General Partner will be allocated among the Limited Partners in proportion to their respective capital account balances at the beginning of the year.

Applicant states all cash that the Managing General Partner does not expect to use in the operation of the Partnership and that is available after the creation of a reasonable reserve for Partnership expenses will be distributed within 45 days of the end of the fiscal year as described above. Applicant represents that within 15 days of receipt of this distribution, any partner will have the right to reinvest any portion of such distribution. The reinvested amount will be added to the partner's capital account, effective retroactively as of the beginning of the fiscal year in which such distribution was made.

According to the application, the Managing General Partner will value the marketable securities held by the Partnership quarterly and will value securities that are not publicly traded (or are infrequently traded) annually, unless facts come to its attention that would cause it to believe that the value of a security had materially changed. Applicant further states that upon each valuation the capital account of each partner will be adjusted to reflect his allocable share of Partnership income, gains and losses. Applicant also states that the Limited Partners shall have the right to demand an independent review of the Partnership's assets.

Applicant requests an exemption from section 205(1) of the Act to the extent necessary to permit the Managing General Partner to receive its proposed allocated share of the profits and losses

of the Partnership. Applicant submits that investment management of the type described requires specialized expertise where performance-based compensation for investment managers is common. Applicant asserts that the proposed performance fee is reasonable and customary in the management of similar funds by unregistered investment advisers, and that to prohibit such compensation to the Managing General Partner merely because it is required to register under the Act would place it at a competitive disadvantage that is unwarranted in light of the policies behind the Act. Applicant also asserts that the requested order is consistent with the protection of investors because the Limited Partners will be highly sophisticated individuals or institutions capable of evaluating both the investment risks involved and the proposed compensation arrangement.

Applicant further requests an order under section 210(A) of the Act for confidential treatment of the Agreement. Applicant states: The essential terms of the Agreement have been disclosed in this application; the Agreement itself constitutes trade secrets or commercial or financial information that is privileged and confidential; there will be no public offering of the Partnership interests; and, prospective investors will be provided with a copy of the Agreement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 12, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority,

John Wheeler,
Secretary.

[FR Doc. 85-4555 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13158]

Joseph E. Seagram & Sons, Inc. (an Indiana Corporation) and The Seagram Company Ltd. (a Canadian Corporation); Application and Opportunity for Hearing

February 15, 1985.

Notice is hereby given that Joseph E. Seagram & Sons, Inc., an Indiana corporation ("JES"), and The Seagram Company Ltd., a Canadian corporation ("Seagram") have filed an Application pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939, as amended (the "1939 Act"), for a finding by the Securities and Exchange Commission (the "Commission") that service by The Bank of New York, a New York banking corporation (the "Bank"), as Trustee under (a) an Indenture, dated as of June 1, 1984, among JES, as issuer, Seagram, as guarantor, and the Bank, as Trustee, with respect to Guaranteed Debt Securities of JES (the "Indenture"), and (b) an Indenture, dated as of November 23, 1984, among JES, as issuer, Seagram, as guarantor, and the Bank, as Trustee, with respect to US \$125,000,000 in aggregate principal amount of 12 3/4% Guaranteed Bonds due 1994 (the "Eurobond Indenture"), is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Bank from acting as Trustee under the Indenture.

Section 310(b) of the 1939 Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

In support of its application, JES and Seagram allege that:

1. The Indenture secures payment of Guaranteed Debt Securities of JES, of which, as of the date hereof, \$125,000,000 in aggregate principal amount of 11 3/4% Guaranteed Notes due November 1, 1986 (the "Notes") are outstanding. The Indenture was qualified under the 1939 Act and filed with the Commission as Exhibit 4 to the Registration Statement (No. 2-91771) under the Securities Act of 1933, as amended (the "Securities Act"), filed by JES and Seagram.

The Notes, and the other Guaranteed Debt Securities to be issued under the Indenture, are wholly unsecured obligations of JES, ranking equally with other unsubordinated and unsecured indebtedness of JES. Seagram has unconditionally guaranteed the due and punctual payment of the principal of and interest on the Guaranteed Debt Securities (including the Notes) when and as the same shall become due and payable. Seagram's guarantees of the Notes have been issued under the Indenture and rank equally with other unsubordinated and unsecured indebtedness of Seagram, and Seagram's guarantees of the Guaranteed Debt Securities will be issued under the Indenture and will constitute wholly unsecured indebtedness of Seagram.

2. The Indenture is unlimited as to the principal amount of Guaranteed Debt Securities of JES, and could function as a continuous long-term facility. In submitting its Application, JES and Seagram request that the Commission issue its Order with respect to the Bank's role as Trustee under the Indenture, recognizing that the Indenture may, in the future, govern other Guaranteed Debt Securities of JES, guaranteed by Seagram.

3. The Eurobond Indenture covers US \$125,000,000 in aggregate principal amount of 12 3/4% Guaranteed Bonds Due 1994 of JES (the "Bonds") which may be purchased by holders of Warrants issued by JES (the "Warrants"). Neither the Warrants nor the Bonds were required to be registered under the Securities Act because the Warrants and the Bonds will not be offered or sold in the United States or any of its territories or possessions or to any person who is a national or resident thereof or to any person purchasing for the account of or for resale to any such person. Therefore, the Eurobond Indenture was not qualified under the 1939 Act.

The Warrants will be exercisable from the date of issuance until

November 23, 1989, after which time unexercised Warrants will be void.

The Bonds, when issued upon exercise of the Warrants, will be unsecured obligations of JES ranking equally with all other unsubordinated and unsecured indebtedness of JES, including the Notes. Seagram will unconditionally guarantee the due and punctual payment of the principal of and interest and any other payments on the Bonds when and as the same shall become due and payable. Seagram's guarantees of the Bonds will be issued under the Eurobond Indenture and will rank equally with other unsecured and unsubordinated debt of Seagram. The Bonds, when issued, will constitute the only securities issued under the Eurobond Indenture. The Eurobond Indenture, by its terms, does not permit any other securities, of any rank, to be issued thereunder.

4. Each the Indenture and the Eurobond Indenture apply to wholly unsecured indebtedness of JES. The Notes and the Bonds rank equally with all other unsubordinated and unsecured indebtedness of JES. The guarantees to be issued by Seagram under each of the Indenture and the Eurobond Indenture will constitute wholly unsecured indebtedness of Seagram.

5. Pursuant to section 301(6) of the Indenture, the Boards of Directors of JES and Seagram may, by resolution, authorize a series of Guarantee Debt Securities which will be subordinated to the Notes already issued under the Indenture (and therefore subordinated to the Bonds issued under the Eurobond Indenture which rank equally with the Notes).

6. The Bank acting as trustee under both Indenture and the Eurobond Indenture may involve the Bank in a conflict of interest within the meaning of section 310(b) of the 1939 Act.

7. Pursuant to section 610(b) of the Indenture, the trustee may resign at any time with respect to one or more series of Guaranteed Debt Securities. Pursuant to section 610(e) of the Indenture, the Company may appoint a successor trustee with respect to the Guaranteed Debt Securities of one or more series of Guaranteed Debt Securities. JES, Seagram and the Bank have entered into a Supplemental Indenture No. 1, dated as of February 1, 1985, to the Indenture, pursuant to which JES and Seagram have agreed that, for any series of Guaranteed Debt Securities that may be issued under the indenture which do not rank equally with the Notes and any other Guaranteed Debt Securities ranking equally with the Notes, they will appoint for such series a corporate trustee, other than the Bank, which

satisfies the requirements of section 609 of the Indenture.

Therefore, the Bank, in serving as Trustee under each of the Indenture and the Eurobond Indenture, and in taking action on behalf of the respective security holders, will not be placed in a situation in which the potential for a material conflict of interest would arise.

8. JES and Seagram have waived any hearing on the issues presented by its application, as well as notice of any hearing, and all rights to specify procedures with respect to the application under the rules of practice of the Commission.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the office of the Commission at the Public Reference Room, 450 5th Street, N.W., Judiciary Plaza, Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after March 8, 1985, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b)(1) of the 1939 Act. Any interested person may, not later than March 7, 1985 at 5:30 p.m., Eastern Standard Time, in writing, submit to the Commission his views or any additional facts bearing upon this application or the desirability of a hearing thereon. Any such communication or request shall be addressed: John Wheeler, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Judiciary Plaza, Washington, D.C., 20549.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-4543 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14376; 812-5996]

Thrift Financing Corp.; Application

February 15, 1985.

Notice is hereby given that Thrift Financing Corporation ("Applicant") 814 East Main Street, Richmond, Virginia 23219, filed an application on November 29, 1985, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are

summarized below, and to the Act and regulations thereunder for the text of the applicable provisions.

Applicant states that it is a limited purpose finance company organized as a Virginia corporation by Craigie Incorporated, an investment banking firm headquartered in Richmond, Virginia, together with a number of federal and state chartered savings and loan associations and savings banks. Fifty-one percent of the voting stock of Applicant is owned by Craigie Incorporated. The remaining 49% of Applicant's voting stock is owned either directly by these savings institutions, or by their wholly-owned service corporation subsidiaries. Applicant's non-voting stock is owned equally by Craigie Incorporated and the savings institutions, either directly or through their service corporation subsidiaries.

Applicant's sole function will be to provide financing to savings and loan associations and savings banks, the deposit accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"), and to wholly-owned affiliates of such FSLIC-insured financial institutions (collectively, "Thrift Institutions"). Applicant will issue its bonds or other evidences of indebtedness ("Bonds") and lend the proceeds thereof to Thrift Institutions pursuant to loan or funding agreements ("Funding Agreements"), in accordance with which Applicant will obtain pledges of mortgages and mortgage-backed obligations to secure the Bonds. Applicant does not expect that it will have any significant assets other than the Funding Agreements.

The Bonds will be issued in series, with each series of Bonds subject to a trust indenture ("Indenture"), between Applicant and an independent trustee ("Trustee"). Each series of Bonds must be rated in one of the two highest rating categories of a nationally-recognized rating service. Each Thrift Institution participating in a particular Bond series is to be loaned a proportionate share of the Bond proceeds. A Thrift Institution is to repay its borrowing by causing payments on the collateral for the loan ("Mortgage-Related Collateral") to be made to the Trustee in such amounts as may be necessary to pay its proportionate share of Bond debt service when due.

Each Bond series will be separately collateralized, principally through the pledge by the Thrift Institutions participating in that series to Applicant, and Applicant's pledge to the Trustee, of the Mortgage-Related Collateral, which by definition will include obligations issued or guaranteed by the Federal

National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA"), or the Federal Home Loan Mortgage Corporation ("FHLMC"). Such obligations are to represent either interests in pools of mortgage and deed of trust loans, or obligations of FNMA, GNMA and FHLMC secured by such mortgage and deed of trust loans. Also included are conventional (*i.e.*, non-government insured) or guaranteed and government insured, or guaranteed, whole mortgage and deed of trust loans secured by first lien security interests in one-to-four family residential real estate. Title to Mortgage-Related Collateral pledged by a Thrift Institution is to be retained by that Thrift Institution in order to avoid the recordation of the loss that could be necessitated by the sale of these assets.

Applicant may be required to maintain one or more cash or cash equivalents reserve funds in order to establish the required rating for a series of Bonds. If conventional, or government-insured or guaranteed, mortgage loans are included as all or part of the Mortgage-Related Collateral for a particular Bond series, the payments due under specific mortgage and hazard insurance policies, and certain other types of credit support (including other types of insurance policies) also are to be pledged. Cash reserves for a particular Bonds series also may be required where pledged conventional, or government-insured, or guaranteed, mortgage loans, or the mortgage loans underlying any pledged FNMA, GNMA, or FHLMC obligations, constitute graduated payment instruments. Finally, rating agencies may require cash reserve funds and credit supports for a Bond series to the extent necessary to account for reinvestment risks created when the scheduled debt service payments on that series occur less frequently than the scheduled debt service payments on its underlying Mortgage-Related Collateral.

Each series is to constitute debt, rather than equity, of Applicant. Applicant states that it will not exercise investment discretion over, and will not reinvest or trade in, the Mortgage-Related Collateral. Proceeds of Mortgage-Related Collateral and reserve funds are to be invested by the Trustee only in U.S. government securities and cash equivalents (as determined by the applicable rating organization), and only for the period between their receipt and subsequent application under the Indenture. Except when exercising remedies following breaches or defaults under the Funding Agreements or the

Indenture, or upon release or discharge of Mortgage-Related Collateral relating to a Bond series from the lien of the Indenture, the Mortgage-Related Collateral for a particular Bond series is not to be sold or released, and other Mortgage-Related Collateral is not to be substituted for that series.

Each Bond series is to be sold either to institutional investors, or publicly to retail investors through one or more investment banking firms, including Craigie Incorporated. Applicant contemplates that certain Bond series will be registered under the Securities Act of 1933, while other Bond series may be sold in private placements.

To summarize, Applicant states that (a) payments on the pledged Mortgage-Related Collateral will be the primary source of funds for payments of principal and interest on the Bonds; (b) the Bonds will be secured by collateral consisting principally of Mortgage-Related Collateral with an aggregate principal amount at least equal to the initial principal amount of the Bonds; (c) the Mortgage-Related Collateral will be pledged in its entirety by the Thrift Institutions to Applicant and by Applicant to the Trustee; and (d) in the event of a default by a Thrift Institution on its Funding Agreement, responsibility for servicing the Mortgage-Related Collateral which is a conventional, or government-issued, or guaranteed, mortgage loan, will be the responsibility of an independent mortgage company, as servicer (Mortgage-Related Collateral will be registered in the Trustee's name at or prior to bond issuance).

Applicant submits that its proposed activities could be conducted directly by a Thrift Institution without the requirement of registration under the Act since each of the Thrift Institutions is exempt from the Act by various provisions of the exemption thereof, including section 3(c)(5)(C). Applicant notes that the Mortgage-Related Collateral will be substantially identical to collateral used by companies which are excepted from the definition of investment company by section 3(c)(5)(C). Applicant submits that there is not public policy reason to require it to register as an investment company merely because it is facilitating the financing efforts of a number of Thrift Institutions to achieve economies of size the same as larger financial institutions and their affiliates achieve.

While Applicant believes that it does not fall within the definition of an investment company as set forth in the Act, the principal assets of Applicant will be evidences of indebtedness of the Thrift Institutions. Although Applicant

believes that such evidences of indebtedness are not securities within the purview of section 3 of the Act, and that its primary activity will be facilitating mortgage financing rather than "investing, reinvesting, owning, holding, or trading in securities . . .", it is seeking an exemption from all provisions of the Act to avert any ambiguity which could arise, as to the applicability of the Act to its operations.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 12, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 85-4553 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21771; File No. SR-CBOE-85-04]

**Self-Regulatory Organizations;
Proposed Rule Change By Chicago
Board Options Exchange, Inc.;
Relating to Payment for Floor
Brokerage Services**

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 7, 1985 the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Payment for Floor Brokerage Services. Rule 6.76. When a member acts as a floor broker for another member and is to receive remuneration

for such brokerage services, then payment of these brokerage commissions shall be made no later than the twenty-fifth day of the month, provided that an invoice detailing the brokerage charges for the services performed is delivered to the member receiving such brokerage services no later than the fifth business day of that month.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Procedures of the Self-Regulatory Organization

The purpose of the proposed rule change is to allow members five business days to process their brokerage receivables in order to qualify for collection later in the same month. In the past, Saturdays, Sundays and holidays have fallen within the first five calendar days of a month, making it difficult to process brokerage receivables for timely collection under the present rule. The statutory basis for the proposed rule change is section 6(b)(5) of the Securities Exchange Act of 1934 (the Act), in that the proposed change will promote just and equitable principals of trade.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change creates any burden on competition not necessary or appropriate under the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Formal comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii)

as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by March 18, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

February 15, 1985.

[FR Doc. 85-4556 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21773; SR-MSRB-85-3]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Proposed Rule Change

February 15, 1985.

The Municipal Securities Rulemaking Board ("MSRB") 1150 Connecticut Avenue, N.W., Suite 507, Washington, D.C. 20036, submitted on February 5, 1985, copies of a proposed rule change, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder. The proposed rule change would amend MSRB rule G-3¹ to require a person

¹ MSRB rule G-3 sets forth qualification standards for being or becoming a municipal securities principal or representative.

who otherwise is a municipal securities principal, and who has been associated for two or more years with a municipal broker or municipal dealer that has not filed with the MSRB in compliance with MSRB rule A-12,² to pass the Municipal Securities Principal Exam and be qualified as a municipal securities representative in order to retain his or her status as a municipal securities principal.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written comments concerning the submission within 21 days from the date of publication in the *Federal Register*. Persons submitting comments should file six copies with the Secretary of the Securities Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments should refer to File No. SR-MSRB 85-3.

Copies of the submission, and all related items other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the office of the MSRB.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-4546 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21772; File No. SR-MSRB-85-2]

Self-Regulatory Organizations; Proposed Rule Change by Municipal Securities Rulemaking Board relating to Rule A-12

February 15, 1985.

The Municipal Securities Rulemaking Board ("MSRB") on February 5, 1985 submitted a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), to amend MSRB Rule A-12, which provides that municipal securities brokers and municipal securities dealers must pay the MSRB an initial fee, to

² MSRB rule A-12 requires every municipal securities broker or municipal securities dealer to pay an initial fee to the MSRB.

make it clear that such a broker or dealer must comply with MSRB Rule A-12 before initiating any municipal securities activities.

MSRB Rule A-12 applies to all municipal securities brokers and municipal securities dealers, including those engaged in lines of business in addition to municipal securities activities and those effecting only occasional municipal securities transactions. At present, the rule does not specifically address the situation that arises when a securities firm that is not engaged in municipal securities activities registers with the Commission and later decides to engage in municipal securities activities.

The proposed rule change will clarify MSRB Rule A-12. It will make explicit that payment of the initial fee is a prerequisite to engaging in a municipal securities business. It also will simplify the language of the rule by deleting the now irrelevant references to the 1975 deadline for compliance by firms already registered with the Commission by virtue of doing business in non-exempted securities. In addition, it will delete the reference to the ten day period after Commission registration for compliance by municipal securities-only firms and dealers banks which the 1975 amendments to the Act had required to register with the Commission for the first time.

Interested person are invited to submit written comments concerning the submission within 21 days from the date of publication in the Federal Register. Persons submitting written comments should file six copies with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments should refer to File No. SR-MSRB-85-2.

Copies of the submission and all related items, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the office of the MSRB.

For the Commission, by the Division of Market Regulation pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

John Wheeler,
Secretary.

[FR Doc. 85-4547 Filed 2-22-85; 8:45 am]

BILLING CODE 8010-9-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0479]

Chemical Venture Capital Corp.; Issuance of Small Business Investment Company License

On August 27, 1984, a notice was published in the Federal Register (33192) stating that an application had been filed by Chemical Venture Capital Corp., with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1985)) for a license as a small business investment company.

Interested parties were given until the close of business September 21, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 02/02-0479 to Chemical Venture Capital Corp. to operate as a small business investment company.

Dated: February 12, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for
Investment.

[FR Doc. 85-4540 Filed 2-22-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5480]

United Capital Investment Corp.; Issuance of License To Operate as a Small Business Investment Company

On November 8, 1984, a notice was published in the Federal Register (49 FR 44696) stating that an application had been filed by United Capital Investment Corp., 4 Fern Court, North Brunswick, New Jersey 08902, with the Small Business Administration (SBA), for a license to operate as a small business investment company (SBIC), pursuant to § 107.102 of the Regulations governing SBICs (13 CFR 107.102 (1984)). The company has since changed its address to 60 East 42nd Street, Suite 1515, New York, New York 10165.

Interested parties were given until the close of business December 8, 1984, to submit their comments on the application to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other information, SBA issued license No. 02/02-5480 to United Capital

Investment Corp. to operate as a section 301(d) SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Companies)

Dated: February 15, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for
Investment.

[FR Doc. 85-4541 Filed 2-22-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice CM-8/820]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting at 9:30 A.M. on May 8, 1985, in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

The purpose of the meeting is to finalize preparations for the 51st Session of the Maritime Safety Committee (MSC) of the International Maritime Organization (IMO) which is scheduled for 20-24 May in London. In particular, the SHC will discuss the development of the U.S. positions dealing with, inter alia, the following topics:

- Reports of the various Subcommittees
- Preparation for 1986 Conference to amend the SOLAS & Load Line Conventions
- Ship Identification number
- Amendments to the Procedures for the Control of Ships

Interested Persons may seek information by writing: Mr. G.P. Yoest, U.S. Coast Guard Headquarters (G-CPI), 2100 Second Street, SW., Washington, DC 20593 or by calling: 202-426-2280.

Dated: February 13, 1985.

Charles Angevine,

Chairman, Shipping Coordinating Committee.

[FR Doc. 85-4493 Filed 2-22-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/821]

Shipping Coordinating Committee, National Committee for Prevention of Marine Pollution; Meeting

The National Committee for Prevention of Marine Pollution (NCPMP) will conduct an open meeting on April 8, 1985 at 9:30 A.M. in room 2415 at Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593

The purpose of the meeting will be a general review of the agenda items to be considered at the Twenty-first session of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) to be held 22 to 26 April, 1985. Proposed U.S. positions on MEPC agenda item issues will be discussed.

Members of the public may attend up to the seating capacity of the room.

The major items of discussion will be the following:

1. The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), Annex 2; proposed amendments to the Annex and related changes to the Procedures and Arrangements, Bulk Chemical Code and International Bulk Chemical Code. This item will be the dominant work item at MEPC 21. It is expected that amendments will be adopted for circulation to the parties to MARPOL 73/78.

2. MARPOL 73/78 Optional Annexes 3, 4, 5; discussion of proposed revisions with a view toward possible U.S. ratification. The U.S. has submitted a paper proposing significant revisions to Annex 3 (Regulations for the Prevention of Pollution by Harmful Substances Carried by Sea in Packaged Forms or in Freight Containers, Portable Tanks or Road and Rail Tank Wagons) which will require some changes to the International Maritime Dangerous Goods (IMDG) Code. Comments on the proposals in this paper, either in writing prior to this NCPMP meeting or at the meeting, are solicited. Possible changes to Annex 4 (Prevention of Sewage Pollution from Ships) and Annex 5 (prevention of Garbage Pollution from Ships) will also be discussed.

3. Reporting Requirements under MARPOL 73/78 including possible amendments to Protocol I, concerning reports by ships of actual and potential discharges of harmful substances, and reports by party nations to other parties and the IMO.

For further information or for documentation pertaining to the NCPMP meeting, contact Commander T.W. Josiah, U.S. Coast Guard Headquarters (G-WER-3), 2100 Second Street, SW., Washington, D.C. 20593; telephone (202) 426-9573.

Dated: February 13, 1985.

Charles Angevine,
Chairman, Shipping Coordinating Committee.
[FR Doc. 85-4494 Filed 2-22-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/819]

**Shipping Coordinating Committee,
Subcommittee on Safety of Life at Sea,
Working Group on Radio
Communications; Meeting**

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea will conduct a delegation briefing at 10:30 on March 20, 1985, at the ROU Maritime Electronics Training School, 3 miles west of Easton, MD on Rt. 33.

The purpose of the meeting is to review position documents for the Twenty-ninth Session of the Subcommittee on Radiocommunications of the International Maritime Organization to be held in London during April, 1985. In particular the working group will discuss the following topics:

Maritime Distress System
Digital Selective Calling
Satellite EPIRBs
Preparations for the ITU WARC for

Mobile Telecommunications
Preparations for CCIR Study Group 8
Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TTP-3/63), 2100 2nd Street, SW., Washington, D.C. 20593. Telephone: (202) 426-1231.

Dated: February 13, 1985.

Charles Angevine,
Chairman, Shipping Coordinating Committee.
[FR Doc. 85-4492 Filed 2-22-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/822]

**Shipping Coordinating Committee,
Subcommittee on Safety of Life at Sea,
Working Group on Standards of
Training and Watchkeeping; Meeting**

The Working Group on Standards of Training and Watchkeeping of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on March 27, 1985 at 10:00 A.M. in Room 1317 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

The purpose of the meeting is to review the results of the 17th Session, and preliminary discussions regarding the 18th Session of the International Maritime Organization (IMO) Subcommittee on Standards of Training and Watchkeeping, scheduled for September 9-13, 1985.

Members of the public may attend up to the seating capacity of the room.

For further information contact Captain R.A. Sutherland, U.S. Coast Guard Headquarters (G-MVP/12), 2100 Second Street, SW., Washington, DC 20593. Telephone: (202) 426-1500.

Dated: February 13, 1985.

Charles Angevine,
Chairman, Shipping Coordinating Committee.
[FR Doc. 85-4495 Filed 2-22-85; 8:45 am]

BILLING CODE 4710-07-M

Office of the Secretary

[Public Notice CM-8/818]

**Shipping Coordinating Committee
Meeting**

The Shipping Coordinating Committee will conduct an open meeting at 1300, 14 March 1985, in Room 2415 of U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593.

The purpose of the meeting is to review the results of the 53rd Session of the International Maritime Organization Legal Committee, and to consider the U.S. position for the 54th Session, to be held in London March 25-29, 1985. At its 54th Session, the Legal Committee will continue its work on the question of salvage, in particular the revision of the 1910 Convention on Salvage and Assistance at Sea, and related issues. Specifically, the Legal Committee will continue consideration of a draft Convention on Salvage which adopts an exception to the traditional principle of "no-cure, no-pay." The draft Convention provides for recovery by the salvor of expenses where the salvor has rendered assistance to a vessel which threatens damage to the environment, and recovery of enhanced awards where the salvor in rendering such assistance prevents or minimizes damages to the environment. At the 53rd Session, the Legal Committee considered Chapters 1 and 2 of the draft Convention in detail. At the 54th Session, the Committee will begin with consideration of Chapter 3, which encompasses the provisions for payment of special compensation. The Committee will also address related proposals to amend the 1969 Intervention on the High Seas Convention.

At the 54th Session, the Committee will also make recommendations regarding its work program for the 1986-87 biennium and the long term work plan. At the 53rd Session, several possibilities were offered, including (1) revision of the 1974 Athens Convention on Carriage of Passengers to increase the limits of liability; (2) a possible Convention dealing with liability and

compensation for damage from fire and explosion on board unladen tankers; (3) possible revision of the 1976 Convention on Limitation of Liability to increase the limits of liability.

Members of the public may attend up to the seating capacity of the room. For further information, contact Captain F.F. Burgess, Jr., U.S. Coast Guard (G-1MI), Washington, D.C. 20593, telephone (202) 426-1527.

Dated: February 13, 1985.
Charles Angevine,
Chairman, Shipping Coordinating Committee.
[FR Doc. 85-4491 Filed 2-22-85; 8:45 am]
BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Applications for Certificates of Public Conveniences and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of Department of Transportation's Procedural Regulations; Week Ended February 15, 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 proceedings (See 14 CFR 302.1701 et seq.).

Date filed	Docket No.	Description
Feb. 11, 1985.	42860	Village Aviation, Inc. d/b/a Camel Air, c/o Joseph C. Angiak, P.O. Box 787, Bethel, Alaska 99559. Application of Village Aviation, Inc. d/b/a Camel Air, pursuant to section 401 of the Act and Subpart Q of the Regulations, request a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transportation of persons, property and mail between the terminal point Bethel, Alaska and the terminal points Akiak, Kwethluk, Napaskiak, Napaskiak, Tulksak, Akishak, Kasiguk, and Atmautluak. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 11, 1985.
Feb. 14, 1985.	42873	Wardair Canada Inc., c/o Walter D. Hansen, Burwell, Hansen, Manley & Peters, 1706 New Hampshire Avenue, NW., Washington, D.C. 20009. Application of Wardair Canada Inc. pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a renewal of its foreign air carrier permit to engage in circle tour and fifth freedom charter foreign air transportation as issued pursuant to CAB Order 60-8-97. Answers may be filed by March 14, 1985.
Feb. 15, 1985.	42876	Aircal Inc., c/o John W. Simpson, Kelsey Drye & Warren, 1333 New Hampshire Avenue, N.W., Washington, D.C. 20036. Application of Aircal Inc. pursuant to section 401 of the Act and Subpart Q of the Regulations applies for a certificate of public convenience and necessity authorizing it to engage in scheduled foreign air transportation of persons, property and mail between San Jose, California on the one hand and Vancouver, British Columbia, Victoria, British Columbia and any other point or points in Canada, on the other hand. Conforming Applications, Motions to Modify Scope and Answers may be filed by March 15, 1985.

Phyllis T. Kaylor,
Chief, Documentary Services.
[FR Doc. 85-4476, Filed 2-22-85; 8:45 am]
BILLING CODE 4910-62-M

[Docket 42813]

Assignment of Proceeding; Emerald Tours, Ltd., Violations of 14 CFR Part 380; Enforcement Proceeding

This proceeding has been assigned to Administrative Law Judge Ronnie A. Yoder. Future communications should be addressed to him.

Dated Washington, D.C., February 1, 1985.
Elias C. Rodriguez,
Chief Administrative Law Judge.
[FR Doc. 85-4477 Filed 2-22-85; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

National Airspace Review Enhancement; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act

(Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of Task Group 4-2 of the Federal Aviation Administration National Airspace Review Advisory Committee. The agenda for this meeting is as follows: Implementation of oceanic display and planning system will require a review of how data will be formatted, utilized and distributed. Sector layouts, number of sectors, route system displays, procedural adjustments, phraseology modifications, consideration of flow management aspects and most effective use of the delivered software should be examined.

DATE: Beginning Tuesday, March 26, 1985, at 9 a.m., through Thursday of the first week and resuming at 9 a.m. Monday through Thursday of the following week.

ADDRESS: The meeting will be held at the Federal Aviation Administration, conference room 9A/B, 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: National Airspace Review Enhancement Program Management Staff, room 807,

Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, 755-6523. Attendance is open to the interested public, but limited to the space available. To insure consideration, persons desiring to make statements at the meeting should submit them in writing to the Executive Director, National Airspace Review Enhancement Advisory Committee, Associate Administrator for Administration, AAD-1, 800 Independence Avenue SW., Washington, D.C. 20591, by March 19, 1985. Time permitting and subject to the approval of the chairman, these individuals may make oral presentations of their previously submitted statements.

Issued in Washington, D.C., on February 15, 1985.

Burton L. Gifford,
Manager, National Airspace Review Enhancement Staff, Office of the Associate Administrator for Administration.
[FR Doc. 85-4458 Filed 2-22-85; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

(Dept. Circ.; Public Debt Series—No. 5-85)

Treasury Notes of February 28, 1987;
Series S-1987

February 14, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately \$9,000,000,000 of United States securities, designated Treasury Notes of February 28, 1987, Series S-1987 (CUSIP No. 912827 RX 2), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated February 28, 1985, and will accrue interest from that date, payable on a semiannual basis on August 31, 1985, and each subsequent 6 months on February 28 and August 31 through the date that the principal becomes payable. They will mature February 28, 1987, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definition form will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Notes in book-entry form will be issued

in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, February 20, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, February 19, 1985, and received no later than Thursday, February 28, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is \$5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than \$1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States and their

political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or more of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1 The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5, must be made or completed on or before Thursday, February 28, 1985. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, February 26, 1985. In addition, Treasury Tax and Loan Note Option Depositories may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, February 28, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been

submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are

authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

John Kilcoyne,

Assistant Fiscal Assistant Secretary.

[FR Doc. 85-4467 Filed 2-20-85; 11:24 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Voluntary Service National Advisory Committee; Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the Veterans Administration Voluntary Service National Advisory Committee has been renewed by the Administrator of Veterans Affairs for a two year period beginning February 7, 1985 through February 7, 1987.

Dated: February 12, 1985.

By direction of the Administrator,

Rose Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-4456 Filed 2-22-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register

Vol. 50, No. 37

Monday, February 25, 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., Tuesday, February 26, 1985.

LOCATION: Third Floor Hearing Room, 1111—18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. All Terrain Vehicles: Status

The staff will brief the Commission on the status of the ongoing investigation of all terrain vehicles.

2. Chlorocarbons: Status/Options

The staff will brief the Commission on the status of the priority project Chlorocarbons and options concerning the consumer use survey.

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.

Dated: February 20, 1985.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 85-4578 Filed 2-21-85; 10:13 am]

BILLING CODE 6355-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:25 p.m. on Tuesday, February 19, 1985, the Board of Directors of the

Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Inwood State Bank, Inwood, Iowa, which was closed by Superintendent of Banking for the State of Iowa on Tuesday, February 19, 1985; (2) Accept the bid for the transaction submitted by Security Savings Bank, Larchwood, Iowa, an insured State nonmember bank; (3) approve the application of Security Savings Bank, Larchwood, Iowa, for consent to purchase certain assets of and to assume the liability to pay deposits made in Inwood State Bank, Inwood, Iowa, and to establish the sole office of Inwood State Bank as a branch of Security Savings Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director C.T. Conover (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: February 20, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-4600 Filed 2-21-85; 12:01 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:20 p.m. on Friday, February 15, 1985,

the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt: (1) A resolution (A) making funds available for the payment of insured deposits in Citizens State Bank of Fulda, Fulda, Minnesota, which was closed by the Commissioner of Commerce for the State of Minnesota on Friday, February 15, 1985; (B) accepting the bid of Fulda State Bank, Fulda, Minnesota, a newly-chartered State nonmember bank, for the transfer of the insured and fully secured or preferred deposits of the closed bank; and (C) designating Fulda State Bank as the agent for the Corporation for the payment of insured deposits of the closed bank; and (2) an Order approving the applications of Fulda State Bank, Fulda, Minnesota, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay certain deposits made in Citizens State Bank of Fulda, Fulda, Minnesota.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. H. Joe Selby, acting in the place and stead of Director C.T. Conover (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)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: February 20, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-4602 Filed 2-21-85; 12:01 pm]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in

the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, February 19, 1985, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Director C.T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the applications of Citytrust, Bridgeport, Connecticut, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the New Haven, Connecticut, office of Permanent Savings, Meriden, Connecticut, a non-FDIC-insured institution, and to establish that office as a branch of Citytrust; Colonial Bank, Waterbury, Connecticut, an insured State nonmember bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Bridgeport, Connecticut, office of Permanent Savings, and to establish that office as a branch of Colonial Bank; The Connecticut Bank and Trust Company, National Association, Hartford, Connecticut, for consent to purchase certain assets of and assume the liability to pay deposits made in the North Haven, Connecticut, office of Permanent Savings; The Connecticut National Bank, Hartford, Connecticut, for consent to purchase certain assets of and assume the liability to pay deposits made in the 61 Colony Street and 632 East Main Street, Meriden, Connecticut, offices of Permanent Savings; Connecticut Savings Bank, New Haven, Connecticut, an insured mutual savings bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Wallingford and Milford, Connecticut, offices of Permanent Savings, and to establish those two offices as branches of Connecticut Savings Bank; The New Haven Savings Bank, New Haven, Connecticut, and insured mutual savings bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Guilford, Connecticut, office of Permanent Savings and to establish that office as a branch of The New Haven Savings Bank; and Society for Savings, Hartford, Connecticut, an insured stock savings bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Orange and Triumbull, Connecticut, offices of Permanent Savings, and to establish those two offices as branches of Society for Savings.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: February 19, 1985.
Federal Deposit Insurance Corporation,
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 85-4603 Filed 2-21-85; 12:01 pm]
BILLING CODE 6714-01-M

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FEDERAL ENERGY REGULATORY COMMISSION

February 21, 1985.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

TIME AND DATE: 10:00 a.m., February 28, 1985.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth F. Plumb,
Secretary Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the Agenda. However, all public documents may be examined in the division of public information.

Consent Power Agenda, 808th Meeting—February 28, 1985, Regular Meeting (10:00 a.m.)

- CAP-1.
Project No. 5605-001, Woodbridge Irrigation District
- CAP-2.
Project No. 8075-000, James River-Groveton, Inc.
- CAP-3.
Project No. 6119-001, Michael Russo
- CAP-4.
Project No. 4914-001, Philip Morris Industrial Incorporated and Nicolet Paper Company Division
- CAP-5.
Project Nos. 7439-002, 7440-003 and 7441-002, Michael Arkoosh
- Project No. 8044-002, Entertech, Inc.
- CAP-6.

- Project No. 5363-004, Warrensburg Board and Paper Corporation
- CAP-7.
Project No. 3268-002, Griswold Textile Print, Inc.
- CAP-8.
Project No. 6939-001, City of Jackson, Ohio
- CAP-9.
Project No. 4044-003, Minnesota Department of Natural Resources
- CAP-10.
Omitted
- CAP-11.
Docket No. ER85-234-000, Refuse Energy Systems Company (Sauquas Resco)
- CAP-12.
Docket Nos. ER83-523-001 and 004, Florida Power and Light Company
- CAP-13.
Docket Nos. ER84-538-000 and 001, Indiana & Michigan Electric Company
- CAP-14.
Docket Nos. QF84-367-000, QF84-368-000 and QF84-369-000, Energy Systems Division of Thermo Electron Corporation
- CAP-15.
Docket Nos. QF84-424-000, QF84-425-000 and QF84-426-000, Turbo Gas and Electric, Ltd.
- CAP-16.
Docket No. QF84-250-000, Mitchell Energy Corporation
- CAP-17.
Docket No. EL85-12-000, City of Manti, Utah v. Utah Power & Light Company
- CAP-18.
Omitted

Consent Miscellaneous Agenda

- CAM-1.
Docket No. RM78-17-000, Procedures for Review by the Federal Energy Regulatory Commission of Adjustment Request Denials by the Secretary of Energy
- CAM-2.
Docket No. RM79-76-223 (Arkansas-1), High-Cost Gas Produced From Tight Formations
- CAM-3.
Docket No. GP79-1-001, Mobil Oil Corporation
- CAM-4.
Omitted
- CAM-5.
Docket Nos. RM80-8-001, 002, 003, 004 and 005, bona fide offers: right of first refusal
- CAM-6.
Docket No. RO81-66-001, Corpus Christi Management Company, Texcellere Corporation and Petrotex Holding Company
- CAM-7.
Docket No. FA84-8-000, High Island Offshore System

Consent Gas Agenda

- CAG-1.
Docket No. TA85-2-45-002 (PGA85-2), Inter-City Minnesota Pipelines Ltd., Inc.
- CAG-2.
Docket No. TA85-1-9-002 (PGA85-1, GR185-1 and IPR85-1), Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
- CAG-3.

Docket No. RP85-69-000, Penn-York Energy Corporation
 CAG-4.
 Docket Nos. TA85-1-21-000 and 001 (PGA85-1, IPR85-1 and AP85-1), Columbia Gas Transmission Corporation
 CAG-5.
 Docket Nos. TA85-1-22-000 and 001 (PGA85-1, IPR85-1 and RD + D 85-1), Consolidated Gas Transmission Corporation
 CAG-6.
 Docket Nos. TA85-1-26-000 and 001 (PGA85-1 and IPR85-1), Natural Gas Pipeline Company of America
 CAG-7.
 Omitted
 CAG-8.
 Omitted
 CAG-9.
 Docket Nos. TA85-1-28-000 and 001 (PGA85-1 and IPR85-1), Panhandle Eastern Pipe Line Company
 CAG-10.
 Omitted
 CAG-11.
 Docket Nos. TA85-2-45-000 and 001 (PGA85-2), Inter-City Minnesota Pipelines Ltd., Inc.
 CAG-12.
 Omitted
 CAG-13.
 Omitted
 CAG-14.
 Docket No. RP83-104-002, Florida Gas Transmission Company
 CAG-15.
 Docket No. RP84-101-000, Great Lakes Gas Transmission Company
 Docket No. RP84-109-000, Distrigas Corporation and Distrigas of Massachusetts Corporation
 Docket No. RP84-115-000, Midwestern Gas Transmission Company
 Docket No. RP84-111-000, MIGC, Inc.
 CAG-16.
 Omitted
 CAG-17.
 Docket Nos. RP84-82-000 and 001, Tarpon Transmission Company
 CAG-18.
 Omitted
 CAG-19.
 Docket No. RP73-77-026, Alabama-Tennessee Gas Company
 CAG-20.
 Docket No. RP85-10-000, Columbia Gas Transmission Corporation
 CAG-21.
 Docket Nos. TA84-2-18-000, 001 and 002 (PGA84-2b), Texas Gas Transmission Corporation
 CAG-22.
 Docket No. RP81-47-000, Northwest Pipeline Corporation
 CAG-23.
 Docket Nos. RP81-47-003 and FA84-9-000, Northwest Pipeline Corporation
 CAG-24.
 Docket Nos. RP84-16-000, RP84-21-000 and RP84-86-000, Locust Ridge Gas Company
 CAG-25.
 Docket Nos. ST84-628-001, ST82-42-000 and ST82-95-002, Red River Pipeline
 CAG-26.
 Docket Nos. ST85-10-000, ST82-17-000 and 001, Cranberry Pipeline Corporation

CAG-27.
 Docket Nos. ST83-7-000 and 001, Chaparral Transmission, Inc.
 CAG-28.
 Docket Nos. ST81-412-002 and ST83-17-001, Pantera Energy Corporation
 CAG-29.
 Docket Nos. RI74-188-037 and RI75-21-032, Independent Oil & Gas Association of West Virginia
 CAG-30.
 Omitted
 CAG-31.
 Docket No. CP85-105-001, United Gas Pipe Line Company
 CAG-32.
 Docket No. CP85-83-000, Southern Natural Gas Company
 CAG-33.
 Docket No. CP84-573-000, Kentucky West Virginia Gas Company
 Docket No. CI84-498-000, Kepco, Inc.
 CAG-34.
 Docket Nos. CP84-691-000, CP84-692-000 and CP84-693-000, Northern Natural Gas Company, Division of Internorth, Inc.
 CAG-35.
 Docket No. CP81-511-000, Northern Natural Gas Company, Division of Internorth, Inc.
 CAG-36.
 Docket No. CP84-246-000, Florida Gas Transmission Company
 CAG-37.
 Docket No. CP83-247-001, Tennessee Gas Pipeline Company, A Division of Tenneco Inc.
 CAG-38.
 Docket No. CP85-137-000, Mississippi River Transmission Corporation
 CAG-39.
 Docket Nos. CP84-739-000, Southwest Gas Corporation
 CAG-40.
 Docket No. CP82-342-002, Consolidated Gas Company of Florida, Inc. v. Florida Gas Transmission Company

I Licensed Project Matters

P-1. (A)
 Project Nos. 4458-003 and 004, Middle Fork Irrigation District
 (B)
 Project Nos. 7306-001 and 002, Arnold Irrigation District and Gregory Hydro Resources, Inc.
 (C)
 Project Nos. 5865-001 through 005 and 007, David Cereghino
 (D)
 Project No. 6617-001, Olympus Energy Corporation
 Project Nos. 6231-002 through 006, Lester Kelley, et al.
 Project Nos. 6245-003 through 006, Lester Kelley, et al.
 Project Nos. 6267-002 through 007, Lester Kelley, et al.
 Project No. 5336-002, Western Power, Inc.
 Project No. 5341-002, Western Power, Inc.
 Project No. 5676-004, Lawrence J. McMurtrey
 Project No. 5829-001, Robert H. Sherman
 Project Nos. 6301-003, and 004, Woods Creek, Inc. and Murray-Pacific Corporation

Project No. 6348-002, Rainsong Company
 Project Nos. 6830-001, and 002, Woods Creek, Inc. and Burlington Northern Railroad Company
 P-2. (A)
 Project Nos. 5767-001 through 004, Pigeon Cove Power Company
 Project No. 3922-001, James E. White
 Project No. 4563-002, John R. and Maraget Le Moyné
 Project Nos. 4574-00, 002 and 003, Gail Marshall
 Project Nos. 4608-001, and 002, Richard Kaster
 Project No. 4826-001, Harold Pfeiffer
 Project No. 5006-001, Charles L. Woodman
 Project Nos. 5572-001 and 002, Cook Electric, Inc.
 Project Nos. 5673-001 Through 005, 5676-004, through 006, 6272-001, 002, 6391-001, 002, 003, 6247-001, 002, 6254-001, 002, 6670-002, 003, 6674-002, 003, 6683-002 and 003, Lawrence J. McMurtrey
 Project Nos. 5982-001 and 002, Robert B. Shipp
 Project No. 6124-001, American Energetech
 Project Nos. 6190-002 through 007, Mountain Gems Corporation
 Project No. 6410-001, K-W Company
 Project No. 6414-001, Douglas Water Power
 Project Nos. 6422-001, through 005, Harley D. Brown
 Project Nos. 6621-001 and 002, Cook Electric, Inc.
 Project No. 6634-001, TKO Power
 Project No. 6676-001, Doug Hall
 Project No. 4294-001, Desert Water Agency
 Project Nos. 5118-002 and 003, Glenn M. Phillips
 Project No. 5651-003, Aldrich and L.D. Bowler
 Project No. 6229-001, Reynolds Irrigation District
 Project No. 6250-002, Cogeneration, Inc.
 Project Nos. 2947-002 and 003, Central Vermont Public Service Corporation
 Project Nos. 5002-002 through 004, Mac Hydro-Power Company
 Project No. 5422-002, Blind Canyon Aquaranch
 Project Nos. 5902-003, 004 and 005, Frank Hooper
 Project Nos. 6444-001 and 002, Ringo Resources, Inc.
 Project Nos. 6460-001 and 002, Paul J. Daniels
 Project Nos. 6475-001 through 005, Frontier Land and Power Company
 Project Nos. 6905-001 and 002, T&G Hydro
 Project No. 6923-001, John C. Simmons
 Project No. 7016-001, City of Hailey, Idaho
 Project No. 7279-001, Howard P. Luckey
 Project No. 7465-001, John G. Pless, Sr.
 Project No. 5865-000, David Cereghino
 Project Nos. 6245-008, 009, 6267-007, 008, 6206-003, 004, 6246-003 and 004, Lester Kelley
 Project No. 3854-004, Idaho Renewable Resources, Inc.
 Project Nos. 6677-001 through 004, Intermountain West, Inc.
 Project Nos. 6720-002, 003, 6721-001, 002, 6722-002, 003, 6723-001, 002, 6738-001, 002, 6739-001, 002, 6740-001 and 002,

- Northwest Resources Generating Company
 Project Nos. 6944-001 and 002, Douglas Water Power Company
 Project Nos. 7182-001 through 005, Gerald L. and Lois R. Simms
 Project No. 7294-001, Delmer Wagner
 Project Nos. 7390-001 through 004, Harder Farms, Inc. and Scott Ranch
 Project No. 7549-002, Arlon Wagner
 Project Nos. 7577-001 and 002, Gene M. Peters
 Project Nos. 7719-001 and 002, Myron Jones
 Project No. 2031-002, City of Springfield, Utah
 Project No. 6362-002, Duane Hutton
 Project No. 7466-001, Oliver M. and Gail M. Cron
 Project No. 7865-001, Orville Nicholson
 Project Nos. 7881-001 and 002, Aquaculture Foundation, Inc.
 Project Nos. 7885-001 and 002, Fisheries Development Company
 Project No. 8120-001, William R. Maxwell
 Project No. 8153-001, Clarke N. Moore
 Project No. 8182-001, Henry E. and Barbara A. Shaffner
 Project Nos. 8250-001 and 002, Alan J. Amy
 Project Nos. 8262-001 and 002, Montana Natural Energy, Inc.
 Project No. 8275-001, Armstrong Keta, Inc.
 Project No. 8281-001 and 002, Western Hydro Electric, Inc.
 Project No. 8297-001, Richard H. Crockett and Gary A. Oakley
 Project No. 8488-002, Alternate Energy Resources, Inc.
 Project No. 7982-000, Donald A. Smith and Margaret E. Evans
 B) Project Nos. 6600-001 through 004, Eagle Power Company
 Project Nos. 3503-001 through 006, James B. Howell
 Project Nos. 3783-002 and 003, Rocky Brook Electric, Inc.
 Project Nos. 3908-002 and 003, Catalyst Slate Creek Hydro Electric
 Project Nos. 4283-002 and 003, Fred N. Sutter, Jr.
 Project Nos. 5069-001 through 003, Douglas S. Marr
 Project Nos. 5080-001 and 002, Donnie McFadden, et al.
 Project Nos. 5573-001 and 002, Cook Electric, Inc.
 Project No. 5646-002, Kenneth T. Meredith
 Project Nos. 5650-001 and 002, Gary and Catherine Wright
 Project No. 5652-001, George and Melvin Osborne
 Project Nos. 5731-001 and 002, Rocky Mountain Embryos
 Project Nos. 5978-001 and 002, Gary A. Cromwell
 Project No. 5979-001, W.A. and K.A. Powers
 Project Nos. 6057-001 and 002, F.L. and W.F. Plog
 Project No. 6062-001, Norma Ross and Mary E. Burgess
 Project No. 6117-001, city of Ephraim, Utah
 Project No. 6208-001, Trout Company, Inc.
 Project No. 6271-001, White Water Ranch
 Project Nos. 6283-001 through 003, G & B Water Users
 Project No. 6331-001, McGowan Properties
 Project No. 6367-001, Western Hydro Electric, Inc.
 Project Nos. 6437-001 through 004, Western Hydro Electric, Inc.
 Project No. 6443-001, T.L. and R.R. McCauley
 Project No. 6458-001, Everand Jensen
 Project Nos. 6501-001 and 002, James J. May, et al.
 Project No. 6555-002, John A. Webster, Jr.
 Project Nos. 6631-001 and 002, F. and C. Audette
 Project No. 6633-001, General Plastics Manufacturing Company
 Project No. 6636-001, Idaho Falls Family YMCA
 Project Nos. 6663-001 and 002, J.A. Moyle
 Project No. 6701-001, Frederick Lindauer
 Project No. 6802-001, Snowbird, Ltd.
 Project No. 7086-002, Confederated Salish and Kootenai Tribes, Flathead Reservation
 Project Nos. 3590-002, 003 and 005, Northern Resources, Inc.
 Project Nos. 4241-002 and 003, Hydro Development, Inc.
 Project Nos. 4435-002 and 003, Damnation Peak Power Company
 Project Nos. 4437-002 through 007, Glacier Energy Company
 Project Nos. 5130-002 and 003, Floyd N. Bidwell
 Project No. 5206-004, David H. Scott
 Project No. 5214-003, Hyder Hydro Company
 Project Nos. 5248-001 through 005, West Slope Power Company
 Project Nos. 5250-001 through 004, West Slope Power Company
 Project Nos. 5447-002 through 004, D. William Saulsberry
 Project Nos. 5554-002 and 003, Hurn Shingle Company
 Project Nos. 5585-001 through 005, Southern Pacific Land Company
 Project Nos. 5756-003 through 006, Resources Investments
 Project Nos. 5786-001 and 003, Frank C. Nicols
 Project Nos. 5861-001 through 003, West Slope Power Company
 Project Nos. 5862-001 through 003, West Slope Power Company
 Project Nos. 5871-001 through 004, Columbus Development Corporation
 Project Nos. 6029-001 and 002, Southern Pacific Land Company
 Project Nos. 6089-001 through 004, Rainsong Company
 Project Nos. 6092-001 through 006, Western Hydro Electric, Inc.
 Project Nos. 6151-001 through 007, Rainsong Company
 Project Nos. 6167-001 through 005, Ronald Rulofson
 Project Nos. 6262-001 and 002, Southern Pacific Land Company
 Project Nos. 6375-001 and 002, Russell Biggs, Sr.
 Project Nos. 6409-001 and 002, Southern Pacific Land Company
 Project Nos. 6450-001 and 002, Cogeneration, Inc.
 Project Nos. 6616-001 and 002, Olympus Energy Corporation
 Project Nos. 6661-001 through 005, Frontier Technology, Inc.
 Project Nos. 6764-001 through 004, BMB Enterprises
 Project Nos. 6765-001 through 003, BMB Enterprises
 Project No. 6788-001, Dan D. Hudson
 Project Nos. 6791-001, 002, 6792-001, 002, 6793-001, 002 and 6794-001, Stony Creek Hydro Company
 Project No. 6850-001, Water-Watts, Inc.
 Project Nos. 6920-002 and 003, DCH Development Company
 Project No. 6932-001, B.R. and C.E. Barkdull
 Project No. 6949-001, Pacific Lumber Company.
 Project Nos. 6959-001 and 002, Pacific Hydro, Inc.
 Project Nos. 6987-001 and 002, Roy F. Fulton
 Project No. 7006-001, Neocene Explorations
 Project Nos. 7057-001 and 002, Mega Hydro, Inc.
 Project Nos. 7077-001 and 002, Frontier Land & Power
 Project Nos. 7089-001 and 002, Alfred Tuefil Nursery
 Project Nos. 7097-001 and 002, Olympus Energy Corporation
 Project Nos. 7098-001 and 002, Olympus Energy Corporation
 Project Nos. 7192-001 and 002, Steven W. Picketts
 Project Nos. 7211-001 through 003, V.L. and F.L. Herzinger
 Project Nos. 7276-001 through 003, Donald S. Benson
 Project Nos. 7342-001 and 002, Manti City Corporation
 Project Nos. 7352-001 and 002, S.E. Ericson
 Project Nos. 7371-001 and 002, D.K. and F.S. Butler
 Project Nos. 7452-001 and 002, Resources Investments, Inc.
 Project Nos. 7530-001 through 003, William Arkoosh
 Project Nos. 7754-001 and 002, Thomas K. and Jody L. Budde
 Project Nos. 5338-002 through 006, and 5341-002 through 005, Western Power
 Project Nos. 5677-001 through 005, Swanson Mining
 Project Nos. 5829-001 through 004, Robert H. Sharman
 Project Nos. 6231-007 and 008, Lester Kelley, et al.
 Project Nos. 6301-001 through 006, Woods Creek, Inc. and MURRY-PAC
 Project Nos. 6340-002 through 005, Rainsong Company
 Project Nos. 6524-002 through 005, Hy-Tech Company
 Project Nos. 6611-001 through 005, Boulder River Power Company
 Project Nos. 6617-001 through 004, Olympus Energy Corporation
 Project Nos. 6830-001 through 005, Woods Creek, Inc. and Burlington
 Project Nos. 6154-004 through 006, David G. Demera
 Project No. 7010-002 Xenophon Enterprise, Inc.
 Project No. 7422-001, Paul N. Zeller
 Project Nos. 7804-001, 002, 7805-001 and 002, Gerald and Glenda OHS
 Project Nos. 6803-001 through 003, Snowbird, Ltd.

Project No. 4595-003 Hat Creek Hydro, Inc.
 Project Nos. 4627-003 through 005, Albert and Betty Hunt
 Project Nos. 5020-002, and 003, Mac Hydro-Power Company, Inc.
 Project No. 5108-002 Homestake Consulting and Investments, Inc.
 Project No. 5123-002, Mac Hydro-Power Company, Inc.
 Project Nos. 5545-003 and 004, Stephen J. Gaber
 Project Nos. 5792-002 through 004, Lawrence J. McMurtrey & Jay R. Bingham
 Project No. 5864-001, West Slope Power Company
 Project Nos. 6015-005 through 008, Charles D. Howard
 Project Nos. 6144-001 and 002, Castle Power Association
 Project Nos. 6205-001, 002 and 6215-001, Western Hydro Electric, Inc.
 Project Nos. 6251-001 and 002, A&J Construction, Inc.
 Project Nos. 6273-001 and 002, Western Hydro Electric, Inc.
 Project Nos. 6287-001 through 003, Rainsong Company
 Project Nos. 6297-001 through 004, and 6298-001 through 004, Alpine Power Company
 Project Nos. 6329-001 and 002, Intermountain Power Corporation
 Project Nos. 6359-001, Southern California Edison Company
 Project Nos. 6361-001, 002, 6388-002, 003, 6389-002, 6390-002, 003, 6393-002, 003, 6397-002 and 003, Lawrence J. McMurtrey
 Project Nos. 6402-001 and 002, Western Hydro Electric, Inc.
 Project Nos. 6403-001 and 002, Western Hydro Electric, Inc.
 Project Nos. 6408-002 and 003, Hydro-Cor
 Project Nos. 6434-001 and 002, Thomas A. Nelson
 Project Nos. 6435-001 and 002, Joseph B. Nelson
 Project Nos. 6448-001 and 002, Western Hydro Electric, Inc.
 Project Nos. 6628-001 through 003, Waterfall Electric, Inc.
 Project Nos. 6635-001 through 003, New Generation Power Company
 Project Nos. 6758-002 through 004, Holden Village, Inc.
 Project Nos. 6824-001 through 003, and 6825-001 through 003, Colenergy, Inc.
 Project Nos. 6839-003 Piedmont Camp Fire Council and Lake Vera Water Company
 Project Nos. 6840-001 through 003, Olympus Energy Corporation
 Project Nos. 6995-002, Patrick Funk
 Project Nos. 7111-002 and 003, Chris Williams
 Project Nos. 7120-001 and 002, Stewart Ranches, Inc.
 Project No. 7225-001 Little Salmon River Estates, Inc.
 Project No. 7315-002 Paul J. Daniels
 Project Nos. 7393-001 through 003, Alpine Power Company
 Project No. 7656-001, John A. Dodson
 Project Nos. 7806-001 and 002, Richard and Georgia Wilkinon
 Project No. 7864-001, Mac Hydro-Power Company

Project Nos. 7878-001 and 002, William A. Curtis
 Project Nos. 7930-001, 002, 7931-001 and 002, Larry Hensley
 Project Nos. 7940-001, and 002, Steven J. Gaber
 Project No. 7981-001, Merrill Bates, et al.
 Project No. 7982-001, Donald A. Smith and Margaret E. Evans
 Project Nos. 8013-001, through 003, Small Hydro East
 Project No. 8042-001, Rubi Hydro Partners
 Project No. 3912-003, City of Haines, Oregon
 Project Nos. 4599-002, through 004 and 4600-002 through 004, Steven J. Gaber
 Project No. 4792-006, Mac Hydro-Power Company, Inc.
 Project Nos. 5192-002, and 003, Lind Associates
 Project Nos. 5446-001, 5547-002, 003 and 004, Steven J. Gaber
 Project Nos. 6097-004, And 005, Douglas Regan
 Project Nos. 6451-002, and 003, Thornton N. Snyder
 Project Nos. 6468-002, North Hydro, Inc.
 Project Nos. 6488-003 through 005, Alternate Energy Resources, Inc.
 Project Nos. 6583-002 and 003, Mountain West Hydro, Inc.
 Project Nos. 7241-001 and 002, White Chuck Water Company
 Project Nos. 7258-001 through 004, China Flat Company
 Project No. 7537-001, George Arkoosh
 Project Nos. 7611-002 and 003, Iron Mountain Mines, Inc.
 Project No. 7623-002, D & D Stauffer, Inc.
 Project Nos. 7891-001 and 002, Frederick E. Pickering
 Project No. 7898-001, Snowmass Company
 Project Nos. 7944-001 through 003, Great Western Power & Light, Inc.
 Project No. 8082-001, John and June Cotten
 Project Nos. 8122-001 and 002, R&D Power Company
 Project No. 8152-001, town of Lake City
 Project Nos. 8191-001 and 8192-001, BMB Enterprises, Inc.
 Project No. 8202-001, Henry A. Young
 Project Nos. 8220-001 and 002, Wise Investments
 Project No. 8224-001, Merle Jore & His Sons
 Project Nos. 8230-001 and 002, Great Western Power & Light, Inc.
 Project Nos. 8250-001 and 002, Alan J. Amy
 Project No. 8253-001, William A. Worf and Frederick F. Burnell
 Project Nos. 8279-001 and 002, Big Wood Canal Company
 Project Nos. 8281-001 and 002, Western Hydro Electric, Inc.
 Project Nos. 8324-001 and 002, Marshall E. Saunders
 Project Nos. 8359-001 and 002, Chester and Irene Allen
 Project Nos. 4714-001 and 002, Forward Power and Energy Company
 Project No. 3580-002, Hi-Head Hydro, Inc.
 Project Nos. 3247-001 and 002, Henwood Associates
 Project No. 3948-002, Bailey Creek Ranch
 Project Nos. 4182-001 through 003, Cogeneration, Inc.
 Project No. 4658-001, Eugene J. McFadden

Project No. 4794-002, Robert I. Thompson
 Project No. 4769-002, S & S Limited Partnership
 Project No. 4949-001, Lewis Company PUD No. 1
 Project No. 5055-001, Richard E. Akin
 Project No. 5067-001, Tule River Indian Reservation
 Project No. 5306-002, Mega Hydro, Inc.
 Project No. 5955-001, Edward and Gwyneth Burgess
 Project No. 5991-002, Gordon Foster and Sarena Falls School
 Project No. 6142-002, Robert T. Suter
 Project No. 6168-001, Richard L. Bean and Fred G. Castagna
 Project No. 6364-001, Redwood Trails R.V. Park
 Project No. 6550-002, Frank M. Biber and Steven Spellenberg
 Project No. 6629-001, Thomas K. and Jody L. Budde
 Project No. 6952-001, McMillan Hydro Company
 Project No. 7591-001, James D. Cisco
 Project No. 6090-000, Rainsong, Company
 Project No. 5294-001, Hydro Resource Company
 Project No. 5324-000, Capital Development Company
 Project No. 5948-000, Public Utility District of Lewis County, Washington

P-3.
 Omitted

P-4.
 Project No. 2305-005, Sabine River Authority of Texas and Sabine River Authority, State of Louisiana

II. Electric Rate Matters

ER-1.
 Docket Nos. ID-2067-000 and EL83-12-000, John F. White
 ER-2.
 Omitted
 ER-3.
 Docket No. EL85-7-000, Texas-New Mexico Power Company v. El Paso Electric Company

Miscellaneous Agenda

M-1.
 Docket No. RM3-56-000, application for license, permit, or exemption from licensing for water power projects
 M-2.
 Reserved.
 M-3.
 Reserved
 M-4.
 Omitted
 M-5.
 Docket Nos. RM 84-6-015 through 026, refunds resulting from Btu measurement adjustment
 M-6.
 Docket No. GP80-5-003, Natural Gas Pipeline Company of America
 Docket No. GP80-20-002, Tennessee Gas Pipeline Company, a division of Tenneco Inc.
 Docket No. GP80-21-002, Texas Eastern Transmission Corporation
 Docket No. GP80-28-003, Trunkline Gas Company

Docket No. CP80-29-002, Florida Gas Transmission Company
 Docket No. CP80-31-002, Cities Service Gas Company
 Docket No. CP80-42-002, Sea Robin Pipeline Company

M-7.
 Docket Nos. RM83-72-001 through 009, first sales of pipeline production under section 2(21) of the Natural Gas Policy Act of 1978
 Docket Nos. RM82-16-001 through 009, first sales by affiliates

I. Pipeline Rate Matters

RP-1.
 Docket Nos. RP81-17-000 and RP81-57-002, Midwestern Gas Transmission Company
 RP-2.
 (A) Docket No. TA83-2-47-000, MGC, Inc.
 (B) Docket No. ———, MGPC, Inc.

II. Producer Matters

CI-1.
 Reserved

III. Pipeline Certificate Matters

CP-1.
 Docket No. CP84-386-000, ANR Pipeline Company
 CP-2.
 Docket No. CP85-57-000, Natural Gas Pipeline Company of America
 CP-3.
 Docket Nos. CP84-26-000 and 001, Mantaray Pipeline Company and Texas Eastern Pipeline Company

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-4659 Filed 2-21-85; 8:45 am]

BILLING CODE 6717-01-M

6

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: February 27, 1985, 2:00 p.m.

PLACE: 1776 G Street, NW., Washington, D.C., Conference Room C, Eighth Floor.

STATUS: Closed.

CONTACT PERSON FOR MORE

INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, D.C. 20013, (202) 789-4763.

MATTERS TO BE CONSIDERED:

Closed—Minutes of November 30, 1984.

Board of Directors' Meeting

Closed—President's Report

Closed—Financial Report

Date sent to Federal Register: February 21, 1985.

Maud Mater,

Secretary.

[FR Doc. 85-4596 Filed 2-21-85; 8:45 am]

BILLING CODE 6720-02-M

7

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Forwarded to the Federal Register on February 19, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Wednesday, February 27, 1985, Open; 11:30 a.m. Closed.

CHANGES IN THE MEETING: The open and closed meetings have been cancelled and rescheduled to Friday, March 1, 1985. The open meeting will begin at 10:00 a.m. and the closed at approximately 11:30 a.m.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: February 21, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-4616 Filed 2-12-85; 12:51 pm]

BILLING CODE 6210-01-M

8

POSTAL SERVICE BOARD OF GOVERNORS; MEETING

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 C.F.R. Section 7.5) and the Government in the Sunshine Act (5 U.S.C. Section 552b), hereby gives notice that it intends to hold meetings at 1:00 p.m. on Monday, March 4, 1985, in Washington, D.C., and at 8:30 a.m. on Tuesday, March 5, 1985, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW.,

Washington, D.C. As indicated in the following paragraph, the March 4 meeting is closed to public observation. The March 5 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

At its meetings on February 4-5, 1985, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for March 4. (See 50 FR 6425, February 15, 1985.)

The meeting will involve a discussion of personnel matters and labor relations.

Agenda

Monday Session, March 4, 1985—1:00 p.m. (Closed)

1. Discussion of Personnel Matters.
1. Discussion of Labor Relations.

Tuesday Session, March 5, 1985—8:30 a.m. (Open)

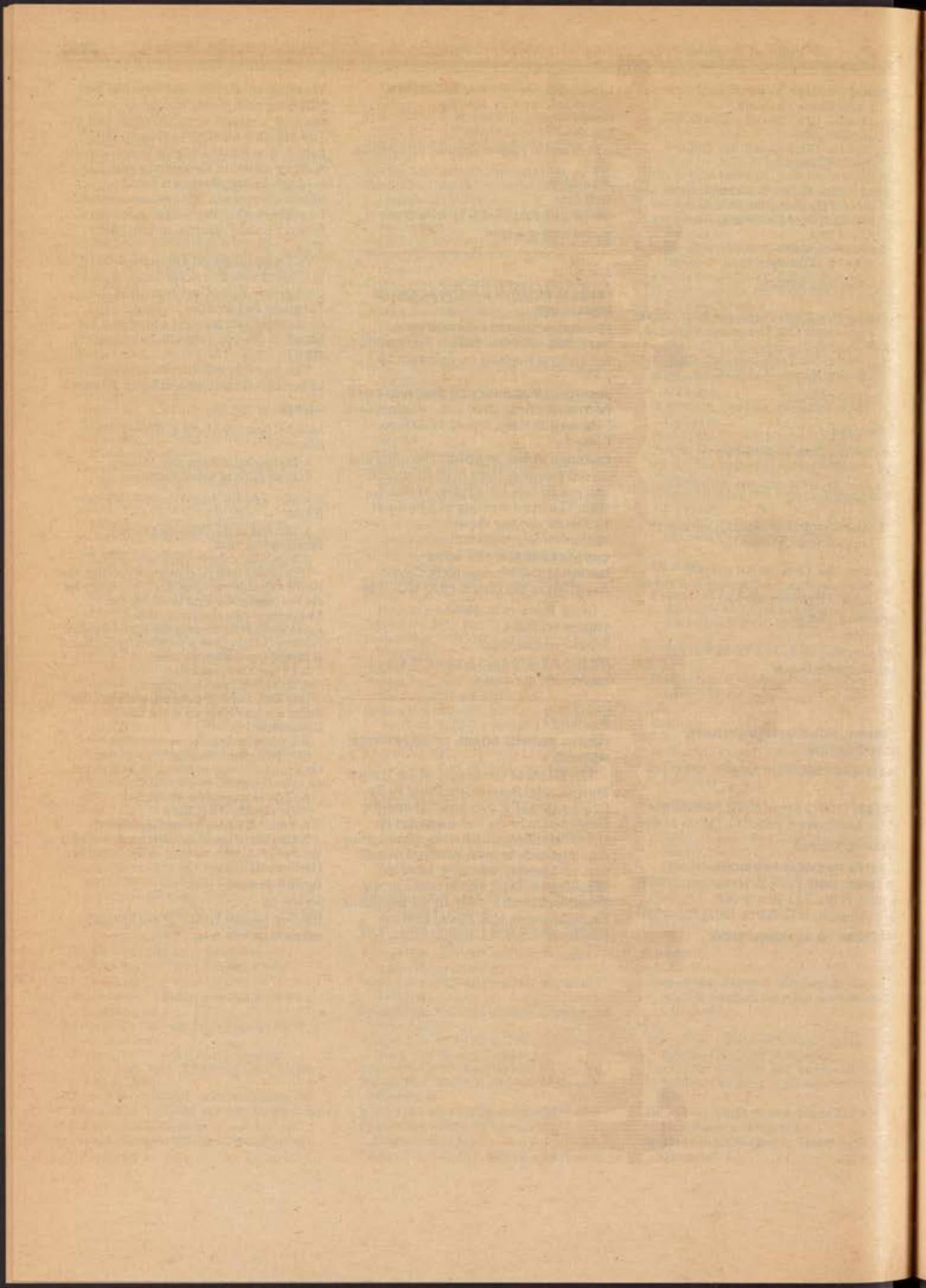
1. Minutes of the Previous Meeting, February 4-5, 1985.
2. Remarks of the Postmaster General.
 (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the Members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)
3. Officer Compensation.
4. Report on Law Department.
 (Mr. Cox, General Counsel, will brief the Board on developments in the Law Department.)
5. Update on Legislative Activities.
 (Mr. Johnstone, Assistant Postmaster General, Government Relations, will report on current legislative activities.)
6. Capital Investment Project:
 a. Fort Smith, AR (GMF).
 b. Provo, UT (mail processing annex).
7. Consideration of a Tentative Agenda for the April 1-2, 1985, meeting of the Board in Hartford, CT.

David F. Harris,

Secretary.

[FR Doc. 85-4641 Filed 2-21-85; 2:52 pm]

BILLING CODE 7710-12-M



Federal Register

Monday
February 25, 1985

Part II

Environmental Protection Agency

40 CFR Part 60

**Standards of Performance for New
Stationary Sources; Wool Fiberglass
Insulation Manufacturing; Final Rule**

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2741-6]

Standards of Performance for New Stationary Sources; Wool Fiberglass Insulation Manufacturing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: A standard of performance for wool fiberglass insulation manufacturing was proposed in the *Federal Register* on February 7, 1984 (49 FR 4590). This action promulgates the standard of performance for wool fiberglass insulation manufacturing and Reference Method 5E. The standard applies to new, modified, and reconstructed wool fiberglass insulation manufacturing lines for which construction was commenced after February 7, 1984. The standard implements section 111 of the Clean Air Act and is based on a determination that fiberglass manufacturing causes or contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of the standard is to require all new, modified, and reconstructed wool fiberglass insulation manufacturing lines to control emissions to the level achievable through use of the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impacts, and energy requirements.

EFFECTIVE DATE: February 25, 1985.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings initiated to enforce these requirements.

Incorporation by Reference. The incorporation by reference of certain publications in these standards will be approved by the Director of the Federal Register as of the date of publication of the final rule.

ADDRESSES: Background Information Document. No background information document (BID) for the promulgated standard has been prepared. This preamble contains (1) a summary of the public comments made on the proposed

standard along with the responses to the comments, and (2) the final Environmental Impact Statement that summarizes the impact of the standard.

Docket. Docket number A-80-27, containing information considered in development of the promulgated standard, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Ms. Shirley Tabler, (919) 541-5624, Standards Development Branch, concerning the standard and Mr. Kenneth Durkee, (919) 541-5595, Industrial Studies Branch, concerning technical aspects of the industry. The address for both parties is Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

The Standard

Standards of performance for new sources established under section 111 of the Clean Air Act reflect:

... application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determined has been adequately demonstrated [Section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

The promulgated standard would limit particulate emissions from new, modified, or reconstructed wool fiberglass insulation manufacturing lines that use the rotary spin forming process. The specific unit to which the standard applies, referred to as the "affected facility," is the manufacturing line. The manufacturing line is defined to include the equipment comprising the forming section, where molten glass is fiberized and a fiberglass mat is formed; the curing section, where the binder resin in the mat is thermally "set;" and the cooling section, where the mat is cooled.

Construction, reconstruction, or modification of the wool fiberglass insulation manufacturing line must have commenced after February 7, 1984 (date of proposal) for the standard to be applicable. Existing facilities are not subject to the standard unless modified or reconstructed as defined in 40 CFR 60.14 or 60.15.

The particulate mass emission limit is 5.5 kg/Mg (11.0 lb/ton) of molten glass used to manufacture the product. This limit is based on the demonstrated performance of a wet electrostatic precipitator (ESP) preceded by water sprays and a low-pressure-drop wet scrubber to control total particulate emissions from the manufacturing line. This limit would apply during the production of any wool fiberglass insulation product.

A wet ESP preceded by water sprays and a low-pressure-drop wet scrubber was determined to be BDT for this industry based on an analysis of emission test results, costs, and environmental and energy impacts. However, this is a standard of performance and does not require the use of specific control equipment. Any control technique that would meet the emission limit could be used.

If a wet control device (wet ESP or wet scrubber) is used by an owner or operator of an affected facility to meet the particulate emission limit, the standard would require measurement and recording of certain control device operating parameters to indicate when maintenance of the control device is required. For wet ESP's the owner or operator would be required to measure and record the following: voltage and amperage in each electrical field and wash water flow rate. In addition, daily determination of the total solids content of the wash water entering the ESP would be required. For wet scrubbers, the owner or operator of an affected facility would be required to measure and record the operating pressure drop and scrubbing liquid flow rate. The owner or operator of an affected facility who uses a wet control device to meet the emission limit would be required to submit semiannual reports to the EPA of any monitoring data that are less than 70 percent of the lowest value or greater than 130 percent of the highest value of each operating parameter recorded during the most recent performance test. The owner or operator would also be required to calibrate each monitoring device on a quarterly basis and submit semiannually documentation of, and a report of corrective maintenance required as a result of, quarterly calibrations of monitoring devices. These data and the performance test data collected in determining a facility's compliance with the standard must be retained at the source for a period of 2 years.

The test method for determining compliance with the standard for particulate emissions will be Reference Method 5E. Reference Method 5E is a

variation of Reference Method 5 that determines the amount of material caught in the front half (nozzle, probe, and filter) of an EPA Reference Method 5 sampling train plus the amount of condensed particulate material caught in the impinger train as determined by measuring total organic carbon (TOC) using a TOC analyzer. Reference Method 5E will be used for determining compliance because it reflects the performance of BDT for this industry more accurately than does Reference Method 5. Reference Method 5E is being promulgated along with the standard.

Since proposal, a minor technical adjustment to ensure that the sample collection portion of the sampling train is free of organic solvent before sampling has been incorporated into Method 5E. The method now notes that after rinsing with an organic solvent, the sampling apparatus must be flushed with water or dilute NaOH or, for nonwater soluble solvents, the apparatus must be dried in an oven.

Summary of Environmental, Energy, and Economic Impacts

There has been no change in the environmental, energy, economic, or urban and community impacts since proposal. These impacts are discussed in detail in Chapters 7, 8, and 9 of "Wool Fiberglass Insulation Manufacturing—Background Information for Proposed Standards," (EPA-450/3-83-022a) (BID).

The environmental, energy, and economic impacts of the standard were estimated based on conditions that would exist in the absence of the standard. These conditions are referred to as the baseline. The estimates of these impacts are presented below for a "typical" new wool fiberglass insulation manufacturing plant that installs wet ESP controls to meet the standard. The results of the impact analysis for facilities other than the typical new plant may be found in the BID and in docket item II-B-50 of docket A-80-27. Also presented below are the industry-wide impacts in the fifth year after the standard is proposed. This information is included to provide an indication of the longer term impacts of the standard but is not meant to imply that the benefits or impacts of the standard are limited to 5 years.

Environmental Impacts

A typical (medium size) manufacturing plant contains three production lines and produces 104,300 Mg (115,000 tons/yr) of insulation per year. This plant would emit 1,650 Mg/yr (1,820 tons) of particulate matter if it were controlled to the baseline level, which is assumed to be the degree of

control required by a typical State implementation plan (SIP). Implementation of the proposed standard would reduce particulate emissions from the typical plant by about 1,075 Mg/yr (1,185 tons/yr), or 65 percent, to about 575 Mg/yr (635 tons/yr).

It is projected that the equivalent of 3 new medium-size wool fiberglass insulation manufacturing plants (each containing 3 production lines) and 17 new medium-size production line additions or replacements at existing plants will be constructed in the 5-year period from 1984 to 1989. In the absence of the standard, it is estimated that new facilities constructed from 1984 to 1989 and controlled to the level required by a typical SIP would emit approximately 14,200 Mg (15,660 tons) of particulate matter in the fifth year (1989). Implementation of the standard would reduce particulate emissions from these wool fiberglass insulation manufacturing facilities by approximately 9,250 Mg (10,200 tons) to 4,950 Mg (5,460 tons) in 1989.

For a typical plant, implementation of the proposed standard would increase solid waste production by approximately 1,080 Mg/yr (1,190 tons/yr). Implementation of the standard would result in an increase in solid waste production nationwide over baseline levels of approximately 9,240 Mg (10,190 tons) in the fifth year after the standard is proposed. This waste is not hazardous and would be deposited in landfills.

No impact on water quality is expected from implementation of the standard because standards of performance for new sources (as determined under the Clean Water Act) allow no discharge of process wastewaters to navigable waterways (40 CFR Part 426). The costs of treating wastewater from the air pollution control equipment are included in the capital and annualized costs of pollution control equipment described below.

A review of the environmental impacts discussed in the proposal BID indicated that no changes were necessary, and therefore, the impacts remain unchanged since proposal. This review constitutes the final Environmental Impact Statement.

Energy Impacts

For a typical plant, implementation of the proposed standard would decrease energy demand by approximately 114 terajoules per year (TJ/yr) (1.1×10^{11} Btu/yr) relative to a plant controlled to baseline levels. Implementation of the standard would decrease the national energy demand below baseline levels by

approximately 1,300 TJ (1.2×10^{12} Btu) in the fifth year after proposal. This decrease in energy demand occurs because baseline control technology, which includes the use of thermal incineration, requires more energy than does the technology on which the standard is based.

Economic Impacts

The capital and annualized costs for air pollution controls for a typical plant required to meet a typical SIP emission level are \$3.1 million and \$2.0 million, respectively. The total capital and annualized costs for air pollution controls that would be incurred by the same plant to comply with the standard would be \$7.7 million and \$2.5 million, respectively. Therefore, compliance with the standard would require an increase in capital expenditures for control equipment of \$4.6 million and an increase in annualized control costs of \$0.5 million for a typical wool fiberglass insulation manufacturing plant. The total capital and annualized costs of control equipment used to meet the standard would represent 9 percent and 3 percent, respectively, of the initial capital and annualized costs of the manufacturing plant. Capital costs for industry compliance with the standard over the first 5 years would be \$41.4 million above the baseline capital costs. Fifth-year annualized costs for industry compliance would be \$3.1 million above baseline annualized costs. These costs are based on achieving the standard with only the use of add-on control devices. However, many facilities are expected to use process modifications to achieve or help achieve the standard. Thus, the estimated economic impacts are overstated, and most facilities are expected to incur lower costs to achieve the standard.

The additional emission control costs of the standard would not be expected to have any impact on expansion in the wool fiberglass insulation manufacturing industry because it is expected that firms would pass all costs associated with implementation of the standard through to the consumer. Assuming the costs of the standard are passed through, it is estimated that the price of wool fiberglass insulation could increase by 0.63 percent as a result of implementation of the standard. This increase would raise the estimated cost to insulate a 139 m² (1,500 ft²) wood frame house by approximately \$14.

Other Considerations

The regulatory alternatives investigated during development of the wool fiberglass insulation

manufacturing NSPS are discussed in detail in Chapter 6 of the proposal BID. These regulatory alternatives reflect the different levels of emission control from which one alternative is selected that represents the best demonstrated technology, considering costs, nonair quality health, and environmental and economic impacts, for the wool fiberglass insulation manufacturing industry. No changes have been made to these alternatives since proposal. The regulatory alternatives would not preclude the development of future control options nor would they curtail any beneficial use of resources. The alternatives do not involve short-term environmental gains at the expense of long-term environmental losses, and the alternatives yield successively greater short- and long-term environmental benefits. Further, none of the alternatives result in the irreversible and irretrievable commitment of resources. No change in these considerations has resulted since proposal of the standard.

Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the *Federal Register* (48 FR 12825, March 28, 1983) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the Wool Fiberglass Insulation Manufacturing NSPS recommended for proposal. This meeting was held on April 26, 1983. The meeting was open to the public and each attendee was given an opportunity to comment on the standards recommended for proposal. The proposed standards were published in the *Federal Register* on February 7, 1984 (49 FR 4590). The preamble to the proposed standards discussed the availability of the BID, "Wool Fiberglass Insulation Manufacturing—Background Information for the Proposed Standards," EPA-450/3-83-22a, which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal and, when requested, copies of the BID were distributed to interested parties. No public hearing was held because no hearing was requested. The public comment period was from February 7, 1984, to April 23, 1984.

One written comment, which addressed several issues, was received from the New Jersey Department of Environmental Protection (docket entry IV-D-1). All of the issues raised in the comment were carefully considered; however, no changes have been made to the proposed standard.

Responses to Comments on the Proposed Standard

A detailed discussion of the issues raised in the comment and the Agency's responses are summarized in this preamble under the following five topics: Selection of Best Demonstrated Technology, Selection of Emission Limits, Selection of Baseline, Selection of Pollutants, and Test Methods.

Selection of Best Demonstrated Technology

Commenter IV-D-1 believes that the EPA should consider process modifications, in addition to add-on control devices, in the determination of BDT. The commenter states that there are two categories of process modifications (those that produce a return on investment and those that do not) and that modifications in both categories reduce emissions. The commenter believes it is reasonable to assume that process modifications that produce a return on investment (e.g., efficient rotary spinners, modified resins, and efficient binder spray applicator systems) would be used on any new production lines. However, the use of process modifications that do not produce a return on investment (e.g., use of advanced resins) would be discouraged by the proposed standard.

As explained in the preamble to the proposed standard (49 FR 4593), the Agency did consider the use of process modifications in the determination of BDT for the wool fiberglass insulation manufacturing industry. The Agency agrees that use of these modifications, alone or in combination with add-on control devices, can achieve lower emissions than those allowed by the standard. However, process modifications are considered confidential by the companies that comprise the fiberglass industry and are not generally available to the entire industry. For these reasons, and because the emission reduction potential of individual process modifications is very difficult to measure, the effect of one or more process modifications on emissions, by themselves or in combination with add-on control devices, could not be assessed. Even if this were not the case, because of different design, operating, and product specifications, process modifications that are applicable to one plant may not be a feasible alternative for another plant. Also, the relationship between known process modifications and reductions in air emissions has proven difficult to determine. Even in cases where an emission reduction is expected, these modifications may not

always reduce air emissions. For these reasons, the Administrator has determined that process modifications are not an appropriate candidate for BDT in this industry.

The promulgated standard is not expected to discourage the use of any process modifications that the commenter believes do not produce a direct return on investment. If modifications can help achieve the standard, thereby eliminating the need for or reducing the required size (and, thus, cost) of the add-on control device (which also does not provide a return on investment in this industry), the modifications are expected to be used.

Selection of Emission Limits

Commenter IV-D-1 believes that the EPA, in determining the emission level of the standard, used the highest particulate emission level (5.1 kg/Mg) from a single test run at the worst-controlled line tested (A) and added 10 percent to that figure, which the Agency then considered representative of the performance of BDT. The commenter believes that this worst-case condition of demonstrated technology is not appropriate as the basis for the standard. The commenter recommends an emission limit of 2.2 kg/Mg, which would be based on the average emission levels from three lines (B, D, and L) that use process modifications to achieve some emission reduction in addition to the emission reduction achieved by add-on control devices.

In establishing emission limits, sources that are believed to be representative of modern practice in one or more segments of the industry to be regulated are selected for emission testing. Moreover, the operational status of the source is documented and monitored continuously during testing to ensure that the test data reflect an emission control level representative of BDT. Standards are generally set so that well-designed, operated, and maintained plants, using BDT, can achieve the standards over the range of conditions likely to recur in the industry.

As stated in the proposal preamble (49 FR 4597), the proposed 5.5 kg/Mg (11.0 lb/ton) emission limit was based on measured emissions from Line A. Line A met all of the above criteria for selecting a source for emission testing and was controlled with a commercially available wet ESP. Lines B, D, and L, although well-designed, operated, and maintained, used process modifications that are not generally available for use or that may not be feasible for all plants. Although the average of three test runs could have been considered as the basis

for establishing an emission level for an NSPS and is used to determine compliance with standards, the highest single test run at Line A was used as the basis of the wool fiberglass insulation manufacturing standard. This procedure ensured that the standard would be achievable under all normal operating conditions. The Administrator determined that this procedure was appropriate because of the large variation in test results that occurred between different products manufactured on the same line and between different lines producing the same product. The highest emission level measured under typical operating conditions was 5.1 kg/Mg (10.2 lb/ton) at Line A, which included uncontrolled cooling emissions of 0.1 kg/Mg (0.2 lb/ton). However, Line D had an uncontrolled cooling emission level of 0.3 kg/Mg (0.6 lb/ton). Thus, it is possible that a line could have a total emission level of at least 5.3 kg/Mg (10.8 lb/ton). The 5.5 kg/Mg (11.0 lb/ton) standard is believed to be achievable for all lines, including those that do not control cooling emissions. In the Administrator's judgment, a standard set at the level suggested by the commenter would not necessarily be achievable by a facility controlled with technology similar to that used at line A.

Selection of Baseline

Commenter IV-D-1, after reviewing the wool fiberglass insulation regulations from the 14 States and air quality control regions presented in Table 3-10 of the BID, calculated the allowable emissions for the typical (medium size) plant (115,000 tons of insulation produced per year) specified by the EPA and determined that:

a. The highest allowable total particulate emission rate (Texas) is 1,367 tons per year;

b. The lowest allowable total particulate emission rate (New Jersey) is 255 tons per year; and

c. The average allowable total particulate emission rate is 593 tons per year.

The commenter concluded that the baseline level of control (1,820 tons of particulate matter per year) presented in the proposal preamble (49 FR 4590) is erroneous and that the commenter's calculated baseline (593 tons of particulate matter per year) is correct and should be used as the basis for environmental, energy, and economic impacts. The commenter points out that the proposed EPA standard would allow 635 tons of particulate matter to be emitted per year, and, thus, the standard is stricter than only one of the State standards presented in the BID. The

commenter, therefore, believes the proposed standard does not reflect most of the existing technology.

Determining baseline emissions from wool fiberglass insulation manufacturing plants directly from the State regulations is inappropriate because a different test method was used in developing the standard than was used to determine allowable SIP emission limits. This modified test method is the reference method for determining compliance with the standard of performance for wool fiberglass insulation manufacturing plants. Most State regulations are based on a "front-half catch" test method and the standard is based on a test method that measures total catch. The total catch test method was developed and proposed along with the standard to account for certain factors that are peculiar to the wool fiberglass insulation manufacturing industry.

The typical wool fiberglass production line consists of three continuous operations in series: Forming, in which glass fibers are generated, sprayed with a chemical binder, and collected to form a mat; curing, in which the binder resin is thermally "set" to hold the fibers together; and cooling, in which the temperature of the fiberglass mat is reduced. Emissions generated during the manufacture of wool fiberglass insulation include solid particles of glass and resin, droplets of binder, and components of the binder that have been vaporized. Glass particles may be entrained in the exhaust gas stream during the forming, curing, or cooling operations. Solid particles of resin may be entrained in the gas stream in either the curing or cooling sections. Droplets of organic binder may be entrained in the gas stream in the forming section or may result from condensation of gaseous pollutants as the gas stream is cooled. Some of the liquid binder used in the forming section is vaporized by the elevated temperatures in the forming and curing processes. Much of the vaporized material will condense when the gas stream is cooled in the ductwork, in the emission control device, or upon release to the atmosphere.

Particulate matter is the principal pollutant that has been identified and measured at wool fiberglass insulation manufacturing facilities. It was known that some fraction of the particulate emissions results from the condensation of organic compounds used in the binder. Therefore, in evaluating emissions and control device performance, a sampling method was used that could collect and measure both solid particles and condensable

particulate material. Test data show that 10 to 47 percent of the particulate emissions from wool fiberglass facilities are condensed particulate material, which were in a gas phase at the test sampling site. Test data also show that emissions of both solid particles and condensable particulate material can be effectively reduced by using certain control techniques. Therefore, the standard would limit particulate emissions based on the measurement of both solid particles and condensable particulate material. Specifically, particulate matter as regulated under the standard includes material caught in the front half (nozzle, probe, and filter) of a standard EPA Reference Method 5 sampling train plus the condensed material caught in the impinger train measured as total organic carbon (TOC).

The Reference Method 5E sampling train is a modified version of the standard Reference Method 5 sampling train. The modifications include maintaining the temperature of the filtered gas stream, rather than the filter compartment air temperature, at $120 \pm 14^\circ\text{C}$ ($248 \pm 25^\circ\text{F}$) and the use of 0.1 N sodium hydroxide (NaOH) instead of water in each of the first two impingers. The first modification ensures that the sample gas stream is maintained at the desired temperature to prevent the condensation of material on the probe and filter. The second modification improves the capture efficiency of the impingers because the solubility of many organic compounds is greater in dilute NaOH than in water. The condensable emission captured by the impingers are measured as TOC using a TOC analyzer.

Total particulate catch (filter catch plus condensable fraction) is recommended as the test method because it best assesses performance that reflects the use of BDT for this industry. Wet control devices can effectively reduce the levels of solid and condensable particulate matter present in the emission stream from wool fiberglass insulation manufacturing facilities. However, because of the high moisture content of the exhaust gas stream from wet control devices, the sample gas stream must be heated to a temperature considerably higher than that of the exhaust gas stream to vaporize the water droplets and prevent clogging of the front half of the sampling train. This heating may also vaporize compounds that are aerosols at the stack gas temperature. These vaporized compounds are then cooled to a temperature below that of the exhaust gas stream and are condensed and collected in the impinger train.

For the above reasons, using State regulations to determine baseline emissions does not accurately portray the total emissions emitted by wool fiberglass insulation plants. Therefore, another method to determine the baseline emission level was developed. This method is mentioned in the proposal preamble (49 FR 4593) and is described completely on pages 3-25 and 3-29 in the BID for the proposed standard. To establish the baseline, it was assumed that the most frequently used control devices currently in use would be installed to comply with SIP's. Control devices that are currently used in the industry and the efficiencies of these devices were found by surveying operating fiberglass production lines. The most common control device found on the forming process was a low-pressure-drop scrubber, which was assumed to have an efficiency of 50 percent. The curing process was most commonly equipped with a low-temperature incinerator that was used to limit visible emissions but had no effect on mass emissions. The cooling process typically was uncontrolled. The results from the survey were used with the uncontrolled emission data from the testing program to determine baseline emissions. This approach is representative of emissions presently occurring under State regulations on a total catch basis.

Selection of Pollutants

Commenter IV-D-1 believes that, rather than defining and regulating phenol and formaldehyde as condensibles in the particulate standard, phenol and formaldehyde monomers should be regulated separately as volatile organic compounds (VOC). To support this recommendation, the commenter points out that the organic emissions from the wool fiberglass insulation industry are well defined and the use of phenol-formaldehyde resins is almost universal. Furthermore, the commenter points out that phenol and formaldehyde emissions can cause odor problems around manufacturing sites, both compounds have relatively low threshold limit values (TLV), and formaldehyde is a suspect carcinogen.

The Agency's goal is to establish a standard that reflects the performance of BDT for control of emissions from fiberglass plants. As described in the previous comment, the Agency focused on pollutants that occur in particulate and condensible forms. However, the Agency is not attempting to identify each condensible compound for possible individual regulation. Phenol and formaldehyde comprise only a portion of the total condensibles, and the standard

will result in some reduction in these emissions with the use of BDT. The Agency, at this time, has not identified a health or other problem that would warrant singling out phenol or formaldehyde air emissions from wool fiberglass insulation manufacturing facilities for regulation as individual pollutants.

Formaldehyde has recently been designated as a priority pollutant under the Toxic Substances Control Act and is being considered for investigation under section 112 of the Clean Air Act. If a decision were made to list formaldehyde under section 112, the formaldehyde test data collected during the test program can be used in the future.

Incineration, which is the only demonstrated technology that has been used to control these compounds fully, was not found to be cost effective for particulate matter control for this industry during development of the standard (approximately \$6,100 per ton of pollutant removed). However, the EPA recognizes that local considerations pertaining to visible emissions or odors may warrant the use of such equipment on a case-by-case basis.

Test Methods

Commenter IV-D-1 believes that measuring phenol and formaldehyde as TOC by Reference Method 5E is inappropriate because the total amount of phenol and formaldehyde in the sample is not accurately represented by measuring TOC and because all other particulates in the impingers are ignored. The commenter believes that the analysis of phenol should be by the 4-amino-antipyrine method and that formaldehyde should be collected in a 1-percent sodium bisulfite solution and analyzed by the chromotropic acid method.

The testing method was not designed to measure phenol or formaldehyde specifically. The testing method is the best approach to determine the total particulate catch (filter catch plus condensible fraction) in a sample. This total catch method more accurately represents BDT than does Reference Method 5, and it is the method upon which the standard is based. During the testing program, the Agency did explore the commenter's recommended approaches for measuring phenol and formaldehyde (see Appendix D of the proposal BID); however, unquantified phenol interference occurred with the chromotropic acid method. If these emissions do require control in the future, the test methods proposed by the commenter for these compounds will be

considered further as possible approaches.

Paperwork Reduction Act

Three types of reporting would be associated with the standard. First, there would be notification requirements, which would inform enforcement personnel of facilities subject to the standard. Second, there would be reporting of the results of performance tests that would be conducted to determine compliance with the standard. These reports are required by the General Provisions of 40 CFR Part 60, which apply to all standards of performance. Third, a report would be required documenting calibration of monitoring devices and control device operating parameters that are less than 70 percent of the lowest value or greater than 130 percent of the highest value of each operating parameter recorded during the most recent performance test. This report would be required on a semiannual basis. In addition, any owner or operator subject to the standard would have to maintain the operating log of key operating parameters in a form suitable for inspection.

Based on the information collection requirements analysis, the resources needed by the industry to maintain records and to collect, prepare, and use the reports for the first 3 years would be about 2.4 person-years per year. This estimate is based on 2 new plants and 10 new lines becoming subject to the NSPS in the first 3 years the standard is in effect. The resources required by government agencies to process and maintain records for the first 3 years would be about 0.16 person-years per year.

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires that the Office of Management and Budget (OMB) approve reporting and recordkeeping requirements that qualify as an "information collection request" (ICR). Information collection requirements associated with this regulation (40 CFR 60.7 and 60.8) have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3101 *et seq.*, and have been assigned OMB Control Number 2060-0062.

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify readily and locate documents so that

they can effectively participate in the rulemaking process; and (2) to serve as the record in case of judicial review, except for interagency review materials [Section 307(d)(7)(A)].

Miscellaneous

The effective date of this regulation is February 25, 1985. Section 111 of the Clean Air Act provides that standards of performance or revision thereof become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal (February 7, 1984).

As prescribed by Section 111 of the Clean Air Act, as amended, establishment of a standard of performance for this source category is based on the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that fiberglass manufacturing contributes significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this promulgated standard was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standard to ensure that cost was carefully considered in determining BDT. The economic impact assessment is included in the proposal BID. There have been no changes in the economic impact assessment since proposal.

In addition to economics, the cost effectiveness of each regulatory alternative was evaluated to determine the least costly way to reduce emissions and to assure the controls required by this rule are reasonable. For the purposes of the economic impact assessment, four regulatory alternatives were identified. Regulatory Alternative III, selected as the basis for the

standard, achieved the greatest emission reduction at the least cost. In 1989, the standard is expected to result in a reduction of emissions from the projected 3 new manufacturing plants and 17 new manufacturing lines by 9,250 Mg (10,200 tons) per year. The annualized costs for emissions control equipment would increase by about \$3,100,000 over baseline requirements to achieve this emission reduction. Thus, the cost effectiveness of the standard would be \$335 per Mg (\$304 per ton) of particulate matter removed.

Under Executive Order 12291, the EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation is not major because: (1) The national annualized compliance costs, including capital charges resulting from the standard, total less than \$100 million; (2) the standard does not cause a major increase in prices or production costs; and (3) the standard does not cause significant adverse effects on domestic competition, employment, investment, productivity, innovation, or competition in foreign markets. This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to the EPA and any EPA response to those comments are included in Docket A-80-27. This docket is available for public inspection at the EPA's Central Docket Section that is listed under the ADDRESSES section of this notice.

Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act of 1980 (RFA) requires consideration of the impacts of regulations on small businesses. The guidelines for conducting a regulatory flexibility analysis define a small business as "any business concern which is independently owned and operated and not dominant in its field as defined by the Small Business Administration Regulations under section 3 of the Small Business Act." The Small Business Administration has determined that any firm classified in SIC 3296 (which includes wool fiberglass insulation manufacturing facilities) that employs less than 750 workers will be considered small in regard to the Small Business Act. None of the five firms in this industry qualify as a small business because each employs more than 750 workers. Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic

impact on any small entities because no small entity is affected.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by reference, Can surface coating, Sulfuric acid plants, Industrial organic chemicals, Organic solvent cleaners, Fossil fuel-fired steam generators, Fiberglass insulation, Synthetic fibers, Lime.

Dated: February 12, 1985.

Lee M. Thomas,
Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. Section 60.17 of Subpart A is amended by adding paragraphs (a)(45) and (e) as follows:

§ 60.17 Incorporation by reference.

(a) * * *

(45) ASTM D2584-88, Standard Test Method for Ignition Loss of Cured Reinforced Resins, IBR approved February 25, 1985 for § 60.685(e).

(e) The following material is available for purchase from the Water Pollution Control Federation (WPCF), 2626 Pennsylvania Avenue NW., Washington, D.C. 20037.

(1) Method 209A, Total Residue Dried at 103-105 °C, in *Standard Methods for the Examination of Water and Wastewater*, 15th Edition, 1980, IBR approved February 25, 1985 for § 60.683(b).

(2) [Reserved]

2. Subparts III through OOO are reserved, and a new Subpart PPP is added as follows:

Subparts III through OOO—[Reserved]

Subpart PPP—Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants

Sec.

60.680 Applicability and designation of affected facility.

Sec.

- 60.681 Definitions.
 60.682 Standard for particulate matter.
 60.683 Monitoring of operations.
 60.684 Recordkeeping and reporting requirements.
 60.685 Test methods and procedures.

Authority: Sections 111 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

Subparts III through OOO—[Reserved]

Subpart PPP—Standard of Performance for Wool Fiberglass Insulation Manufacturing Plants

§ 60.680 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each rotary spin wool fiberglass insulation manufacturing line.

(b) The owner or operator of any facility under paragraph (a) of this section that commences construction, modification, or reconstruction after February 7, 1984, is subject to the requirements of this subpart.

§ 60.681 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in Subpart A of this part.

"Glass pull rate" means the mass of molten glass utilized in the manufacture of wool fiberglass insulation at a single manufacturing line in a specified time period.

"Manufacturing line" means the manufacturing equipment comprising the forming section, where molten glass is fiberized and a fiberglass mat is formed; the curing section, where the binder resin in the mat is thermally "set"; and the cooling section, where the mat is cooled.

"Rotary spin" means a process used to produce wool fiberglass insulation by forcing molten glass through numerous small orifices in the side wall of a spinner to form continuous glass fibers that are then broken into discrete lengths by high velocity air flow.

"Wool fiberglass insulation" means a thermal insulation material composed of glass fibers and made from glass produced or melted at the same facility where the manufacturing line is located.

§ 60.682 Standard for particulate matter.

On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any affected facility any gases which

contain particulate matter in excess of 5.5 kg/Mg (11.0 lb/ton) of glass pulled.

§ 60.683 Monitoring of operations.

(a) An owner or operator subject to the provisions of this subpart who uses a wet scrubbing control device to comply with the mass emission standard shall install, calibrate, maintain, and operate monitoring devices that measure the gas pressure drop across each scrubber and the scrubbing liquid flow rate to each scrubber. The pressure drop monitor is to be certified by its manufacturer to be accurate within ± 250 pascals (± 1 inch water gauge) over its operating range, and the flow rate monitor is to be certified by its manufacturer to be accurate within ± 5 percent over its operating range.

(b) An owner or operator subject to the provisions of this subpart who uses a wet electrostatic precipitator control device to comply with the mass emission standard shall install, calibrate, maintain, and operate monitoring devices that measure the primary and secondary current (amperes) and voltage in each electrical field and the inlet water flow rate. In addition, the owner or operator shall determine the total residue (total solids) content of the water entering the control device once per day using Method 209A, "Total Residue Dried at 103–105 °C," in *Standard Methods for the Examination of Water and Wastewater*, 15th Edition, 1980 (incorporated by reference—see § 60.17). Total residue shall be reported as percent by weight. All monitoring devices required under this paragraph are to be certified by their manufacturers to be accurate within ± 5 percent over their operating range.

(c) All monitoring devices required under this section are to be recalibrated quarterly in accordance with procedures under § 60.13(b).

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

§ 60.684 Recordkeeping and reporting requirements.

(a) At 30-minute intervals during each 2-hour test run of each performance test of a wet scrubber control device and at least once every 4 hours thereafter, the owner or operator shall record the measurements required by § 60.683(a).

(b) At 30-minute intervals during each 2-hour test run of each performance test of a wet electrostatic precipitator control device and at least once every 4 hours thereafter, the owner or operator shall record the measurements required by § 60.683(b), except that the concentration of total residue in the water shall be recorded once during

each performance test and once per day thereafter.

(c) Records of the measurements required in paragraphs (a) and (b) of this section must be retained for at least 2 years.

(d) Each owner or operator shall submit written semiannual reports of exceedances of control device operating parameters required to be monitored by paragraphs (a) and (b) of this section and written documentation of, and a report of corrective maintenance required as a result of, quarterly calibrations of the monitoring devices required in § 60.683(c). For the purpose of these reports, exceedances are defined as any monitoring data that are less than 70 percent of the lowest value or greater than 130 percent of the highest value of each operating parameter recorded during the most recent performance test.

(e) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this section, provided that they comply with the requirements established by the State.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

(Approved by the Office of Management and Budget under Control No. 2060-0062)

§ 60.685 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with § 60.682 as follows:

- (1) Method 1 for sample and velocity traverses;
- (2) Method 2 for stack gas velocity and volumetric flow rate;
- (3) Method 3 for stack gas dry molecular weight;
- (4) Method 4 for stack gas moisture content; and
- (5) Method 5E for the measurement of particulate emissions.

(b) The sampling time for each test run shall be at least 2 hours and the minimum volume of gas sampled shall be 2.55 dscm.

(c) The performance test shall be conducted while the product with the highest loss on ignition (LOI) expected to be produced by the affected facility is being manufactured.

(d) For each test run, the particulate mass emission rate, R, shall be computed as follows:

$$R = C_1 \times Q_{std} \times \frac{6 \times 10^{-5} \text{ min-kg}}{\text{h-mg}}$$

where:

R = mass emission rate (kg/h).

C₁ = particulate concentration as determined by Reference Method 5E (mg/dscm).

Q_{std} = stack gas volumetric flow rate as determined by Reference Method 2 (dscm/min).

(e) The glass pull rate, P, for the manufacturing line shall be computed as follows:

$$P = L_s \times W_m \times M \times \left(\frac{100 - \text{LOI}}{100} \right) \times \frac{6 \times 10^{-5} \text{ min-Mg}}{\text{h-g}}$$

where:

P = glass pull rate (Mg/h).

L_s = line speed (m/min).

W_m = trimmed mat width (m).

M = mat gram weight (g/m²).

LOI = loss on ignition (weight percent), as determined by ASTM Standard Test Method D2584-68 (Reapproved 1979), "Ignition Loss of Cured Reinforced Resins" (Incorporated by reference—see § 60.17).

For each 2-hour test run, the average glass pull rate shall be computed from at least three glass pull rates determined at intervals of at least 30 minutes during the test run.

(f) For each test run, the particulate mass emission level, E, shall be computed as follows:

$$E = \frac{R}{P_{avg}}$$

where:

E = mass emission level (kg/Mg).

R = mass emission rate (kg/h).

P_{avg} = average glass pull rate (Mg/h).

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

3. Appendix A to Part 60 is amended by adding Reference Method 5E as follows:

Appendix A—Reference Methods

Method 5E—Determination of Particulate Emissions From the Wool Fiberglass Insulation Manufacturing Industry

1. Applicability and Principle.

1.1 *Applicability.* This method is applicable for the determination of particulate emissions from wool fiberglass insulation manufacturing sources.

1.2 *Principle.* Particulate matter is withdrawn isokinetically from the source and collected on a glass fiber filter maintained at a temperature in the range of 120 ° ± 14 °C (248 ° ± 25 °F) and in solutions of 0.1 N NaOH. The filtered particulate mass, which includes any material that condenses at or above the filtration temperature, is determined gravimetrically after removal of uncombined water. The condensed particulate material collected in the impinger solutions is

determined as total organic carbon (TOC) using a nondispersive infrared type of analyzer. The sum of the filtered particulate mass and the condensed particulate matter is reported as the total particulate mass.

2. Apparatus.

2.1 *Sampling Train.* The equipment list for the sampling train is the same as described in Section 2.1 of Reference Method 5 except as follows:

2.1.1 *Probe Liner.* Same as described in Section 2.1.2 of Reference Method 5 except use only borosilicate or quartz glass liners.

2.1.2 *Filter Holder.* Same as described in Section 2.1.5 of Reference Method 5 with the addition of a leak-tight connection in the rear half of the filter holder designed for insertion of a thermocouple or other temperature gauge for measuring the sample gas exit temperature.

2.2 *Sample Recovery.* The equipment list for sample recovery is the same as described in Section 2.2 of Reference Method 5 except three wash bottles are needed instead of two and only glass storage bottles and funnels may be used.

2.3 *Analysis.* The equipment list for analysis is the same as Section 2.3 of Reference Method 5 with the additional equipment for TOC analysis as described below:

2.3.1 *Sample Blender or Homogenizer.*

Waring type of ultrasonic.

2.3.2 *Magnetic Stirrer.*

2.3.3 *Hypodermic Syringe.* 0= to 100= μl capacity.

2.3.4 *Total Organic Carbon Analyzer.* Beckman Model 915 with 215 B infrared analyzer or equivalent and a recorder.

2.3.5 *Beaker.* 30 ml.

2.3.6 *Water Bath.* Temperature-controlled.

2.3.7 *Volumetric Flasks.* 1,000 ml and 500 ml.

3. Reagents.

3.1 *Sampling.* The reagents used in sampling are the same as used in Reference Method 5 with the addition of 0.1 N NaOH (dissolve 40 g of ACS reagent grade NaOH in distilled water and dilute to 1 liter).

3.2 *Sample Recovery.* The reagents used in sample recovery and the same as used in Reference Method 5 with the addition of distilled water and 0.1 N NaOH as described in Section 3.1.

3.3 *Analysis.* The reagents used in analysis are the same as in Reference Method 5 except as follows:

3.3.1 Carbon Dioxide-Free Water.

Distilled or deionized water that has been freshly boiled for 15 minutes and cooled to room temperature while preventing exposure to ambient air with a cover vented with an ascarite tube.

3.3.2 *Hydrochloric Acid, HCl.* concentrated, with a dropper.

3.3.3 *Organic Carbon Stock Solution.* Dissolve 2.1254 g of dried potassium biphthalate in CO₂-free water and dilute to 1 liter in a volumetric flask. This solution contains 1,000 mg/l organic carbon.

3.3.4 *Inorganic Carbon Stock Solution.* Dissolve 4.404 g anhydrous sodium carbonate in about 500 ml of CO₂-free water in a 1 liter volumetric flask. Add 3.497 g anhydrous sodium bicarbonate to the flask and dilute to 1 liter with CO₂-free water. This solution contains 1,000 mg/l inorganic carbon.

3.3.5 *Oxygen Gas.* CO₂-free.

4. Procedure.

4.1 *Sampling.* The sampling procedures are the same as in Section 4.1 of Reference Method 5 except as follows:

4.1.1 *Filtration Temperature.* The temperature of the filtered gas stream, rather than the filter compartment air temperature, is maintained at 120 ° ± 14 °C (248 ° ± 25 °F).

4.1.2 *Impinger Solutions.* 0.1 N NaOH is used in place of water in the impingers. The volumes of the solutions are the same as in Reference Method 5.

4.2 *Sample Recovery.* The sample recovery procedure is as follows:

Water is used to rinse and clean the probe parts prior to the acetone rinse. Save portions of the water, acetone, and 0.1 N NaOH used for cleanup as blanks following the procedure as in Section 4.2 of Reference Method 5.

Note.—All parts of the sample collection portion of the train (e.g., probe and nozzle, filter holder, impinger glassware) must be free of organic solvent residue before sample collection. It is necessary that all sampling apparatus that have been rinsed with acetone be flushed twice with water or dilute NaOH before the sample run. The rinse solutions from this cleaning process should be discarded. If other solvents that are not readily soluble in water (e.g., TCE) are used, place the exposed sampling apparatus in a drying oven at 105 °C for at least 30 minutes.

Container No. 1. The filter is removed and stored in the same manner as in Section 4.2 of Reference Method 5.

Container No. 2. Use water to rinse the sample nozzle, probe, and front half of the filter holder three times in the manner described in Section 4.2 of Reference Method 5 except that no brushing is done. Put all the wash water in one container, seal, and label.

Container No. 3. Rinse and brush the sample nozzle, probe, and front half of the filter holder with acetone as described for Container No. 2 in Section 4.2 of Reference Method 5.

Container No. 4. Place the contents of the silica gel impinger in its original container as described for Container No. 3 in Section 4.2 of Reference Method 5.

Container No. 5. Measure the liquid in the first three impingers and record the volume or weight as described for the Impinger Water in Section 4.2 of Reference Method 5. Do not

discard this liquid, but place it in a sample container using a glass funnel to aid in the transfer from the impingers or graduated cylinder (if used) to the sample container. Rinse each impinger thoroughly with 0.1 N NaOH three times, as well as the graduated cylinder (if used) and the funnel, and put these rinsings in the same sample container. Seal the container and label to identify its contents clearly.

4.3 Analysis. The procedures for analysis are the same as in Section 4.3 of Reference Method 5 with exceptions noted as follows:

Container No. 1. Determination of weight gain on the filter is the same as described for Container No. 1 in Section 4.3 of Reference Method 5 except that the filters must be dried at $20 \pm 6^\circ\text{C}$ ($68 \pm 10^\circ\text{F}$) and at ambient pressure.

Containers Nos. 2 and 3. Analyze the contents of Containers Nos. 2 and 3 as described for Container No. 2 in Section 4.3 of Reference Method 5 except that evaporation of the samples must be at $20 \pm 6^\circ\text{C}$ ($68 \pm 10^\circ\text{F}$) and at ambient pressure.

Container No. 4. Weigh the spent silica gel as described for Container No. 3 in Section 4.3 of Reference Method 5.

"Water and Acetone Blank" Containers. Determine the water and acetone blank values following the procedures for Acetone Blank Container in Section 4.3 of Reference Method 5. Evaporate the samples at ambient temperature [$20 \pm 6^\circ\text{C}$ ($68 \pm 10^\circ\text{F}$)] and pressure.

Container No. 5. For the determination of total organic carbon, perform two analyses on successive identical samples, i.e., total carbon and inorganic carbon. The desired quantity is the difference between the two values obtained. Both analyses are based on conversion of sample carbon into carbon dioxide for measurement by a nondispersive infrared analyzer. Results of analyses register as peaks on a strip chart recorder.

The principal differences between operating parameters for the two channels involve the combustion tube packing material and temperature. In the total carbon channel, a high temperature [950°C (1740°F)] furnace heats a Hastelloy combustion tube packed with cobalt oxide-impregnated asbestos fiber. The oxygen in the carrier gas, the elevated temperature, and catalytic effect of the packing result in oxidation of both organic and inorganic carbonaceous material to CO_2 and steam. In the inorganic carbon channel, a

low temperature [150°C (300°F)] furnace heats a glass tube containing quartz chips wetted with 85 percent phosphoric acid. The acid liberates CO_2 and steam from inorganic carbonates. The operating temperature is below that required to oxidize organic matter. Follow the manufacturer's instructions for assembly, testing, calibration, and operation of the analyzer.

As samples collected in 0.1 N NaOH often contain a high measure of inorganic carbon that inhibits repeatable determinations of TOC, sample pretreatment is necessary. Measure and record the liquid volume of each sample. If the sample contains solids or an immiscible liquid, homogenize the sample with a blender or ultrasonics until satisfactory repeatability is obtained. Transfer a representative portion of 10 to 15 ml to a 30-ml beaker, acidify with about 2 drops of concentrated HCl to a pH of 2 or less. Warm the acidified sample at 50°C (120°F) in a water bath for 15 minutes. While stirring the sample with a magnetic stirrer, withdraw a 20- to 50- μl sample from the beaker and inject it into the total carbon port of the analyzer. Measure the peak height. Repeat the injections until three consecutive peaks are obtained within ± 10 percent of the average.

Repeat the analyses for all the samples and the 0.1 N NaOH blank. Prepare standard curves for total carbon and for inorganic carbon of 10, 20, 30, 40, 50, 60, 80, and 100 mg/l by diluting with CO_2 -free water 10, 20, 30, 40, and 50 ml of the two stock solutions to 1,000 ml and 30, 40, and 50 ml of the two stock solutions to 500 ml. Inject samples of these solutions into the analyzer and record the peak heights as described above. The acidification and warming steps are not necessary for preparation of the standard curve.

Ascertain the sample concentrations for the samples from the corrected peak heights for the samples by reference to the appropriate standard curve. Calculate the corrected peak height for the standards and the samples by deducting the blank correction as follows:

$$\text{Corrected peak height} = A - B \quad \text{Eq. 5E-1}$$

Where:

A = Peak height of standard or sample, mm or other appropriate unit.

B = Peak height of blank, mm or other appropriate unit.

If samples must be diluted for analysis, apply an appropriate dilution factor.

5. Calibration. Calibration of sampling and analysis equipment is the same as in Section 5 of Reference Method 5 with the addition of the calibration of the TOC analyzer described in Section 4.3 of this method.

6. Calculations. The calculations and nomenclature for the calculations are the same as described in Section 6 of Reference Method 5 with the addition of the following:

6.1 Mass of Condensed Particulate Material Collected.

$$m_c = (0.001)(C_c)(V_s) \quad \text{Eq. 5E-2}$$

Where:

0.001 = Liters per milliliter.

m_c = Mass of condensed particulate material collected in the impingers measured as TOC, mg.

C_c = Concentration of TOC in the liquid sample from TOC analysis in Section 4.3, mg/l.

V_s = Total volume of liquid sample, ml.

6.2 Concentration of Condensed Particulate Material.

$$C_c = (0.001)(m_c/V_{\text{total}}) \quad \text{Eq. 5E-3}$$

Where:

0.001 = Grams per milligram.

C_c = Concentration of condensed particulate matter in stack gas, dry basis, corrected to standard condition, g/dscm.

V_{total} = Volume of gas sample measured by the dry gas meter, corrected to standard conditions, dscm, from Section 6.3 of Reference Method 5.

6.3 Total Particulate Concentration.

$$C_t = C_c + C_f \quad \text{Eq. 5E-4}$$

Where:

C_t = Total particulate concentration, dry basis, corrected to standard conditions, g/dscm.

C_f = Concentration of filtered particulate matter in stack gas, dry basis, corrected to standard conditions, g/dscm, from Equation 5-6 of reference Method 5.

7. Bibliography. The bibliography is the same as in Section 8 of Reference Method 5 with the addition of the following:

7.1 American Public Health Association, American Water Works Association, Water Pollution Control Federation. Standard Methods for the Examination of Water and Wastewater. Fifteenth Edition. Washington, D.C. 1980.

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Part III

Department of the Interior

Bureau of Land Management

43 CFR Part 8560

Designated Wilderness Areas; Procedures
for Management; Final Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8560

[Circular No. 2560]

Designated Wilderness Areas;
Procedures for ManagementAGENCY: Bureau of Land Management,
Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes procedures for the administration of wilderness areas on public lands administered by the Bureau of Land Management and designated by Congress as part of the National Wilderness Preservation system. This final rulemaking enables the Bureau to carry out the congressional direction to manage wilderness areas to preserve their wilderness character. The final rulemaking is based on the Bureau's Wilderness Management Policy as published in the *Federal Register* on September 24, 1981 (46 FR 47180), and is similar to the Forest Service wilderness management regulations.

EFFECTIVE DATE: March 27, 1985.

ADDRESS: Inquiries or suggestions should be sent to: Director (340), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David E. Porter, (202) 343-8064.

SUPPLEMENTARY INFORMATION: The proposed rulemaking establishing procedures for the administration of designated wilderness areas on the public lands was published in the *Federal Register* on June 14, 1983 (48 FR 27366). Comments were invited for a period of 60 days ending August 15, 1983, during which period a total of 35 comments were received, with 6 from business entities, 16 from Federal agency offices, 4 from conservation organizations, 3 from other associations, 2 from State governments, 1 from local government and 3 from individuals. All of the comments have been given careful consideration during the decisionmaking process on this final rulemaking.

Some comments were about the proposed rulemaking in general, while others were concerned about various specific provisions. Many of the comments contained discussions of specific sections of the proposed rulemaking and recommended changes, some of which have been adopted in this final rulemaking. This preamble will only discuss those sections that were

the subject of specific comments or that were changed.

In several instances, comments requested that the rulemaking state in detail procedures to be followed by the Bureau of Land Management. This recommendation has not been adopted in this rulemaking, except where knowledge of the procedures is essential to public enjoyment and use of wilderness areas. The regulations are designed to include only procedures that members of the public must follow. Guidance for Federal agencies, including the Bureau, can be found in the Wilderness Management Policy, or will be included in Bureau manuals.

Section 8560.0-1 Purpose

Two comments suggested that this section and section 8560.0-2 be amended to clarify that only public lands managed by the Bureau of Land Management will be affected by this rulemaking. Such an amendment is unnecessary because the definition of "public lands" in section 8560.0-5(i) makes it clear that only those lands managed by the Bureau are affected.

Section 8560.0-5 Definitions

One comment suggested that the definition of "adequate access" be amended to assure that access will be allowed to accommodate reasonable, foreseeable future uses. The suggestion was that this be accomplished by inserting the phrase "or which may be used" to qualify the "reasonable purposes" that would be served by the access. Such a reference to the future is not necessary in this definition because the regulations will still apply at such future time as the access is required. The suggested amendment could require the authorized officer to allow construction of access routes through wilderness areas long in advance of when they are actually needed.

Another comment suggested amending the phrase "wilderness resource" in the definition of "adequate access" to read "wilderness character." In the Wilderness Management Policy the terms are treated as synonymous. The suggestion has been adopted in the final rulemaking for the sake of clarity and internal consistency in the regulations.

One comment suggested removing the phrase "as determined by the authorized officer" from the definition of "adequate access." This comment has not been adopted in the final rulemaking. The authorized officer must have discretion to decide whether access applied for is appropriate and necessary. The rulemaking does not give the authorized officer discretion to deny access for reasonable purposes. In every case the

authorized officer will consult closely with inholders to determine and meet their needs. All decisions are subject to appeal.

One comment suggested that the definition of "authorized officer" in the proposed rulemaking was imprecise. The definition must remain flexible in order to accommodate varying circumstances. All delegation to authorized officers will be in accordance with Departmental procedures and manuals.

Several comments questioned whether bicycles and hang-gliders are considered "mechanical transport" within the definition of that term, and urged that they be excluded from wilderness areas. The definition has been amended to include bicycles and hang-gliders, which was the original intent in the proposed rulemaking. Devices such as a horse and wagon or wheelchair are not prohibited, although the rough terrain of a wilderness area may make their use impossible. The authorized officer may close specific areas to any or all such conveyances, if local circumstances require, under § 8560.1-1 of this rulemaking.

Several comments requested definitions of such terms as "valid existing rights," "valuable mineral deposits" and "plan of operations." Definitions for these terms are not included in this rulemaking because they are either explained in 43 CFR Subpart 3809 or continually being developed in the case law that is part of the United States mining law. The term "valid existing rights," for example, pertains to a multitude of rights: access to inholdings, mining claims, mineral leases and so forth. An attempted definition of such a term would be cumbersome, might not be sufficiently comprehensive, and would be beyond the scope of this rulemaking.

Section 8560.0-6 Policy

Several comments addressed the section on policy in the proposed rulemaking. One supported the section, but others questioned the provision that wilderness areas "shall be managed to . . . where necessary, restore the wilderness character of the land," and stated that this went beyond the 1981 policy statement, which called for management "to preserve their wilderness character." The context of one of the comments was that this language would allow unsuitable land to be designated as wilderness. The language of the proposed rulemaking has been adopted in this final rulemaking. This provision is designed to require the appropriate authorized

officer to rehabilitate, for example, trails or primitive camping areas damaged by the public within designated wilderness areas. The provision has no bearing on wilderness designation. These regulations will pertain to areas only after they have been designated by Congress as wilderness.

One comment stated that the term "primitive conditions" is vague and should be clarified. In the final rulemaking the term "wilderness character," defined in § 8560.0-5(n) of the final rulemaking, has been substituted.

Section 8560.1-1 Permits for and restrictions on use

Several comments suggested that the authorized officer should be required to specify the reasons for closures of, or restrictions within, wilderness areas made under § 8560.1-1(a). This recommendation has been adopted in the final rulemaking.

One comment suggested that all closure and restriction orders should be required to be published in the Federal Register. This suggestion has not been adopted. There is no need to publish small closures of minor significance. The manual will provide Bureau personnel with the necessary procedural guidance. For most users of wilderness lands, publication in the Federal Register is of little practical benefit. Mandatory publication in local newspapers would also be of limited effectiveness, unless publication was continuous over a period of time. Such publication would not be likely to come to the attention of visitors who do not subscribe to the publication, and publication in more than one or two issues would be too expensive. Closures and restrictions are required by the final rulemaking to be posted within the affected area, and at the local office of the Bureau of Land Management, where the interested public will be most likely to see them.

Other comments proposed limiting the discretion of the authorized officer to close or restrict areas of wilderness. Such limitation of the discretion of the authorized officer in this rulemaking would be inappropriate, because circumstances vary across public lands. The administrative appeal process is available for anyone adversely affected by a decision of the authorized officer.

Another comment expressed concern that the provision for closures and restrictions would be used to impair valid existing rights. Such rights provided for by the Wilderness Act will continue to be protected under this rulemaking as a matter of law. The rulemaking has been amended to make it clear that the authorized officer may

issue closure or restriction orders when necessary to carry out the provisions of the Wilderness Act, rather than the intent of the Act, as the proposed rulemaking provided.

One comment said that the cross-reference in § 8560.1-1(e) to 43 CFR Part 8372 might be confusing, because the latter treats educational and scientific use as recreation use for purposes of requiring permits, while the proposed rulemaking in several provisions declares that one of the purposes of this rulemaking is to promote scientific study and allow educational use. However, the permits to be applied for according to the procedures of subpart 8372 are discretionary with the authorized officer, who may require permits for recreational or scientific use under § 8560.1-1(a) if they are deemed necessary for proper management. Subpart 8372 merely provides the applicable permit procedures.

Section 8560.1-2 Prohibited acts

Two comments suggested that this section should specify how valid existing rights, such as mineral leases, will relate to the various prohibitions listed. One of the comments referred to lease stipulations that should be drafted for full protection of valid existing rights. There is no need in this rulemaking for a detailed discussion of valid existing rights that are fully protected under the terms of whatever sale, agreement or contract created the rights. Existing leases already include stipulations. Under the Appropriations Act for the Department of the Interior and related agencies for Fiscal Year 1984 (Pub. L. 98-146, November 4, 1983), there will be no new mineral leasing within designated wilderness areas, and therefore no new stipulations that would be affected by these prohibitions.

Several offices of the United States Air Force were concerned that § 8560.1-2 (d) through (f) would limit rescue and salvage operations if military or other aircraft are downed in wilderness areas. Such eventualities are provided for in § 8560.3(b), which allows actions to carry out the purposes of the Wilderness Act, and § 8560.3(d), which allows actions to deal with emergencies. Memoranda of agreement will be executed between the Bureau and other affected agencies to deal with emergencies.

Several comments pointed out an apparent inconsistency between the prohibition of commercial enterprises in subsection (a) and the provisions in § 8560.4-4 allowing certain commercial services. However, both the prohibition and the provision for services are specifically derived from the Wilderness Act, and the introductory paragraph of

§ 8560.1-2 notes the possibility of exceptions provided for in legislation or elsewhere in the subpart. No amendment is necessary in the proposed rulemaking.

One comment stated that § 8560.1-2(f), which prohibits air drops in wilderness areas, lacks statutory authority, would impair valid existing rights, and should be removed in the final rulemaking. This recommendation has not been adopted. Authority is contained in section 4(b) of the Wilderness Act, which requires the preservation of wilderness character. Again, valid existing rights are protected under the introductory paragraph of § 8560.1-2.

One comment suggested that § 8560.1-2(i) be amended to provide that only violations of reasonable orders or regulations are prohibited. The rulemaking cannot allow users of wilderness areas to determine on their own which orders are reasonable and which are not. This would be an abdication of management responsibility. Also, any order or regulation is subject to administrative and judicial review on appeal.

One comment suggested providing that to be prohibited, an action must be "knowing or willful". This is unnecessary because § 8560.6 provides for penalties only when violation of the regulations is knowing and willful.

Section 8560.3 Administrative and emergency functions

One comment urged that § 8560.3(c) more clearly emphasize that naturally-occurring ecological processes, including fire, insects and disease, should not be interfered with. This subsection has been adopted in the final rulemaking as it was proposed. When considered in conjunction with the Policy section, 8560.0-6, this subsection provides for control of fire, insects and diseases only when control is necessary, as stated in the Wilderness Act, for the reasons stated. The Policy section calls for natural ecological succession to operate freely to the extent permitted by the Wilderness Act. This means that the authorized officer will intervene only to protect valid existing rights, or as otherwise required by law.

One comment suggested that § 8560.3(e) be expanded to allow control of predators and noxious weeds. The recommendation has not been adopted in the final rulemaking. However, the Wilderness Management Policy permits the authorized officer to control noxious weeds and predators in appropriate circumstances.

Section 8560.45 Special uses

One comment suggested that the title of this section be changed from "special uses" to "nonconforming uses," the title in the Bureau's Wilderness Management Policy. This suggestion has been adopted in the final rulemaking.

Two comments also suggested that, in resolving conflicts between nonconforming uses and wilderness uses, the principle of non-degradation should be used to determine the reasonable mitigation of environmental impacts. The rulemaking has been amended instead to require preservation of the wilderness character of the land, except in cases where the Wilderness Act allows nonconforming uses of the wilderness.

Section 8560.4-1 Livestock grazing

Several comments addressed subsection (b), which authorizes improvements associated with grazing. One comment asked how improvement can be made and maintained if motorized transport and equipment are barred. Grazing, where such use was established prior to designation of the area as wilderness, is protected under § 8560.1-2. In this context, grazing may include the occasional use of motorized transportation and equipment if no practical alternatives exist.

Other comments requested stricter control of livestock improvements and the inclusion of guidelines in line with congressional grazing guidelines, the Forest Service regulations, and the Bureau of Land Management's Wilderness Management Policy. The congressional grazing guidelines included in House Report 96-1126 have been incorporated in the policy. It is not necessary to repeat them in the rulemaking. For clarification, § 8560.4-1(b) has been amended to require improvements to comply with wilderness area management plans approved by the authorized officer. Also, improvements to protect wilderness values are allowed and governed by the Wilderness Management Policy.

Section 8560.4-3 Access

One comment urged that § 8560.4-3(a) be amended to allow access to land that is "effectively" surrounded by wilderness land administered by the Bureau of Land Management, that is, land not actually surrounded but to which access is difficult or inconvenient. The comment went on to suggest that a provision be added to allow purchase or exchange of such land. There is no authority in the Wilderness Act for transactions involving inholdings that

are not completely surrounded by wilderness. General exchange regulations at 43 CFR Part 2200, under other statutory authority, may be utilized to effect needed or desirable exchanges with owners of land not completely surrounded by wilderness. The recommendation has not been adopted in the final rulemaking.

One comment suggested that § 8560.4-3(b) be amended to state that access to inholdings shall be by means customarily used to reach "areas similarly situated" rather than "other such occupancies surrounded by wilderness." The term "areas similarly situated" as used in the Wilderness Act is construed to mean areas surrounded by wilderness. The suggestion is not adopted because the language in the proposed rulemaking is less subject to misunderstanding.

One comment pointed out an inconsistency between the proposed § 8560.4-3(a) and the Supplementary Information of the proposed rulemaking. The preamble requires the authorized officer to allow reasonable access, while the body of the rulemaking applies the word "adequate" to the access that must be allowed. The correct term is "adequate," and it is used in the final rulemaking.

Section 8560.4-3(a) has also been amended to conform to the Wilderness Act by authorizing exchanges of land owned by a State or by private persons for federally owned land of approximately equal value in the same State.

One comment argued that § 8560.4-3 should take into account cost effectiveness in determining means of access. Section 5(b) of the Wilderness Act requires the authorized officer to allow "customary use" as means of access to inholdings. Economic factors will be considered by the authorized officer in deciding what is adequate for the purposes of access.

Subsection (b) has also been corrected to reflect that under 43 CFR Part 3809 permits are not issued, but rather plans are approved.

Section 8560.4-4 Commercial Services

One comment stated that permit decisions regarding commercial services should involve close coordination and consultation with State wildlife management agencies. This is the policy of the Bureau of Land Management, and no change is required in the rulemaking.

Section 8560.4-5 Gathering information about resources

One comment asked for clarification of whether the prohibition in this section against mineral prospecting under the

mining or mineral leasing laws applies to oil and gas geophysical exploration. Geophysical exploration is permitted in wilderness areas if the requirements of 43 CFR Subpart 3045 and this subpart are met.

Section 8560.4-6 Mining law administration

One comment suggested that the introductory paragraph of the section be amended to state that the applicability of mining laws to wilderness areas is to be determined as of immediately before the designation of wilderness. To avoid confusion, this change has been made in the final rulemaking.

One comment asked for clarification whether the proscription in subsection (a) pertains to when a discovery can be made on an existing claim or when a claim can be filed. Section 8560.4-6(a) bars the filing of mining claims on discoveries made after the date the mining laws cease to apply, which, in the case of existing wilderness, was December 31, 1983, and in the case of areas designated after that date, will be the date of designation.

Three comments pointed out an apparent inconsistency between section 8560.4-6(b), which states that an approved plan of operations is a prerequisite to mining in wilderness when required by 43 CFR Subpart 3809, and the statement in the Supplementary Information that such a plan *may* be required. There is no inconsistency; the latter statement recognizes that for "casual" mining use, subpart 3809 does not require an approved plan of operations.

One comment requested that the proposed rulemaking be amended to substitute "General Mining Law of 1872" for "United States mining laws". The latter term is used in the Wilderness Act, and is retained in the final rulemaking. The more flexible wording recognizes the possibility that at some future time the General Mining Law may be amended, and would accommodate such an amendment.

One comment suggested a requirement that conditions imposed under § 8560.4-6(e) be developed in an appropriate management plan. It is unnecessary to include this in the regulations because it is provided for in the Wilderness Management Policy and does not directly affect public use of the wilderness. However, this section has been amended to provide that the stipulations, with which the mining claimant is required to conform, established by the authorized officer in accordance with section 4(d)(3) of the Wilderness Act, shall be reasonable.

The word "stipulations" has been substituted for "conditions" to conform to the Act. Also, the provision in this section for mineral location has been removed because of the passing of the December 31, 1983, deadline for location of mining claims in designated wilderness areas during the pendency of this rulemaking. To conform with the Wilderness Act, provision has been added for necessary mining facilities in wilderness areas. Another comment suggested that § 8560.4-6(e) be amended to refer to subpart 3809 in describing resource protection conditions established by the authorized officer. This amendment is unnecessary because that subpart is already binding on the authorized officer by virtue of subsection (b). The same comment pointed out that the phrasing of the last sentence of subsection (e) is confusing, and suggested substitute language. This suggestion has been adopted in the final rulemaking.

One comment stated that § 8560.4-6(f) should be amended to allow the postponement of reclamation until the cessation of mining operations is final, and that the miner should be able to defer reclamation on a showing that mining could reasonably be expected to resume in the future. This suggestion has not been adopted in the final rulemaking. The Wilderness Act does not authorize mining operators to leave the land disrupted indefinitely, waiting for a possibly long term boom-and-bust cycle to run its course, or for higher prices or new technology to permit extraction of lower grade ores. In the case of mining claims valid as of the date of wilderness designation, the miner who wishes to defer reclamation has the option of seeking a patent under § 8560.4-6(c) and the mining laws.

One comment suggested that this subsection be amended to conform it to the Wilderness Management Policy by requiring reclamation to be complete within one year rather than within a reasonable time after it commences. This comment has not been adopted, and the Policy will be amended on this point once the regulations become effective. Weather conditions or other circumstances may make a one-year reclamation deadline impossible to meet. Another comment suggested that reclamation be required to begin immediately on termination of mining operations. The suggestion has not been adopted for the same reason.

In response to a request in a comment, a new subsection (g) has been added to § 8560.4-6 providing for a bonding requirement for mining operations, and the succeeding subsections have been

redesignated to accommodate the insertion.

One comment stated that § 8560.4-6(f) of the proposed rulemaking lacks the specificity in reclamation requirements that the Wilderness Management Policy contains, and that the rulemaking imposes less strict requirements for restoring natural or natural-appearing contours. In this respect the final rulemaking has been adopted as proposed. The rulemaking allows the authorized officer to require as great a degree of reclamation as possible without imposing unreasonable burdens on the claimant. Natural or natural-appearing contours will be the goal of all reclamation, but if conditions make such naturalness impracticable, the regulations will at least minimize harm to nearby resources caused by slope instability. If necessary, the Policy will be amended to conform to this rulemaking.

The same comment pointed out that the proposed rulemaking omitted any revegetation requirement. This omission has been corrected in the final rulemaking.

One comment objected to the provision in subsection (f) that the authorized officer is to determine whether reclamation measures are impractical or impossible. This provision cannot be removed from the rulemaking, because the Bureau of Land Management has the responsibility under the Wilderness Act to assure restoration as near as practicable of the land surface.

One comment stated that subsection (g) in the proposed rulemaking is unnecessary because the surface management regulations at 43 CFR Subpart 3809 include the same provision. Language has been added to this provision relating it more closely to protecting the wilderness character of the land.

Several comments addressed § 8560.4-6(i) of the proposed rulemaking, which provided for a determination of the validity of a mining claim before a plan of operations is approved. One comment objected to requiring this determination before a plan of operations is approved, and another suggested that the regulations include specific guidance for validity determinations. As rewritten and redesignated 8560.4-6(j), this subsection recognizes the statutory right of a mining claimant to hold and work a claim (subject only to the requirement that unnecessary and undue degradation be prevented) unless and until the claim is finally declared null and void. A pending contest action neither removes

the requirement of annual assessment work, nor does it act as a legal impediment justifying deferment of assessment work under 30 U.S.C. 28b. Furthermore, the Secretary is not required by law to inquire into the validity of mining claims in designated wilderness areas prior to approving plans of operations under 43 CFR Subpart 3809. Section 8560.4-6(j) of this final rulemaking requires formal mineral examinations on those claims for which activities are proposed that would prevent BLM from continuing to preserve the wilderness character of the wilderness as a whole. Plans to perform the legally required minimum assessment work will be allowed, subject to prevention of unnecessary and undue degradation. Therefore, plans under Subpart 3809 that propose such minimum activities are deemed to permit the continued preservation of wilderness character of the area as a whole. This section has also been revised in the final rulemaking to recognize that a validity contest in a withdrawn area does not foreclose the right of the mining claimant to take samples or gather other evidence to prove that the contested claim was valid as of the withdrawal date (*United States v. Foresyth*, 15 IBLA 43 (1974)).

One comment suggested that an appeals section be added to the rulemaking. This is unnecessary and has been left out to keep the regulations as streamlined as possible. The standard appeals provisions in 43 CFR Part 4 apply to the regulations in this rulemaking.

Section 8560.4-7 Mineral leases and mineral permits

Several comments addressed subsection (a), which prohibits the issuance of mineral leases in wilderness areas administered by the Bureau of Land Management. One comment supported the provision. Others opposed it for various reasons: Oil and gas development can be accomplished with minimum impact, the proposed rulemaking discriminated against the oil and gas industry, the exercise of Secretarial discretion to refuse oil and gas leases is a blanket mineral withdrawal prohibited by a United States district court decision, *Mountain States Legal Foundation v. Andrus*, 499 F. Supp. 383 (1980). The final rulemaking, which adopts the provision of the proposed rulemaking, does not withdraw any land from leasing. It only recites the prohibition in the Interior Appropriations Act for 1984.

Section 8560.4-7(b) of the proposed rulemaking (paragraph (c) in this final

rulemaking) has been amended by substituting a reference to valid existing rights for the statement prohibiting the vesting of a preference for a lease. This paragraph is intended to notify the public that mineral information-gathering activity that is not subject to the mineral leasing laws will not result in any mineral rights or interest in developing any mineral deposits identified. However, any valid existing rights described in new paragraph (b) of this section that were established under the mineral leasing laws will not be affected by this notification.

One comment asked when subsection (c) would be effective. This subsection will be effective on the effective date of the rulemaking in Bureau of Land Management wilderness areas existing at that time. Otherwise, the effective date will be the date each wilderness is designated in the future.

One comment requested that language be added to this section protecting valid existing rights. The suggestion has been adopted in the final rulemaking.

Section 8560.4-8 Water and power resources

One comment asked for specific recognition in the rulemaking of State water rights. This is unnecessary because it is clearly stated in law that the Federal Government is not exempt from State water laws, and because such a provision would add no guidance for the regulated public. Such provisions are left out of the rulemaking to keep it as streamlined as possible.

It should be pointed out here that § 8560.4-5 permits prospecting for water without specific Presidential authorization, as long as the activity is compatible with preservation of the wilderness environment.

A typographical error in the numbering of this section that appeared in the proposed rulemaking has been corrected.

Section 8560.6 Penalties

One comment suggested that penalties should be increased. Adoption of this suggestion would require amendment of section 303(b) of the Federal Land Policy and Management Act of 1976, which established the penalties. Another comment suggested a provision for civil relief. This is authorized by section 303(b) of the Federal Land Policy and Management Act, and such provision is added in the final rulemaking.

Editorial changes have been made in the rulemaking correcting typographical and other errors, and to acknowledge the passage of December 31, 1983, the date when the mining and mineral

leasing laws cease to apply to designated wilderness areas.

The principal author of this final rulemaking is David E. Porter, Division of Recreation, Cultural, and Wilderness Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rulemaking favors no demographic group, and applies equally to all users, regardless of size pursuing a particular activity in any wilderness area administered by the Bureau. Information is required from the public for certain uses and activities in wilderness areas in accordance with existing procedures found in 43 CFR Parts 2800, 2860, 2920, 3045, 3205, 3809, 4100 and 8372. The information collection requirements of those procedures, which are referred to in this rule, have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 43 CFR Part 8560

Grazing land, Livestock, National Wilderness Preservation System, Oil and gas exploration, Penalties, Public lands-mineral resources, Public lands-recreation, Recreation.

Under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) and the Wilderness Act of 1964 (16 U.S.C. 1131), Subchapter H, Chapter II, Title 43 of the Code of Federal Regulations, is amended by adding a new Group 8500 (consisting of Part 8560) as set forth below:

Dated: February 1, 1985.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

Group 8500—Wilderness Management PART 8560—WILDERNESS AREAS

Subpart 8560—Management of Designated Wilderness Areas

Sec.

8560.0-1 Purpose.
8560.0-2 Objectives.

Sec.

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8560.1 Uses and prohibited acts.
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8560.2 Special provisions applicable to Alaska (reserved).
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8560.4-4 Commercial services.
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8560.4-6 Mining law administration.
8560.4-7 Mineral leases and permits.
8560.4-8 Water and power resources.
8560.5 Penalties.

Authority: 43 U.S.C. 1701 et seq., 16 U.S.C. 1131 et seq.

Subpart 8560—Management of Designated Wilderness Areas

§ 8560.0-1 Purpose.

The purpose of this part is to provide procedures for the management of public land designated by Congress as part of the National Wilderness Preservation System and administered under provisions of the Wilderness Act of 1964.

§ 8560.0-2 Objective.

The objective of these regulations is management of the public lands designated as part of the National Wilderness Preservation System to preserve and protect their wilderness character, provide for their use and enjoyment by the American people in a manner that will leave them unimpaired for future use and enjoyment as wilderness, and allow for recreational, scenic, scientific, educational, conservation and historical use.

§ 8560.0-3 Authority.

This part is issued under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and the Wilderness Act of 1964 (16 U.S.C. 1131 et seq.).

§ 8560.0-5 Definitions.

As used in this part, the term:

(a) "Adequate access" means the combination of routes and modes of travel to non-Federal inholdings that will, as determined by the authorized officer, serve the reasonable purposes for which the non-Federal lands are held or used, and at the same time, cause impacts of least duration and degree on their wilderness character.

(b) "Authorized officer" means any employee of the Bureau of Land

Management who has been delegated the authority to perform the duties described in this part.

(c) "Bureau" means the Bureau of Land Management.

(d) "Mechanical transport" means (1) any device for transporting personnel or material with wheels, tracks or skids, or by flotation, for traveling over land, water or snow, and is propelled by a nonliving power source contained or carried on or within the device, or (2) a bicycle or hang-glider.

(e) "Motorized equipment" means any machine activated by a nonliving power source except small battery-powered, handcarried devices such as flashlights, shavers, Geiger counters and cameras.

(f) "Motor vehicle" means any vehicle which is self-propelled or any vehicle which is propelled by electric power obtained from batteries.

(g) "Mining operations" means all functions, work and activities in connection with prospecting, exploration, development, mining or processing of mineral resources and all uses of the land reasonably incident thereto, including roads and other means of access on lands subject to the regulations in this part, regardless of whether said operations take place on or off mining claims.

(h) "Primitive and unconfined recreation" means nonmotorized types of outdoor recreation activities that do not require developed facilities.

(i) "Public lands" means any lands and interests in lands owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management without regard of how the United States acquired ownership.

(j) "Solitude" means the state of being alone or remote from habitation; isolation; also, a lonely, unfrequented, or secluded place.

(k) "Visitor use" means on-site use of the wilderness area for recreation, inspiration, stimulation, solitude, relaxation, education, scientific research, pleasure or satisfaction.

(l) "Wilderness" is defined in the same way as in section 2(c) of the Wilderness Act of 1964, 16 U.S.C. 1131(c).

(m) "Wilderness character or characteristics" are defined in the same way as in section 2(c) of the Wilderness Act of 1964, 16 U.S.C. 1131(c).

§ 8560.0-6 Policy

Wilderness areas shall be managed to promote, perpetuate and, where necessary, restore the wilderness

character of the land and its specific values of solitude, physical and mental challenge, scientific study, inspiration, primitive recreation, watersheds and water yield, wildlife habitat, natural plant communities, and similar natural and recreational values.

(a) Natural ecological succession shall be allowed to operate freely to the extent permitted by the Wilderness Act:

(b) Wilderness shall be made available for human use to the optimum extent consistent with the maintenance of wilderness character;

(c) In resolving conflicts in resource use, wilderness values shall be primary to the extent provided by the Wilderness Act or subsequent establishing legislation.

§ 8560.1 Uses and prohibited acts.

§ 8560.1-1 Permits for and restrictions on use.

(a) Unless otherwise designated by the authorized officer, all wilderness areas shall be open to uses consistent with the preservation of their wilderness character and their future use and enjoyment by the American people as wilderness, including, but not limited to, primitive recreation and scientific study. The authorized officer may require permits for any use of particular wilderness areas, including, but not limited to, camping, campfires and grazing of recreation livestock, and may issue written orders to close or restrict the use of lands and water surface administered by the Bureau within the boundary of any component of the National Wilderness Preservation System when necessary to carry out the provisions of the Wilderness Act. Each order shall:

- (1) Describe the lands, trail or waterway to which the order applies;
- (2) Specify the time during which the closure or restriction applies;
- (3) State each prohibition that is applied;
- (4) Specify the reason for the closure, restriction or prohibition; and
- (5) Specify any person exempted from any of the prohibitions contained in the order.

(b) An order to close or to restrict the use of lands and water surface shall be effective upon posting. Posting shall be by:

- (1) Placing a copy of the order in each local office of the Bureau having jurisdiction over lands affected by the order, and
- (2) Displaying each order near and/or within the affected wilderness area in

such reasonable locations and in such a manner as to bring the prohibitions contained in the order to the attention of the public.

(c) The authorized officer may publish in the **Federal Register**, and/or in a newspaper of general circulation in the area of the affected lands, a copy of the order to close or restrict the use of lands or water surface.

(d) Permits may be requested from the Bureau office exercising field-level jurisdiction over the wilderness areas for which use permits are required by the authorized officer.

(e) When a permit for use is required by the authorized officer, applications for recreation uses shall be completed in accordance with the provisions of 43 CFR Part 8372.

§ 8560.1-2 Prohibited acts.

Except as provided in the Wilderness Act or subsequent legislation establishing a particular wilderness area, or as specifically provided for elsewhere in this subpart, and subject to valid existing rights, the following are prohibited in wilderness areas managed by the Bureau:

- (a) Commercial enterprises;
- (b) Temporary or permanent roads;
- (c) Aircraft landing strips, heliports, or helispots;
- (d) Use of motorized equipment, motor vehicles, motorboats or other forms of mechanical transport;
- (e) Landing of aircraft;
- (f) Dropping of materials, supplies or persons from aircraft;
- (g) Structures or installations, including motels, summer homes, stores, resorts, organization camps, hunting and fishing lodges, electronic installations, and similar structures and uses;
- (h) Cutting of trees;
- (i) Violating any order or regulation established by the authorized officer;
- (j) Entry into or use of wilderness areas without a permit, where such permits are required by the authorized officer.

§ 8560.2 Special provisions applicable to Alaska (Reserved).

§ 8560.3 Administrative and emergency functions.

To the extent authorized by law, the authorized officer may:

- (a) Use, construct or install motorized equipment, mechanical transport, aircraft, aircraft landing strips, heliports, helispots, installations or structures in designated wilderness areas, and prescribe conditions under which such items may be used, transported or

installed by other Federal, State or county agencies or their agents, to meet the minimum requirements for protection and administration of the wilderness area and its resources.

(b) Authorize occupancy and use of wilderness areas by officers, employees, agencies or agents of the Federal, State and local governments to carry out the purposes of the Wilderness Act.

(c) Prescribe measures to be taken, as necessary, to control fire, insects and diseases where these threaten human life, property or high value resources within the wilderness area or on adjacent nonwilderness lands.

(d) Prescribe measures which may be used in emergencies involving the health and safety of persons or damage to property, including the conditions for use of motorized equipment, mechanical transport, aircraft, installations and structures.

§ 8560.4 Nonconforming uses.

All uses specifically permitted in wilderness areas by the Wilderness Act and subsequent laws shall be conducted in a manner that will preserve the wilderness character of the land, except as otherwise provided in the Wilderness Act and this Part.

§ 8560.4-1 Livestock grazing.

(a) The grazing of livestock, where such use was established before the date of the establishment of the area as a unit of the National Wilderness Preservation System, shall be permitted to continue under the regulations on the grazing of livestock on public lands in part 4100 of this chapter and in accordance with any special provisions covering grazing use in wilderness areas that the Director may prescribe.

(b) Grazing activities may include the construction, use and maintenance of livestock management improvements and facilities associated with grazing that are in compliance with wilderness area management plans provided for in the Wilderness Management Policy (46 FR 47180, September 24, 1981) approved by the authorized officer.

§ 8560.4-2 Aircraft and motorboats.

The authorized officer may permit the landing of aircraft and use of motorboats at places within any wilderness area where these uses were established before the date the area was designated by Congress as a unit of the National Wilderness Preservation System, and where such uses have continued, subject to such restrictions as he/she finds necessary. The authorized officer may also permit the maintenance of aircraft landing strips, heliports or helispots that existed when the area

was designated a unit of the National Wilderness Preservation System.

§ 8560.4-3 Access.

(a) States or persons, and their successors in interest, who own lands completely surrounded by a wilderness area shall be given such rights as may be necessary to assure adequate access to such lands, or the private or State land shall be exchanged for federally owned land of approximately equal value within the same State under authorities available to the Secretary of the Interior.

(b) Persons with valid mining claims or other valid occupancies wholly within wilderness areas shall be permitted access to such surrounded occupancies by means that are consistent with the preservation of such wilderness and that have been or are being customarily used with respect to other such occupancies surrounded by wilderness. Permits issued under 43 CFR Part 2800 or 2880, or plans approved under 43 CFR Subpart 3809 by the authorized officer shall prescribe the routes of travel to and from the occupancies surrounded by wilderness, the mode of travel, and other conditions reasonably necessary to preserve the wilderness areas.

(c) No roads shall be constructed across wilderness areas unless permitted by the authorized officer. Access by routes or modes of travel not available to the general public may, when fully justified, be permitted by written authorization of the authorized officer. The authorization shall prescribe routes and modes of travel which will result in impacts of least duration and degree on wilderness characteristics and, at the same time, serve the reasonable purposes for which the lands are held or used.

§ 8560.4-4 Commercial services.

The authorized officer may permit temporary structures and commercial services such as those provided by packers, outfitters and guides within wilderness areas to the extent he/she finds necessary for activities appropriate for realizing the recreational or other wilderness purposes of the area.

§ 8560.4-5 Gathering information about resources.

(a) Any person desiring to conduct any activity for purposes of gathering information about natural resources in wilderness may do so provided it is carried on in a manner compatible with the preservation of the wilderness environment. Where required by other law or regulation, such person shall

obtain the necessary permits or authorizations. The authorized officer in granting such permits or authorizations shall allow such activities, subject to such restrictions as he/she may impose to insure that they are carried on in a manner compatible with the preservation of the wilderness environment. This section shall not apply to mineral prospecting under the mining or mineral leasing laws conducted prior to the date when the mining and mineral leasing laws cease to apply to the respective component of the system. [See § 8560.4-6.]

(b) Any person desiring to use motor vehicles, motorized equipment, mechanized transport, or to land aircraft for mineral prospecting or for gathering information about resources, shall notify the Bureau in writing. No form of overland mechanical transport may be used unless approved in accordance with subparts 2920, 3045, 3209 or 3509 of this title. If a permit is required, it shall provide for the protection of public land resources, including wilderness characteristics, protection of the public and restoration of disturbed areas, and may provide for the posting of performance bonds.

§ 8560.4-6 Mining law administration.

The United States mining laws shall apply to each wilderness area under the jurisdiction of the Bureau for the period specified in the Wilderness Act and subsequent establishing legislation to the same extent they were applicable immediately prior to the designation of the area as part of the National Wilderness Preservation System.

(a) No person shall obtain any right or interest in or to any mineral deposits that may be discovered through prospecting or other information-gathering activity after the date on which the United States mining laws cease to apply to the specific wilderness area.

(b) No mining operations shall be conducted on Bureau-administered wilderness areas without an approved plan of operations where required by subpart 3809 of this chapter.

(c) Holders of valid mining claims established on any Bureau-administered wilderness area before the date such unit was included in the National Wilderness Preservation System shall be accorded the rights provided by the United States mining laws then applicable to the public lands involved.

(d) Any person prospecting or locating a mining claim in a Bureau-administered wilderness area on or after the date the wilderness area was included in the National Wilderness Preservation

System, but prior to the date on which the mining laws cease to apply to that area, shall have the rights provided by the United States mining laws, subject to the provisions of the Wilderness Act and subsequent establishing legislation.

(e) All mining claimants shall comply with the reasonable stipulations established by the authorized officer for the protection of resources in accordance with the general purposes of maintaining the National Wilderness Preservation System unimpaired for future use and enjoyment as wilderness and preserving its wilderness character, consistent with the use of the lands for mineral exploration, development, drilling and production, and for transmission lines, water lines, telephone lines or facilities necessary in exploring, drilling, producing, mining and processing operations. Where the use of mechanized transport, aircraft and motorized equipment is essential, these stipulations shall control their use.

(f) As soon as feasible after mining operations cease, but no more than one year thereafter, the operator shall remove all structures, equipment and other facilities and, no more than 6 months thereafter, commence reclamation. Reclamation, including appropriate revegetation, shall be completed within a reasonable time as determined by the authorized officer. Whenever possible and feasible, reclamation shall restore the surface to a contour which appears to be natural, although this may not be the original contour. Where such measures are impractical or impossible, as determined by the authorized officer, reclamation shall provide the maximum achievable slope stability.

(g) The authorized officer may require the posting of a cash or surety bond or other guarantee in such amount as the authorized officer determines to be sufficient to defray the costs of reclamation.

(h) In the development and operation of mining claims, claimants shall, to extent practicable as determined by the authorized officer and consistent with the use of lands for mineral development, prevent erosion, deterioration of the lands, impairment of their wilderness character, and the obstruction, pollution, or siltation of the streams, lakes and springs.

(i) The owner of patented mining claims located after the lands were included in the National Wilderness Preservation System may cut and use as much of the mature timber as is needed in the extraction, removal and beneficiation of the mineral deposits, if needed timber is not otherwise reasonably available. The cutting shall

comply with sound principles of forest management as set forth in stipulations issued by the authorized officer.

(j) Prior to approving plans of operations under subpart 3809 of this title, or allowing approved operations to continue, a field reconnaissance of the unpatented mining claim shall be conducted by a Bureau of Land Management minerals examiner to determine whether the claim had a physical exposure of mineralization within its boundaries prior to the withdrawal.

(1) If the authorized officer concludes that such exposure exists and the proposed operations, including surface disturbance, would not prevent the continued preservation of the wilderness character of the area as a whole, the plan shall be reviewed under the normal procedures to ensure prevention of unnecessary and undue degradation of the public lands.

(2) If the authorized officer concludes that such exposure exists and the proposed operation would prevent continued preservation of the wilderness character of the area as a whole, a mineral examination of the subject claim shall be conducted. A proposal to perform only the minimum assessment work per mining claim shall in no case be deemed to prevent the preservation of the wilderness character. If the mineral report concludes that the claim is:

(i) Valid, the plan shall be reviewed under the normal procedures to ensure prevention of unnecessary and undue degradation of the public lands; or

(ii) Not valid, the plan of operations shall be denied, or a notice of noncompliance ordering the cessation of operations shall be issued, and contest proceedings shall be initiated to determine the status of the claim definitively.

(3) If the authorized officer concludes that such exposure does not exist, a mineral examination of the subject claim shall be conducted, a mineral examination report prepared, and contest proceedings shall be initiated against the claim, if appropriate.

Neither the adverse conclusions of a mineral examination report, nor the pendency of contest proceedings, shall constitute grounds to disallow a plan of operations to the extent the plan proposes operations that are necessary and due, and are for the purpose of either taking samples and gathering other evidence of claim validity to confirm and corroborate mineral exposures that were physically disclosed and existing on the claim prior to the withdrawal date, or performing

the necessary annual assessment work as required by subpart 3851 of this title and 30 U.S.C. 28. The mineral examination requirement of this paragraph shall not cause a suspension of the time limitations governing operating plan approvals contained in § 3809.1-6 of this title. Operations on producing mines shall be allowed to continue pending a final administrative determination of claim validity. After a final administrative decision is rendered by the Department declaring a claim to be null and void, and plans of operations shall be disallowed and all operations shall be discontinued unless and until such decision is reversed or modified as a result of judicial review.

(k) Activities, including prospecting under the United States mining laws, for the purpose of gathering information about minerals in wilderness, shall be allowed, except that any such activity for gathering mineral information after the date on which the United States mining laws cease to apply shall be conducted in a manner compatible with the preservation of the wilderness environment. After such date, mining claims shall not be located in wilderness areas.

§ 8560.4-7 Mineral leases and mineral permits.

(a) No mineral leases shall be issued under the mineral leasing laws in any wilderness area on public lands.

(b) Holders of valid mineral leases established on any Bureau-administered wilderness area before the date such unit was included in the National Wilderness Preservation System shall be accorded the rights granted by the terms and conditions of the specific leases.

(c) Subject to valid existing rights, no person shall obtain any right or interest in or to any mineral deposits that may be discovered in a wilderness area through prospecting or other information-gathering activity after the date on which the laws pertaining to mineral leasing cease to apply to the specific wilderness area.

(d) Permits shall not be issued for the removal of mineral materials commonly known as "common varieties" under the Materials Act of July 31, 1947, as amended and supplemented (30 U.S.C. 601, 604).

§ 8560.4-8 Water and power resources.

Prospecting for water resources and the establishment of new reservoirs, water-conservation works, power projects, transmission lines and other facilities needed in the public interest, and the subsequent maintenance of such

facilities, all pursuant to section 4(d)(4)(1) of the Wilderness Act, may be permitted if specifically authorized by the President.

§ 8560.5 Penalties.

(a) Any person who knowingly and willfully violates the regulations in § 8560.1-2 is subject to arrest, conviction and punishment by a fine of not more than \$1,000 or imprisonment for not more than 12 months, or both.

(b) At the request of the Secretary of the Interior, the Attorney General may institute a civil action in any United States district court for an injunction or other appropriate order to prevent any person from utilizing public lands in violation of the regulations of this Part.

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Federal Register

**Monday
February 25, 1985**

Part IV

Department of Transportation

Office of the Secretary

14 CFR Ch. III

**Commercial Space Transportation;
Licensing Process for Commercial Space
Launch Activities; Notice of Policy and
Request for Comments**

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Ch. III¹

(OST Docket Number 42885; Notice 85-3)

Commercial Space Transportation;
Licensing Process for Commercial
Space Launch Activities

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of Policy and Request for Comments.

SUMMARY: Pursuant to the provisions of the Commercial Space Launch Act, Pub. L. No. 98-575, (the Act), the Department of Transportation (DOT or the Department) announces its policy concerning the process for obtaining a license authorizing commercial space launch activities by the private sector. This Notice outlines the major components of the launch license required by the Act and describes the Federal interagency process for evaluating license applications. Also identified are the principles that have guided DOT in shaping the regulatory framework applicable to commercial launch activities and that will continue to govern the Department's efforts to encourage, facilitate, and promote commercial space launches by the private sector. This Notice should be relied upon as interim guidance by license applicants pending the promulgation by DOT of regulations implementing the licensing provisions of the Act.

DATE: This policy will become effective February 25, 1985. DOT is interested in receiving comments on the licensing policy described in this Notice. Comments must be received on or before April 26, 1985.

ADDRESS: Comments on this Notice should be submitted to the Documentary Services Division, attention Docket Section, Room 4107, OST Docket Number 42885, U.S. Department of Transportation, C-55, 400 Seventh Street, S.W., Washington, D.C. 20590. All written communications received on or before the comment period closes will be considered in preparing the rulemaking on launch licensing.

Comments received will be available for examination at the above address between 9:00 A.M. and 5:00 P.M. E.T. Monday through Friday, except Federal holidays. Receipt of comments will be acknowledged only if a self-addressed,

stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT:

Gerald Musarra, Attorney Advisor, U.S. Department of Transportation, 400 Seventh Street, S.W., Room 10401, (202) 426-1936, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: In 1982, the Federal Government was presented with the first proposal by a commercial firm to launch an expendable launch vehicle (ELV) from a private launch site. Prior to that time all U.S. launch activities had been conducted by the Federal Government at one of several U.S. national ranges. In response to the demonstrated interest of the private sector in space launch operations, President Reagan issued a statement in May 1983 in which the Administration stated its policy to encourage the development of commercial launch capability in the United States by the private sector. Recognizing that the administration of existing Federal regulations applicable to launch activities posed unintended, yet significant, obstacles to the nascent private space launch industry, the President's policy statement also established an interim Senior Interagency Group (Space) Working Group on Commercial Launch Operations to study existing procedures and to suggest ways to streamline them. The Working Group's recommendations centered on the concept of a lead agency within the Federal Government to ensure that Federal policies and regulations do not unreasonably inhibit private launch initiatives. On February 25, 1984, the President issued Executive Order 12465, 49 FR 7211, designating DOT as the Federal agency to assume that role.

After its own extensive study and analysis, Congress enacted the Commercial Space Launch Act, signed by the President on October 30, 1984. The Act not only signalled unambiguous Congressional support for the concept of a lead agency to oversee and coordinate commercial space launch activities but also provided a firm statutory basis for the exercise of lead agency functions. The Act vests exclusive licensing authority for commercial space launches and the operation of commercial launch sites in the Department of Transportation, while at the same time preserving the licensing authority of the Federal Communications Commission (FCC) relative to the communications components of launch vehicles and the independent licensing authority of both the FCC and the Department of Commerce with respect to communications and private sector

operational remote sensing payloads, respectively. DOT's principal objective is to shape, in consultation with other appropriate Federal agencies, a streamlined licensing process that protects public safety, national security and foreign policy objectives, but poses no unreasonable regulatory barriers to the commercial success of a technologically innovative private space launch industry in the United States. The publication of this Notice represents an important milestone in DOT's continuing efforts to realize that objective.

Issued in Washington, D.C., on February 15, 1985.

Jennifer L. Dorn,

Director, Office of Commercial Space Transportation.

Department of Transportation

Commercial Space Transportation:
Licensing Policy for Commercial Space
Launch Activities

1. Purpose

This Notice describes the licensing policies and procedures that DOT considers to be the most effective means of satisfying the Secretary's statutory mandate to oversee and coordinate non-governmental space launch activities. Although this Notice has been developed for the private commercial launch activities that are currently being considered and proposed, the Department believes that, consistent with the legislative history of the Act, the policies and procedures described herein will provide adequate supervision for any non-governmental launch activities which may be proposed. Pending the promulgation by DOT, after notice and comment, of regulations implementing the licensing provisions of the Commercial Space Launch Act, this Notice should be relied upon as interim guidance by persons applying to the Department for a license or licenses authorizing orbital or suborbital space launches and the operation of a launch site. Applicants for launch licenses will submit applications to the Director of the Office of Commercial Space Transportation, U.S. DOT. Applications will be reviewed pursuant to the process described in this Notice. This process is designed to ensure that applicants receive fair and expeditious consideration of their applications.

2. Scope

The policies and procedures described in this Notice apply to all non-governmental launch activities, and specifically to the proposed launch into

¹ The reservation of 14 CFR Chapter III for the Office of Space Transportation, DOT, will be the subject of a publication in the Federal Register in the near future.

space of a vehicle and any payload carried by such vehicle by: (A) Any person from the United States, its territories and possessions, including the territorial sea;

(B) A citizen of the United States or a corporate or other entity organized under U.S. or State law, from outside the United States;

(C) A foreign corporate or other entity controlled, as defined pursuant to section 4(11)(c) of the Act, by a citizen of the U.S. or a corporate entity organized under U.S. or State law at any place which is both outside the United States and outside of the territory of any foreign nation when there is no agreement in force between the United States and a foreign nation which provides that such foreign nation shall exercise jurisdiction over such launch; or

(D) A foreign entity, as described in subparagraph (c) above, from the territory of a foreign nation when there is in force an agreement between the United States and such nation concerning the exercise of jurisdiction by the United States over such launch.

The policies and procedures described in this Notice do not apply to Government launches, their payloads, or to the review of Government payloads.

3. Background

In 1982, the Federal Government was presented with the first proposal by a private firm to launch an expendable launch vehicle from a private launch site. At that time, a number of Federal agencies claimed either a direct or indirect regulatory interest in the foreign policy, national security, international treaty or public safety issues attending the launch, but no agency appeared to have direct responsibility for licensing the launch itself. Given the uniqueness and urgency of the proposed launch, the Senior Interagency Group (Space) decided that ELV launches would be considered "exports" and thus be subject to the International Traffic in Arms Regulations (ITAR). Utilization of the ITAR to regulate commercial ELV launches was seen as an appropriate, though temporary, expedient for addressing most of the domestic and international issues raised by commercial space launches.

As a regulatory apparatus for authorizing and supervising commercial

launch activities, the ITAR proved to have significant limitations. Although the ITAR provided a consultative license approval process for addressing the range of Federal issues raised by private launch activities, none of the Federal agencies responsible for administering regulations applicable to such activities had developed either procedures for reviewing launch applications or criteria for granting approval. As a result, the first private launch applicant was subjected to duplicative reviews and other complications that prolonged the licensing process.

The experience of the first commercial launch applicant created the impetus both for a government-wide effort to devise a more rationalized approach to future launches and for designation of a lead agency to direct that effort. Since its designation as lead agency by Executive Order 12465, DOT has consistently promoted an expedited licensing process that continues to rely on the existing expertise and specialized policy perspective of other Federal agencies. That approach is now mandated by statute. At the same time, DOT's experience in assisting a subsequent launch applicant to obtain Federal approval for its first launch from a site in the Pacific Ocean amply demonstrated that the very nature of the consultative approach to licensing creates a compelling need for a carefully structured and effectively coordinated licensing process.

4. Licensing Policy for Commercial Space Launch Activities

A. Statutory Requirements. The Commercial Space Launch Act requires that any person intending to launch a launch vehicle or to operate a launch site within the United States, or any United States citizen intending to launch a launch vehicle or to operate a launch site in circumstances described in section 2 of this Notice, obtain a license from the Secretary of Transportation. The Act authorizes the Secretary to issue or transfer licenses for private space launch activities in a manner consistent with public health and safety, the safety of property, and the national security and foreign policy interests of the United States. It directs the Secretary to issue a license if the Secretary finds that an applicant

complies, and will continue to comply, with all applicable requirements imposed by statute and regulation. The Act further directs that conditions that may be necessary to ensure such compliance be incorporated in each license the Secretary issues. Along with the responsibility for protecting public safety and other vital national interests, the Act imposes a concurrent duty on the Secretary to shape a licensing process that facilitates the provision of launch services by the private sector and affords applicants a simplified, expeditious means for securing licenses for launch operations.

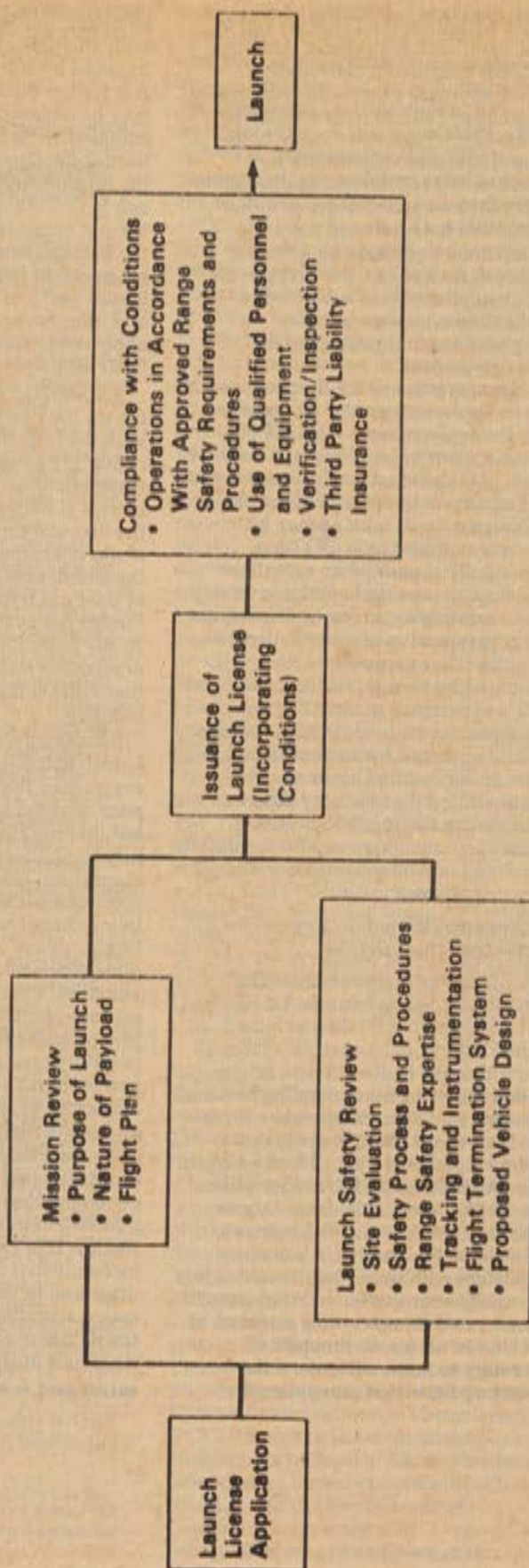
B. Licensing Principles. DOT has drawn the basic principles for shaping both the form and substance of its regulatory program from the responsibilities for commercial space launch activities expressly assigned to the Secretary by Congress. The structure of our licensing process must serve, to the extent necessary, the requirements of public safety, national security, and foreign policy as mandated by statute. At the same time DOT's policies and procedures must be formulated in a way that reflects the needs of an emerging industry.

Specifically, the regulatory regime for launch activities must provide firm assurances that such activities not only pose no unreasonable risks to the public but that routine launch activities can in fact be conducted safely. Moreover, a specialized component of the licensing process must focus specific attention on international treaty obligations and the foreign policy and national security dimensions of proposed launch activities. Finally, the Government must oversee launch activities in a manner that provides the industry with the certainty crucial to effective planning and preparation and the flexibility necessary to allow continued growth and innovation.

To meet these responsibilities DOT has developed a licensing process encompassing two distinct components: a Mission Review and a Launch Safety Review (see chart). These reviews may be conducted independently of each other and in the order, sequential or concurrent, that is more appropriate to the nature of the proposed activity and the needs of the applicant.

BILLING CODE 4910-62-M

Department of Transportation
Office of Commercial Space Transportation
Commercial Space Launch Licensing Process



Note: Review Elements and Procedures are for Illustrative Purposes Only.

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Mission Review. Under the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and other Celestial Bodies (the Outer Space Treaty), 18 U.S.T. 2410, 610 U.N.T.S. 205, to which the U.S. is a State Party, non-governmental activities in space require authorization and continuing supervision by the appropriate State Party. Under the Convention on International Liability for Damage Caused by Space Objects (the Liability Convention), 24 U.S.T. 2389, to which the U.S. is also a State Party, the U.S., not private launch entities, agreed to assume liability for damage caused by U.S. space objects in a wide variety of circumstances; these include absolute liability for damage to life and property caused when a space object is launched from U.S. territory or the launch is otherwise conducted or procured by the U.S. This direct liability forms the basis for a broad Federal interest in proposed private space launch activities, one which extends beyond safety issues to include both the purpose of the launch and the nature of the payload. This unique interest in the launch mission distinguishes regulation of commercial space launch activities from regulation of other modes of transportation.

The Mission Review component of the licensing process is intended as the mechanism for addressing these international obligations as well as the national security and foreign policy implications of a given launch. Mission Review focuses on such factors as the purpose and character of the proposed launch, the nature of the payload, and the impact of the launch or payload on existing uses of space. As an example, a payload must not interfere with other spacecraft or endanger other nations. Mission approval will be granted only upon a determination that the launch will not conflict with vital national interests.

Although Mission Review will address certain characteristics of the launch, such as the proposed flight plan, in substantial part Mission Review for an orbital launch will center upon the payload. The payload review can occur in one of two ways. If the payload must be licensed by another Federal agency, such as telecommunications satellites licensed by the Federal Communications Commission or private operational remote sensing satellites licensed by the Department of Commerce, DOT would not duplicate the review undertaken in the course of the license process conducted by such agency. Rather, DOT will accept the license so issued as

satisfying the requirements of mission review pertaining to the payload.

Payloads which are not independently licensed will be reviewed by DOT in consultation with the Departments of State and Defense, and, as appropriate, the National Aeronautics and Space Administration and other agencies to ensure that the payload mission does not conflict with national interests.

Launch Safety Review. As with other transportation systems, the Government has a responsibility to protect the public against any unreasonable risks that space launch activities might pose to either life or property. At present, non-Governmental space launch activities rely solely on unmanned vehicles, a characteristic having important implications for safety enforcement. With manned vehicles, as in aviation, rail, or automotive transportation, a strong correlation exists between system reliability and safety: Critical components cannot fail without endangering the human occupant(s). With unmanned vehicles such as ELV's, where system reliability commonly averages between 95 and 98 percent, safety measures can be framed somewhat independently of mission success. In fact, the most common safety measure employed in the event a critical flight component fails entails thrust termination of the launch vehicle in flight by safety personnel monitoring the launch which results in the destruction of the vehicle. Thus, the launch safety component of the licensing process focuses upon the safety elements of the launch operation and the safety systems of the vehicle; reliability of the vehicle in a non-safety context will be the responsibility of the launch vehicle manufacturers.

As the result of more than two decades of federally-sponsored ELV launch operations, standard practices and procedures have evolved to a point where the safe conduct of routine ELV activities can be virtually assured. To date, for example, not a single public fatality has resulted from a space vehicle launch. This safety record, unmatched in any comparable field, is the result of the comprehensive safety management program employed at U.S. national ranges. This program combines the safety expertise and experience of range personnel, the equipment and facilities needed for safe launch operation, and the vehicle safety systems designed to avoid potential hazards. In the course of a Launch Safety Review, DOT will, in general, be attempting to ascertain whether an applicant's launch safety program can

assure a level of safety comparable to that achieved at the national ranges.

Launch Safety Review will address the range and vehicle safety resources an applicant has assembled to guarantee that launch operations are conducted safely. Specifically, the review will focus on such factors as:

1. Proposed launch site and flight corridor. Is it possible, under any circumstances, to conduct a safe launch on the proposed azimuth from the location selected? Are there unique environmental considerations associated with the launch site?
2. Range safety expertise. What are the qualifications and experience of the personnel managing and directing the launch safety process?
3. Ground and flight safety process and procedures. What safety procedures will the launch operator use? How are these documented and are they adequate?
4. Range tracking and instrumentation capability. What tracking systems are being used? What is the range of coverage and is it adequate to meet the needs of the proposed launch?
5. Vehicle safety systems (e.g. flight termination). What termination systems design and components will be used? What component and systems tests will be conducted to verify reliability?
6. Proposed vehicle design. Is the vehicle new in concept or untested? Can the applicant's range and proposed safety resources adequately accommodate such vehicle?

Upon receipt of an application, DOT will review the launch proposal in detail to determine whether the safety personnel, systems, procedures and design proposed will effectively protect public safety. During the review, DOT will identify elements of the proposal that may need to be modified in order to secure safety approval.

An applicant's decision concerning the site from which a launch will be conducted can effectively reduce the number of safety issues to be addressed by DOT, thereby shortening the time frame for reviewing and processing a launch application. If an applicant proposes to launch from an established national range, where safety requirements governing equipment, personnel qualifications, and launch procedures developed by the government operator of the range are already in place, DOT's range launch safety requirements will ordinarily be satisfied by a statement of intention to launch from such range. The launch license issued will be conditioned by the requirement that the applicant comply with all applicable safety requirements

and procedures of the range involved. Similarly, at such time as requirements and procedures are developed by DOT for licensing private launch sites, an applicant will be able to secure prompt launch safety approval by indicating an intention to utilize a licensed commercial site.

Once a company has been granted both mission and launch safety approval by DOT, a license incorporating all necessary and appropriate conditions will be issued. These conditions will encompass, among other requirements:

- Adherence to range safety requirements (for launches from national or licensed commercial ranges);
- Implementation of specific and adequate safety measures and provision of qualified equipment and safety personnel required by the Government (for launches from unlicensed launch ranges);

- Adherence to airspace restrictions;
- Third party liability insurance levels;

- Federal inspection, verification, and enforcement requirements.

The license will specify the conditions necessary to achieve safety compliance as well as mandatory procedures for activities covered by the license.

Departure from the approved procedures set out in the licensing documents would constitute a violation of the conditions of the license and may necessitate appropriate enforcement action by the Secretary pursuant to sections 10 and 11 of the Act.

The Department believes that its approach to licensing commercial launch activities will enable applicants to obtain launch licenses as early as possible in the preparatory stages of a proposed launch and to proceed expeditiously and with adequate guidance to the commencement of launch operations. It also ensures that the Federal Government's crucial interest in the public safety, national security, and foreign policy issues attending commercial launch operations are properly and sufficiently addressed. In order to be certain of the continued efficacy of our licensing policies and procedures, DOT's regulatory program will be evaluated periodically in light of market and technological developments.

5. Inter-Agency Coordination of License Applications

A. Statutory Requirements. The Commercial Space Launch Act contains several specific provisions requiring that the Secretary consult with appropriate Federal agencies in the course of overseeing and coordinating commercial space launch activities. Section 8(a)(1) establishes all requirements of Federal

law currently applicable to the launch of a launch vehicle or the operation of a launch site as requirements for issuance of a license for such activities under the Act. Section 8(a)(2), however, authorizes the Secretary to determine, in consultation with appropriate agencies, whether any requirement of Federal law that would otherwise apply to such activities is not necessary to protect public health and safety, the safety of property, and national security and foreign policy interests of the United States, and to eliminate, by regulation, such requirement as a requirement for a license under the Act.

Section 8(b) of the Act further authorizes the Secretary to prescribe such additional requirements as may be necessary to protect public health and safety, the safety of property, and national security and foreign policy interests of the United States. In addition, the Secretary may, in individual cases, waive the application of any requirement for a license under section 8 if the Secretary determines that such waiver is in the public interest and that it will not jeopardize public health and safety or other protected interests described in the preceding sentence.

Section 20 of the Act requires the Secretary to consult with the Secretary of Defense on all matters under the Act that may affect national security, including the issuance or transfer of each license. The Secretary is similarly directed to consult with the Secretary of State on matters affecting foreign policy. The Departments of State and Defense are responsible for identifying and notifying the Secretary of those foreign policy and national security interests or obligations, respectively, relevant to activities under the Act. The Act further directs the Secretary to consult with other agencies, as appropriate, in order to carry out the provisions of the Act.

The report of the Senate Committee on Commerce, Science, and Transportation, which accompanied passage of the Act, explains in general terms how Congress intended the consultation process to operate, particularly with respect to the Secretary's authority under section 8(a)(2) to render existing requirements of Federal law inapplicable to launch activities:

The Committee encourages the Secretary to use this authority, as appropriate, to streamline the licensing process of the act and to eliminate any duplicative or unnecessary requirements for the launch of a launch vehicle or the operation of a launch site. The Committee expects that the consultations between the Secretary and the appropriate agencies concerning the retention

of existing requirements will be reasonable and good faith consultations. Should these consultations prove unproductive, the Committee expects the Secretary to have the ultimate authority in establishing the regulatory framework. S. Rep. No. 656, 98th Cong., 2d Sess. 11 (1984).

B. DOT Policy on Interagency Consultation. To fulfill the requirements of the Act in this area, the Department will work closely with appropriate agencies in evaluating applications for licenses to launch vehicles or to operate launch sites. With regard to interagency coordination of license applications, the Department's primary objective will be to ensure that the consultative process operates as efficiently as possible. In particular, DOT will eliminate, wherever possible, the time-consuming sequential reviews which characterized the experience of private launch applicants before passage of the Act. The Department will encourage agencies to focus their evaluations upon issues not committed to review by other agencies and to rely, to the extent possible, upon evaluations conducted by other agencies in the course of their own reviews.

In the Department's view, the burden of coordinating an application with other agencies rests with DOT and not with the applicant. Upon receipt of an application, the Director of the Office of Commercial Space Transportation will notify relevant agencies of the application and determine the Federal agencies to which the application will be forwarded for evaluation, specifying the date by which such evaluation shall be completed. The Director will also specify, in consultation with each agency involved, the scope of that agency's review.

The Director will notify the applicant concerning the agencies to which the application has been forwarded and will keep the applicant informed of the progress of the review.

6. DOT Commercial Space Launch Regulatory Program and Continuing Policy Development

The Commercial Space Launch Act requires the Secretary to issue regulations implementing the provisions of the Act by April 28, 1985. DOT is mindful that, taken together, the licensing policy published today and DOT's forthcoming private space launch regulations will establish the regulatory environment that will not only guide this emerging industry but to some extent shape it as well. It is clear from the plans and proposals announced by a number of entrants into the field that innovative operating approaches and technological developments could

enable the industry to develop in currently unanticipated ways. Because Federal policy so strongly supports innovative private enterprise in commercial space activities, Federal regulation must be correspondingly responsive to such efforts.

This Notice contains the foundation of the regulatory structure for commercial space launch activities. DOT is currently developing the specific requirements that will be integrated with that structure. A number of these regulatory documents will be published shortly, particularly those focusing on areas where launch activity may be imminent or where information useful to the industry can be assembled quickly. These include:

- **Launch License Regulation.** This document will both reflect and particularize the licensing process set out in this Notice. Specifically, it will outline the regulatory requirements and application process for commercial launches. In addition, it will address such issues as inspection, verification, enforcement, and the terms of the license itself;

- **Insurance Regulation.** This document will provide guidance on the

Department's role in establishing third party liability insurance requirements.

- **National Range Use.** Federal policy encourages private launch operators to use the national ranges. This information document will describe the various national range facilities, the types of launch support services they provide and their availability. It will provide guidance to potential users on how to gain access to the ranges, the general costs of service and special requirements of the respective ranges.

Within the time period specified by the Act, the Department will promulgate at least interim guidance, if not final regulations, in each of the areas of commercial space transportation licensing for which the Secretary has responsibility. It is recognized, however, that because certain of these areas represent uncharted waters in terms of both Government and industry experience, issuance of final regulations in such areas can not responsibly be achieved within 180 days. This is especially true with respect to the licensing of private commercial launch sites, an aspect of the commercial space launch industry not presently in existence.

DOT has made no *a priori* determination that procedures developed and utilized at national ranges should be transferred in their totality to private launch sites. In developing regulations applicable to these and all other areas, however, the Department is required to evaluate regulatory alternatives and to assess the impact, costs and benefits of each alternative. This evaluation process with respect to commercial launch sites is now under way. Once the alternatives have been evaluated, DOT is required to initiate the technical analysis and research needed to support the ultimate development of specific regulatory requirements and standards. The need to comply with these procedural requirements for issuance of regulations, however, will not prevent the Department from meeting—within the time period specified in the Act—its equally important obligation to Congress and to the commercial transportation industry to issue general policy guidance on its approach to regulating commercial launch sites.

[FR Doc. 85-4640 Filed 2-22-85; 8:45 am]

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CFR CHECKLIST

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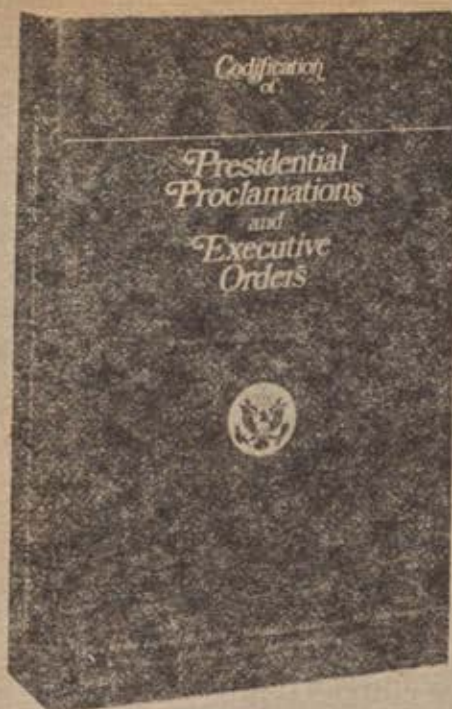
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