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June 11, 1986

Briefings on How To Use the Federal Register—
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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: July 11; at 9 am.

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

RESERVATIONS: Abram Primus 202-523-3419
Ina Masters 202-523-3419

SEATTLE, WA

WHEN: July 22; at 1:30 pm.

WHERE: North Auditorium,
Fourth Floor, Federal Building,
915 2nd Avenue, Seattle, WA.

RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Seattle 206-442-0570
Tacoma 206-383-5230
Portland 503-221-2222

SAN FRANCISCO, CA

WHEN: July 24; at 1:30 pm.

WHERE: Room 2007, Federal Building,
450 Golden Gate Avenue,
San Francisco, CA.

RESERVATIONS: Call the San Francisco Federal Information Center, 415-556-6600

Contents

Federal Register

Vol. 51, No. 112

Wednesday, June 11, 1986

Agency for International Development
NOTICES
Housing guaranty programs:
Tunisia, 21254

Agricultural Marketing Service
RULES
Meats, prepared meats, and meat products; grading, certification, and standards:
Fee increase, 21134
Potatoes, peeled; grade standards, 21133

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Soil Conservation Service
NOTICES
Agency information collection activities under OMB review, 21196
Meetings:
Meat and Poultry Inspection National Advisory Committee, 21196

Air Force Department
NOTICES
Active military service and discharge determinations:
Civil Service crewmembers on U.S. Army transports in ocean service or foreign waters during World War II, 21212

Animal and Plant Health Inspection Service
RULES
Plant-related quarantine, domestic:
Browntail moth, 21136

Antitrust Division
NOTICES
National cooperative research notifications:
Corp. for Open Systems International, 21260
Southwest Research Institute, 21261

Army Department
NOTICES
Meetings:
U.S. Military Academy, Board of Visitors, 21212

Commerce Department
See International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Caribbean Basin Initiative; special access program, 21208

Commodity Futures Trading Commission
RULES
Contract market rule enforcement and financial reviews; audits and leverage transaction; schedule of fees, 21149

Customs Service
RULES
Financial and accounting procedure:
User fees, 21152

Defense Department
See also Air Force Department; Army Department; Defense Logistics Agency
NOTICES
Senior Executive Service:
Performance Review Board; membership, 21211

Defense Logistics Agency
NOTICES
Privacy Act; computer matching program, 21213

Education Department
RULES
Direct grant programs:
Application procedures for new awards, 21163
NOTICES
Meetings:
Women's Educational Programs National Advisory Council, 21213

Energy Department
See Federal Energy Regulatory Commission; Western Area Power Administration

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
Oxygen, carbon dioxide, sulfur dioxide and nitrogen oxides; instrumental test methods, 21164
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
Carbaryl, 21172
Legume vegetables; definition and interpretation, 21172
Permethrin, 21173
Pesticide programs:
Child-resistant packaging for pesticide products, 21276
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
4-(2,4-Dichlorophenoxy) butyric acid, 21188
Endive; definition and interpretation, 21186
Hexakis (2-methyl-2-phenylpropyl) distannoxane, 21189
Peas; definition and interpretation, 21187
Toxic substances:
Significant new uses—
Alkylsulfonic acids, ammonium salt, 21190
NOTICES
Agency information collection activities under OMB review, 21232
Meetings:
Science Advisory Board, 21244
Pesticide, food, and feed additive petitions:
BASF Corp. et al., 21232
Pesticide programs:
Pesticide label utility project; draft availability, 21239

Pesticide registration, cancellation, etc.:
John Opitz, Inc., et al., 21234
Pesticides; emergency exemption applications:
Anilazine, etc., 21244
Pesticides; receipts of State registration, 21235, 21237
(2 documents)
Pesticides; temporary tolerances:
Ethoprop, 21239
Mycogen Corp., 21233
Norflurazon, 21235
Privacy Act; systems of records, 21240
Toxic and hazardous substances control:
Premanufacture notices receipts, 21240, 21241
(2 documents)

Executive Office of the President
See Presidential Documents

Farm Credit Administration
RULES
Practice and procedure rules before the FCA, 21138

Federal Aviation Administration
PROPOSED RULES
Prohibited areas, 21179
VOR Federal airways, 21178

Federal Communications Commission
RULES
Radio services, special:
Amateur service—
Call signs prefixed by WR; removal, 21175
Radio stations; table of assignments:
Michigan, 21174
Minnesota, 21174
PROPOSED RULES
Radio stations; table of assignments:
Illinois, 21194
Minnesota, 21195
NOTICES
Meetings:
ITU World Administrative Radio Conference Advisory Committee, 21245
Radio broadcasting:
FM vacant channel applications; universal window filing period, 21245

Federal Deposit Insurance Corporation
RULES
Deposit insurance coverage; trust account recordkeeping requirements, 21137
NOTICES
Meetings; Sunshine Act, 21270, 21271
(4 documents)

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Bonaccorsi, Matthew J., 21218
Hydroelectric applications, 21218
Natural gas companies:
Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend, 21223, 21225
(2 documents)
Small producer certificates, applications, 21224
Small power production and cogeneration facilities; qualifying status:
Connecticut River Power Co., Inc., et al., 21226
Applications, hearings, determinations, etc.:
Alabama-Tennessee Natural Gas Co., 21214
Arkla Energy Resources, 21214
Gas Research Institute, 21215
Gould Oil, Inc., 21215
Granite State Gas Transmission, Inc., et al., 21216
Hewit & Dougherty et al., 21216
Michigan Gas Storage Co., 21217
Northern Illinois Gas Co., 21217
Sea Robin Pipeline Co., 21217
Tennessee Gas Pipeline Co., 21217

Federal Highway Administration
PROPOSED RULES
Engineering and traffic operations:
Uniform Traffic Control Devices Manual; amendments, 21180

Federal Home Loan Bank Board
NOTICES
Receiver appointments:
Banco de Ahorro, FSB, 21245

Federal Mine Safety and Health Review Commission
NOTICES
Meetings; Sunshine Act, 21271

Federal Reserve System
NOTICES
Electronic fund transfers:
Wire transfer format, 21246
Applications, hearings, determinations, etc.:
BT Financial Corp. et al., 21245
Hartford National Corp.; correction, 21246
IntraWest Financial Corp., 21246

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 21251

Food and Drug Administration
NOTICES
Medical devices; premarket approval:
DILPAN Hygroscopic Cervical Dilator, 21248
Modified C-Loop Single-Piece Perspex CQ Posterior Chamber Intraocular Lenses (Planar Model SM-1, Angular Model CR-1, and Planar Model GR-1), 21247

General Services Administration
RULES
Acquisition regulations:
Contracting officer warrant program training Correction, 21175
PROPOSED RULES
Acquisition regulations:
Contracts; bond and insurance requirements, etc., 21195

Health and Human Services Department
See Food and Drug Administration; Public Health Service; Social Security Administration

Housing and Urban Development Department
RULES
Low income housing:
Housing assistance payments (Section 8)—
Shared housing, 21300
Mortgage and loan insurance programs:
Maximum mortgage limits for high-cost areas, 21159

PROPOSED RULES
Regulatory agenda
Correction, 21290
NOTICES
Grants; availability, etc.:
Fair housing assistance program, 21249

Indian Affairs Bureau
RULES
Tribal government:
Eastern Creek Indians et al.; prepapration of rolls; CFR Parts removed, 21160

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Large power transformers from Japan, 21197
Countervailing duties:
Oil country tubular goods from—
Israel, 21201
Softwood lumber products from Canada, 21205

International Trade Commission
NOTICES
Import investigations:
64K dynamic random access memory components (64K DRAM's) from Japan, 21258
Mass spectrometers and components, 21255
Metal castings, 21255
Nut jewelry and parts, 21256
Oil country tubular goods from—
Argentina, 21258
Canada and Taiwan, 21258
Portable bag sewing machines and parts, 21256
Prefabricated bow forms, 21257
Soft sculpture dolls (Cabbage Patch Kids), related literature and packaging, 21257
Upper body protector apparatus for use in motosports, 21259
Window shades and components, 21259
Meetings; Sunshine Act, 21273

Justice Department
See also Antitrust Division; Justice Programs Office
RULES
Freedom of Information Act; implementation, 21161

Interstate Commerce Commission
NOTICES
Railroad services abandonment:
Chesapeake & Ohio Railway Co., 21259
Missouri Pacific Railroad Co., 21260
Northwestern Pacific Railroad Co., 21260

Justice Programs Office
NOTICES
Organization, functions, and authority delegations:
Public Reading Room; Privacy Act and Freedom of Information Act requests, 21261

Labor Department
See Pension and Welfare Benefits Administration

Land Management Bureau
NOTICES
Alaska Native claims selection:
Shumagin Corp., 21253
Meetings:
Wild Horse and Burro Advisory Board, 21251
Opening of public lands:
Idaho, 21252
Realty actions; sales, leases, etc.:
California, 21253
Montana, 21252

Maritime Administration
NOTICES
Trustees; applicants approved, disapproved, etc.:
Southern Ohio Bank, 21267

Mine Safety and Health Federal Review Commission
See Federal Mine Safety and Health Review Commission

Minority Business Development Agency
NOTICES
Financial assistance application announcements:
New York, 21208

National Aeronautics and Space Administration
NOTICES
Meetings:
Wage Committee, 21261

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Alaska groundfish, 21176
Ocean salmon off coasts of Washington, Oregon, and California, 21175

National Park Service
NOTICES
Meetings:
Upper Delaware Citizens Advisory Council, 21254

National Transportation Safety Board
NOTICES
Meetings; Sunshine Act, 21272

Nuclear Regulatory Commission
NOTICES
Meetings; Sunshine Act, 21272

Panama Canal Commission
PROPOSED RULES
Nondiscrimination on basis of handicap in federally-conducted programs and activities, 21314

Pension and Welfare Benefits Administration
RULES
Chapter heading revised, 21163

Personnel Management Office
PROPOSED RULES
Reduction in force (RIF) procedures; transfer of function, 21177

Presidential Documents
PROCLAMATIONS
Special observances:
Children's Accident Prevention Week, National (Proc. 5499), 21131

Public Health Service
See also Food and Drug Administration
NOTICES
National toxicology program:
Agency for Toxic Substances and Disease Registry authority, 21249

Research and Special Programs Administration
NOTICES
Hazardous materials:
Applications; exemptions, renewals, etc., 21267, 21268 (2 documents)

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 21262
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 21264
Pacific Securities Depository Trust Co., 21266
Self-regulatory organizations; unlisted trading privileges:
Midwest Stock Exchange, Inc., 21266
Philadelphia Stock Exchange, Inc. , 21267
Applications, hearings, determinations, etc.:
Lazard Cash Management Fund, Inc., et al., 21262
Public utility holding company filings, 21263

Social Security Administration
RULES
Supplemental security income:
Disability hearing process; continuation and restructuring of project, 21156
NOTICES
Procurement:
Commercial activities, performance; inventory list scheduled for review (OMB A-76 implementation), 21249

Soil Conservation Service
NOTICES
Watershed projects; deauthorization of funds:
Perilla Mountain Watershed, AZ, 21196

State Department
RULES
Visas:
Nonimmigrant and immigrant documentation, 21157

Surface Mining Reclamation and Enforcement Office
PROPOSED RULES
Permanent program submission:
Kentucky, 21184

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 21272

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Federal Aviation Administration; Federal Highway Administration; Maritime Administration; Research and Special Programs Administration

Treasury Department
See also Customs Service
NOTICES
Agency information collection activities under OMB review, 21269

Western Area Power Administration
NOTICES
Power rate adjustments:
Collbran Project, Colorado, 21226
Colorado River Storage Project, 21229

Separate Parts In This Issue

Part II
Environmental Protection Agency, 21276

Part III
Department of Housing and Urban Development, 21290

Part IV
Department of Housing and Urban Development, 21300

Part V
Panama Canal Commission, 21314

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations
5499 ... 21131

5 CFR
Proposed Rules
351 ... 21177

7 CFR
52 ... 21133
54 ... 21134
301 ... 21136

12 CFR
330 ... 21137
622 ... 21138
623 ... 21138

14 CFR
Proposed Rules
71 ... 21178
73 ... 21179

17 CFR
1 ... 21149
5 ... 21149
31 ... 21149

19 CFR
4 ... 21152
6 ... 21152
24 ... 21152
111 ... 21152
123 ... 21152
145 ... 21152

20 CFR
404 ... 21156
416 ... 21156

22 CFR
41 ... 21157
42 ... 21157

23 CFR
Proposed Rules
655 ... 21180

24 CFR
201 ... 21159
203 ... 21159
234 ... 21159
812 ... 21300
813 ... 21300
882 ... 21300

25 CFR
63 ... 21160
64 ... 21160
67 ... 21160
68 ... 21160
71 ... 21160
72 ... 21160
74 ... 21160
77 ... 21160

28 CFR
16 ... 21161

29 CFR
Ch. XXV ... 21163

30 CFR
Proposed Rules
917 ... 21184

34 CFR
75 ... 21163

35 CFR
Proposed Rules
257 ... 21314

40 CFR
60 ... 21164
157 ... 21276
162 ... 21276
180 (3 documents) ... 21172, 21173
Proposed Rules
180 (4 documents) ... 21186-21189
721 ... 21190

47 CFR
73 (2 documents) ... 21174
97 ... 21175
Proposed Rules
73 (2 documents) ... 21194, 21195

48 CFR
501 ... 21175
Proposed Rules
528 ... 21195
552 ... 21195

50 CFR
661 ... 21175
672 ... 21176

Federal Register
Vol. 51, No. 112
Wednesday, June 11, 1986

Presidential Documents

Title 3—

The President

Proclamation 5499 of June 7, 1986

National Children's Accident Prevention Week, 1986

By the President of the United States

A Proclamation

Since children are this Nation's most valuable asset, nothing is more important than fostering their development and protecting them from avoidable harm.

It is deeply disturbing that accidental injury is the leading cause of death among children in the United States. More than 10,000 children die each year and thousands more are left with physical damage as a result of accidents.

Experts predict that the incidence of accidental deaths among our children can be decreased by 90 percent by preventing accidental injuries and seeking immediate emergency care when needed. Working together, parents, schools, private and voluntary organizations, and government at all levels can bring about a greater public understanding of this problem and of strategies for solving it.

The Congress, by Senate Joint Resolution 344, has designated the week beginning June 8, 1986, as "National Children's Accident Prevention Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning June 8, 1986, as National Children's Accident Prevention Week.

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

Ronald Reagan

[FR Doc. 86-13347
Filed 6-10-86; 11:18 am]
Billing code 3195 01-M

Rules and Regulations

Federal Register
Vol. 51, No. 112
Wednesday, June 11, 1986

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 52

United States Standards for Grades of Peeled Potatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to revise the voluntary U.S. Standards for Grades of Peeled Potatoes. The final rule was developed by the United States Department of Agriculture (USDA). This final rule will: (1) Eliminate the reference to sulfur dioxide (SO_2) in the product description and (2) replace dual grade nomenclature with single letter designations. Its effect will be to improve the grade standards and encourage uniformity and consistency in commercial practices which will facilitate the trading of peeled potatoes.

EFFECTIVE DATE: August 11, 1986.

FOR FURTHER INFORMATION CONTACT: Paul Jennings, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, Telephone (202) 447-6247.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices to consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

The currently effective standards for grades of peeled potatoes reference the use of sulfur dioxide (SO_2) as a treatment to prevent discoloration in the product. The use of sulfites in food is purported to be a possible health hazard to some consumers. This final rule deletes the reference to sulfur dioxide in the product description but retains the reference to treatment, to prevent discoloration, by means permissible under provisions of the Federal Food, Drug, and Cosmetic Act.

Following the policy of making grade standards simpler to understand, the dual grade nomenclature will be replaced with single letter grade designations.

On September 5, 1985, a proposed rule was published in the **Federal Register** (50 FR 36094). The comment filing period ended November 4, 1985. National Food Processors Association (NFPA), a scientifically and technically based trade association that represents nearly 600 food processing companies, commented on the proposal. NFPA's comment supported the proposal to revise the voluntary U.S. Standards for Grades of Peeled Potatoes by eliminating the reference to sulfur dioxide (SO_2) in the product description. SO_2 could continue to be used, to prevent discoloration, as long as such use is permitted under the provisions of the Federal Food, Drug, and Cosmetic Act. One other comment, from an individual in Maine, was received on the proposal. It suggested that the phrase "which may include the use of Sulfur Dioxide (SO_2)" should follow the reference to permissible treatment, to prevent discoloration, under the provisions of the Federal Food, Drug, and Cosmetic Act. Since the product description in the grade standards does not specifically mention other permissible treatment, to prevent discoloration, under the provisions of the Federal Food, Drug, and Cosmetic Act, it has been determined that SO_2 should not be singled out as a means to prevent discoloration.

After review of the comments and in order to improve the standards and encourage uniformity and consistency in commercial practices which will facilitate the trading of peeled potatoes, the USDA hereby revises the grade standards to: (1) Eliminate the reference to sulfur dioxide in the product description and (2) replace dual grade nomenclature with single letter designations.

List of Subjects in 7 CFR Part 52

Fruits and vegetables, Food grades, Standards.

PART 52—[AMENDED]

Accordingly, the United States Standards of Grades of Peeled Potatoes (7 CFR 52.2421—52.2432) are amended as follows:

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

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

2. Section 52.2421 is revised to read as follows:

§ 52.2421 Product description.

"Peeled potatoes" are clean, sound, fresh tubers of the potato plant prepared by washing, peeling, trimming, sorting, and by proper treatment, to prevent discoloration, by any means permissible under the provisions of the Federal Food, Drug, and Cosmetic Act. The product is properly packed in suitable containers and securely closed to maintain the product in a sanitary condition.

§ 52.2423 [Amended]

3. Section 52.2423 is amended in paragraph (a) by removing the phrase "or U.S. Fancy," in paragraph (b) by removing the phrase "or U.S. Extra Standard" and in paragraph (c) by removing the phrase "or U.S. Extra Standard."

§ 52.2428 [Amended]

4. Section 52.2428 is amended in paragraph (b) by removing the phrase "or U.S. Extra Standard."

§ 52.2430 [Amended]

5. Section 52.2430 is amended in paragraph (c) by removing the phrase "or U.S. Extra Standard."

§ 52.2431 [Amended]

6. Section 52.2431 is amended in paragraph (b) by removing the phrase "or U.S. Extra Standard."

Done at Washington, DC on June 5, 1986.

W.H. Blanchard,

Acting Administrator.

[FR Doc. 86-13123 Filed 6-10-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 54

Changes in Fees for Federal Meat Grading and Certification Services

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends § 54.27 of the regulations governing the grading and certification of meats, prepared meats, and meat products by increasing the fees and establishing separate fee rates for services provided to commitment and noncommitment applicants.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Eugene M. Martin, Chief, Meat Grading and Certification Branch, Livestock and Seed Division, Agricultural Marketing Service, USDA, 14th Street and Independence Avenue, SW., Room 2638-S, Washington, D.C. 20250, (202) 382-1113.

SUPPLEMENTARY INFORMATION:

Regulatory Impact Analysis

This action was reviewed under USDA procedures established to implement Executive Order 12291 and was classified as a nonmajor rule pursuant to section 1(b) (1), (2), and (3) of that Order. Accordingly, a regulatory impact analysis is not required. This action also was reviewed under the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601 *et seq.*). The Administrator of the Agricultural Marketing Service (AMS) has determined that the rule will not have a significant economic impact on a substantial number of small entities. The changes in the hourly fee rates and the establishment of separate fee rates for services provided to commitment and noncommitment applicants are necessary to recover the costs of providing voluntary Federal meat grading and certification services and to make charges for services more commensurate with the actual cost of providing service. These two changes reflect only a minimal increase in the current cost-per-unit of meat graded and/or certified and will not significantly affect a substantial number of meatpackers, meat processors, consumers, or any small entities and will not affect normal competition in the marketplace.

Background

The Secretary of Agriculture is authorized by the Agricultural Marketing Act (AMA) of 1946, as amended, 7 U.S.C. 1621 *et seq.*, to provide voluntary Federal meat grading and certification services to facilitate the orderly marketing of meat and meat products and to enable consumers to obtain the quality of meat they desire. The AMA also authorizes the collection of fees from users of Federal meat grading and certification services which are approximately equal to the cost of providing services. The hourly fees for service are established by equitably distributing the projected annual program operating costs over the estimated hours of service—revenue hours—provided to users of the service. Program operating costs include salaries and fringe benefits of meat graders, supervision, travel, training, and all administrative costs of operating the program. Revenue hours include base hours—service performed between 6 a.m. and 6 p.m., Monday through Friday; premium hours—service performed before 6 a.m. or after 6 p.m., in excess of 8 hours per day, Monday through Friday, and any time on Saturday or Sunday; and holiday hours—service performed on Federal legal holidays. As program operating costs and/or revenue hours change, the hourly fee rates must be adjusted so that the program remains financially self-supporting as required by law.

In fiscal year 1985, the Agency experienced a reduction of 72,000 revenue hours for meat grading and certification services, which translates into an equivalent of about $2 million at the current fee rates. The decline in revenue hours primarily resulted from increased use of statistical sampling in certification procedures, meat industry automation, and reduced operations of smaller plants.

To offset the reduction in revenue, the Agency was able to lower personnel and administrative costs, including reducing the staff of graders and closing one main station field office. While further reductions in program management costs are planned during fiscal year 1986, most of the resulting savings will not be realized until future years. The Agency is unable to effect further cost reductions to offset the decreased revenue without adversely affecting the program's ability to provide timely and uniform grading and certification services. Consequently, the Agency must increase the hourly fee rates for meat grading and certification services.

Comments

On February 12, 1986, AMS published in the **Federal Register** (51 FR 5145) an interim final rule increasing the fees for Federal meat grading and certification services and establishing separate fee rates for services provided to commitment and noncommitment applicants. Both changes were effective February 16, 1986. This rule was implemented on an interim basis without a prior proposal because increased revenues were needed immediately to cover the costs of providing service. The interim rule was published with requests for comments as a means of providing full public participation in the rulemaking process. Comments on these amendments were requested by March 15, 1986. During the 30-day comment period, the Agency received five letters in response to the interim final rule. One letter was received from a meat association and four letters from meatpacking and meat processing firms.

Discussion of Comments

Three of the five comments received reflected general dissatisfaction with the fee increase and expressed the view that any increase during the current economic plight of the meat industry was excessive. These comments also suggested that USDA take action to reduce program operating expenses in lieu of increasing the fees.

The Agency acknowledges the need for and importance of cost-reduction efforts and is continually looking for and implementing effective and viable cost-reduction procedures compatible with its ability to continue providing the type and amount of service requested by the meat industry. Since the last fee increase in March 1985, the Agency has reduced its grading staff by nearly 10 percent and closed one main station field office in September 1985. Collectively, this will result in long-term cost savings of nearly $1 million. These reductions were achieved even though the total volume of meat graded and certified has remained about the same. In fact, the volume of meats graded in calendar year 1985 increased slightly from the prior year. In fiscal year 1986, management and supervisory travel costs and technical and support personnel training costs have been reduced. As a result of these cost reductions, the Agency has kept meat grading and certification fee rate

increases to a minimum. Further reductions at this time would adversely affect the program's ability to provide timely and uniform grading and certification services.

Four of the commenters also addressed establishing separate base hourly fee rates for commitment and noncommitment applicants. One commenter commended the Agency for this action because it makes the charges for service more commensurate with the costs. Another commenter was concerned that separate fee rates were unfair to noncommitment applicants. Agency records on revenue and operating expenses indicate that the cost of providing service to noncommitment applicants is substantially higher than the cost of providing service to commitment applicants. Therefore, the Agency believes that establishing separate base hourly fee rates is the fairest and most equitable method of applicant fee assessment.

Two commenters were concerned about which base hourly fee rate would be applied to applicants who jointly shared a commitment agreement for requesting service. The Agency will apply the commitment rate to an applicant who guarantees to pay for 8 hours of revenue per day, Monday through Friday, whether by commitment agreement or agreement by memorandum. A group of applicants that jointly makes the same guarantee to the Agency will also be charged the commitment rate.

One commenter questioned the differential between the base and premium hourly fee rates, even though this fee structure was not changed in the interim final rule. The Agency acknowledges that the actual additional cost for each assignment performed during premium hours varies, depending upon the employee's pay level, overtime and/or night differential entitlements, estimated additional supervision and related travel costs, and estimated administrative costs. However, to avoid the additional administrative burden and costs associated with a variety of premium rates, which reflect each assignment possibility, only one premium rate is charged for service during premium hours. This method of charging has proven—and continues—to be the most efficient administrative billing system at the least possible cost to the users of the service.

In view of the foregoing considerations, the Agency has decided that the base hourly rate for commitment applicants for voluntary Federal meat grading and certification services is increased from $26.40 to $27.40 and will be charged to users of the service who agree, by commitment agreement or agreement by memorandum, to the use of a meat grader for 8 consecutive hours per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The base hourly rate for noncommitment applicants for voluntary Federal meat grading and certification services is increased from $26.40 to $29.80 and will be charged to applicants who utilize a meat grader for 8 consecutive hours or less per day, Monday through Friday, between the hours of 6 a.m. and 6 p.m., excluding legal holidays. The premium holiday rate for all applicants is increased from $34.40 to $35.40 and will be charged to users of the service for the hours when a meat grader is utilized in excess of 8 hours per day, between the hours of 6 a.m. and 6 p.m., and for hours worked before 6 a.m. or after 6 p.m., Monday through Friday, and any time on Saturday and Sunday, except on legal holidays. The holiday hourly rate for all applicants is increased from $52.80 to $54.80 and will be charged to users of the service for all hours worked on legal holidays.

Pursuant to the authority in 5 U.S.C. 553, it has been determined that other public procedure and notice with respect to these amendments are impractical and unnecessary, and good cause is found for making these amendments effective as a final rule less than 30 days after publication of this document in the **Federal Register.**

Accordingly, the section of the regulations appearing in 7 CFR Part 54 relating to hourly fees for Federal grading and certification of meat, prepared meats, and meat products is amended as set forth below:

List of Subjects in 7 CFR Part 54

Meat and meat products, Grading and certification, Beef, Veal, Lamb, and Pork.

PART 54—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

1. The authority citation for Part 54 continues to read as follows:

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

2. 7 CFR 54.27 is amended by revising paragraphs (a) and (b) to read as follows:

§ 54.27 Fees and other charges for service.

* * * * *

(a) *Fees for Service on Noncommitment Basis (Hourly Rates).* Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15-minute period, including official grader's travel and certificate(s) preparation time in connection with the performance of service. A minimum charge of one-half hour shall be made for service pursuant to each request notwithstanding that the time required to perform service may be less than 30 minutes. The base hourly rate for noncommitment applicants shall be $29.80 per hour for 8 hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays; $35.40 per hour for work performed in excess of 8 hours per day for each assigned official grader and for work performed before 6 a.m. and after 6 p.m., Monday through Friday, and any time Saturday or Sunday, except on Federal legal holidays; and $54.80 per hour for all work performed on Federal legal holidays.

(b) *Fees for Service on Commitment Basis.* Minimum fees for service performed under a commitment agreement or an agreement by memorandum shall be on the basis of 8 hours per day, Monday through Friday, excluding Federal legal holidays occurring Monday through Friday on which no grading and certification services are performed. The base hourly rate for service performed under such agreements shall be $27.40 per hour for 8 consecutive hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on Federal legal holidays; $35.40 per hour for work performed in excess of 8 hours per day for each assigned official grader and for work performed before 6 a.m. and after 6 p.m., Monday through Friday, and any time Saturday or Sunday, except on Federal legal holidays; and $54.80 per hour for all work performed on Federal legal holidays. The Agency reserves the right under such a commitment agreement or agreement by memorandum to use any grader assigned to the plant on a commitment basis to perform service for other applicants, as provided in § 54.6(c), crediting the commitment applicant with the number of hours charged to the other applicant, provided the allowable credit hours plus hours actually worked for the applicants do not exceed 8 hours on any day, Monday through Friday, excluding legal holidays.

* * * * *

Done at Washington, DC, June 4, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-13124 Filed 6-10-86; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 86-310]

Browntail Moth

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the gypsy moth and browntail moth quarantine and regulations (7 CFR 301.45 *et seq.*) by removing the provisions therein relating to the browntail moth. It has been determined that these provisions are no longer necessary to prevent the spread of the browntail moth.

EFFECTIVE DATE: July 11, 1986.

FOR FURTHER INFORMATION CONTACT: Gary E. Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20720, (301) 436-8295.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on October 25, 1985 (50 FR 43406-43407), proposed to amend the gypsy moth and browntail moth quarantine and regulations (contained in 7 CFR 301.45 *et seq.*, and referred to below as the regulations) by removing the provisions therein relating to the browntail moth, *Euproctis chrysorrhoea* (Linnaeus). This document adopts the proposal.

Prior to the effective date of this document, the regulations quarantined the States of Maine and Massachusetts because of the browntail moth, and restricted the interstate movement from browntail moth regulated areas of the following browntail moth regulated articles: "deciduous trees, and shrubs with persistent woody stems, and parts of such trees and shrubs, with leaves attached" (the regulations also contained criteria for adding other articles as regulated articles). All of York County in Maine, portions of Cumberland and Sagadahoc counties in Maine, and portions of Barnstable County in Massachusetts were designated as browntail moth regulated areas.

The proposal stated the following rationale for removing the provisions relating to the browntail moth:

> Based on surveys conducted by the Department, it now appears that the browntail moth has been eradicated from these areas except for areas in Barnstable County in Massachusetts and the offshore islands within the Casco Bay area of Cumberland and Sagadahoc Counties in Maine.
>
> The browntail moth has been found to destroy leaves of apple trees, cherry trees, pear trees, plumb trees, oak trees, willow trees, and other deciduous trees and shrubs. It now appears that the browntail moth has been eradicated from such trees and shrubs except for beach plum trees and shrubs (*Prunus maritima*) growing as wild plants, and multiflora rose shrubs (*Rosa rugosa*) growing as wild plants.
>
> Further, it appears that any remaining significant risk of spreading the browntail moth would be limited to the movement of such wild beach plum trees and shrubs, and such wild multiflora rose shrubs. However, such wild plants do not appear to present a significant risk of spread of the browntail moth. It appears that such wild plants are not used for ornamental or commercial purposes and are not likely to be moved from place to place.
>
> In the past, action was taken to control or eradicate the browntail moth with the use of pesticides. However, under the laws administered by the Environmental Protection Agency, there are no longer any effective pesticides which are allowed to be used for controlling or eradicating the browntail moth. But even without the use of pesticides, it appears that the browntail moth is not spreading.
>
> The sole purpose of the provisions relating to the browntail moth is to restrict the movement of regulated articles in order to prevent the artificial spread of browntail moths. Under the circumstances referred to above, it appears that these provisions are no longer necessary for this purpose.

Comments were solicited for 60 days following publication of the proposed rule. The only comment received was from a representative of a State department of agriculture.

The commenter asserted that the regulations should continue to regulate the interstate movement of regulated articles from areas infested with the browntail moth. In support of this assertion, it was further asserted that:

> At any rate, the decline of BTM [browntail moth] populations may be a temporary condition according to Douglas Ferguson of the USDA Systemic Entomology Laboratory. He explains that 'large periodic outbreaks of two to three years duration occur in Europe . . .' where it occurs in many countries. Pages 101-105 of the book publication, *Moths of America North of Mexico*, is enclosed. There is no reason to believe that the pest could not spread in New England or other areas such as California.
>
> BTM and gypsy moth have very similar biologies and the federally quarantined areas and restrictions for these two pests overlap a great deal. Consequently, maintaining the quarantine against BTM should prevent the pest from expanding to new areas while creating only a minimal additional restriction for current or future shipping nurseries in the infested areas.

The experience in the United States has been different from that referred to by the commenter concerning Europe. Even though the Department has not expended any resources within the past two decades for controlling the spread of browntail moth, the known infested area has continued to decline. Also, for the reasons set forth in the proposal (the pertinent provisions of the proposal are quoted above), it has been determined that it is no longer necessary to include browntail moth provisions in the regulations in order to prevent the spread of the browntail moth. Further, it should be noted that there are no nurseries within the limited areas that are still infested with the browntail moth.

Accordingly, based on the rationale set forth in the proposal and in this document, the provisions in the regulations relating to the browntail moth are removed.

Executive Order 12291 and Regulatory Flexibility Act

This final rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this action will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

There is little, if any, interstate movement for commercial purposes of the articles designated as browntail moth regulated articles.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have

a significant economic impact on a substantial number of small entities.

Executive Order 12372

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

Paperwork Reduction Act

The final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Browntail moth, Plant diseases, Plant pests, Plants (agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

2. The subpart heading "Subpart—Gypsy Moth and Browntail Moth" is changed to "Subpart—Gypsy Moth".

§ 301.45 [Amended]

3. In paragraph (a) of § 301.45 "and the States of Maine and Massachusetts in order to prevent the spread of the browntail moth, *Nygmia phaeorrhoea* (Donovan), dangerous insects" is changed to "a dangerous insect".

§ 301.45–1 [Amended]

4. Paragraph (b) of § 301.45–1 is removed and designated as "Reserved".

5. In paragraph (j) of § 301.45–1, the first sentence is amended by removing "or browntail moths", and the third sentence is removed.

6. Paragraphs (k) and (x) of § 301.45–1 are revised to read as follows:

§ 301.45–1 Definitions.

* * * * *

(k) *Infestation.* (1) The presence of gypsy moths as determined by the trapping of male moths in accordance with the program manual in a pattern indicating an estimated population; or

(2) the detection of any other life stage of the gypsy moth through visual inspection; however, it does not include the presence of life stages of gypsy moth not established in the wild which are found as a result of hitchhiking on transitory means of conveyance.

* * * * *

(x) *Regulated articles.* (1) Trees with roots, and shrubs with roots and persistent woody stems, *except* if greenhouse grown throughout the year.

(2) Logs and pulpwood *except* if moved to a mill operating under a compliance agreement.[2]

(3) Firewood (unless moved as an outdoor household article).

(4) Mobile homes and associated equipment.

(5) Recreational vehicles and associated equipment (unless moved as an outdoor household article), moving from hazardous recreational vehicle sites listed in § 301.45–2c.

(6) Any other products, articles, or means of conveyance, of any character whatsoever, when it is determined by an inspector that any life stage of gypsy moth is in proximity to such articles and the articles present a high risk of artificial spread of gypsy moth infestation and the person in possession thereof has been so notified.

8. In § 301.45–2, "or browntail moth" is removed from paragraph (a), and from paragraph (b); "and browntail moth" is removed from paragraph (a)(2); and paragraph (c) is revised to read as follows:

§ 301–45–2 Authorization to designate, and terminate designation of, regulated areas and high-risk and low-risk areas and hazardous recreational vehicle sites.

* * * * *

(c) *Termination of designation as a regulated area.* The Deputy Administrator shall terminate the regulation of any area whenever he or she determines that such action is appropriate or required under the criteria specified in Section I, Part G. of the Appendix in this subpart. The Deputy Administrator shall change the designation of an area from a high-risk area to a low-risk area whenever he or she determines that such redesignation is appropriate or required under the criteria specified in paragraph (a) of this section.

* * * * *

§ 301.45–3 [Amended]

9. In paragraphs (b) and (c) of § 301.45–3, "or browntail moth" is removed.

[2] Names of mills under compliance agreement are available upon request to the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, or from an inspector.

§ 301.45–4 [Amended]

10. In paragraphs (a)(1), (2), and (3) of § 301.45–4 "pests" is changed to "gypsy moth".

§ 301.45–4 [Amended]

11. In paragraph (b) of § 301.45–4 "or browntail moth" is removed.

§ 301.45–5 [Amended]

12. In paragraph (a) of § 301.45–5 "and browntail moth" is removed.

§ 301.45–8 [Amended]

13. In § 301.45–8, "or browntail moths" is removed.

§ 301.45–9 [Amended]

14. In § 301.45–9, "and browntail moths" is removed from the heading and the text.

Appendix to Subpart—Portion of "Gypsy Moth and Browntail Moth" Program Manual—[Amended]

15. In the appendix, a new footnote 8 is added to the heading to state that:

[8] "The quarantine and regulations in this subpart were amended to delete the provisions relating to the browntail moth.";

And the provisions in III. D. are removed (these provisions are captioned "Approved Treatments—Trees and Shrubs—Browntail Moth").

Done at Washington, D.C., this 6th day of June 1986.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86–13125 Filed 6–10–86; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

Clarification and Definition of Deposit Insurance Coverage

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is amending its regulations governing the recordkeeping requirements applicable to the insurance coverage of trust accounts. The amendment, which deletes the requirement that the deposit account records of an insured bank disclose the names of the settlor and trustee of the trust and contain an account signature card executed by the trustee, recognizes the current

environment pertaining to the pension and retirement industry insofar as recordkeeping is concerned and makes uniform the stances of the FDIC and the Federal Savings and Loan Insurance Corporation regarding this issue.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Robert E. Feldman, Attorney, Legal Division, (202) 898–3743, Federal Deposit Insurance Corporation, 550 17th Street, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Section 11(f) of the Federal Deposit Insurance Act ("Act") (12 U.S.C. 1821(f)) provides that when an insured bank shall have been closed, the Federal Deposit Insurance Corporation ("FDIC") shall pay insured deposits as soon as possible and that the FDIC may require proof of claims prior to paying insurance. Section 3(m)(1) of the Act (12 U.S.C. 1813(m)(1)) authorizes the Board of Directors of the FDIC to issue regulations prescribing the net amount due any depositor for deposits in an insured bank based on the rights and capacities in which deposits are held. Section 12(c) of the Act (12 U.S.C. 1822(c)), in turn, provides that the FDIC is not required, except by any rules issued by the Board of Directors, to recognize as the owner of any portion of any deposit appearing on the records of a closed bank under a name other than that of the claimant, any person whose name or interest is not disclosed on the records of a closed bank if such recognition would increase the aggregate amount of insured deposits in the closed bank.

Based on the foregoing statutory provisions, § 330.10 of the FDIC's regulations (12 CFR 330.10) provides separate insurance for each trust interest in a deposit account established pursuant to a valid trust agreement when, in addition to certain substantive requirements, various recordkeeping requirements are met. Those recordkeeping requirements, which also apply to agency, custodial, and executorship accounts as well as to trust accounts, establish the insured bank's records as conclusive of the existence of any relationship pursuant to which funds in an account are deposited and on which a claim for insurance coverage is founded. 12 CFR 330.1(b)(1). For trust accounts alone, however, the regulations require additionally that the deposit account records disclose the names of both the settlor (grantor) and the trustee and contain an account signature card executed by the trustee. 12 CFR 330.1(b)(3).

The Federal Home Loan Bank Board ("FHLBB"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), maintained the same additional requirement for the insurance of trust accounts held at institutions insured by FSLIC. On April 4, 1986, the FHLBB amended its regulations to remove the requirements that trust accounts—to be insured to $100,000 per trust interest—reveal the names of the trust's settlor and trustee and contain an account signature card executed by the trustee. 51 FR 12122. As its rationale for the amendment, the FHLBB first noted that the provision was promulgated in 1967 "in order to prevent post-default creation of trust relationships which would increase applicable insurance coverage." According to the FHLBB, the continued usefulness of the additional recordkeeping requirements for trust accounts was questionable because of the recognition that "the pension and retirement industry has changed markedly since 1967, when the requirement was initially promulgated, and . . ., in view of the present Internal Revenue Code and ERISA safeguards." The Board of Directors of the FDIC is in full accord with the rationale cited by the FHLBB. Furthermore, it is of paramount importance to the FDIC whenever possible not to permit a competitive imbalance to come about between FDIC-insured institutions and FSLIC-insured institution based on varying insurance coverage rules.

Because it is essential for the current competitive imbalance regarding recordkeeping requirements to be corrected as soon as possible, and because of the liberalizing nature of the amendment, the Board of Directors hereby finds that good cause exists to consider notice and public comment on the amendment contrary to the public interest. *See* 5 U.S.C. 553(b)(3)(B). Therefore, the Board of Directors is adopting the amendment as a final rule. Following the effective date of this final rule, insurance coverage for trust accounts will no longer be dependent upon the deposit account records of an insured bank disclosing the names of the settlor and trustee of the trust and containing an account signature card executed by the trustee. This amendment in no way affects the existing provision that insurance per trust interest of a trust is applicable only where the deposit account records of the bank disclose the existence of the trust relationship. *See* 12 CFR 330.1(b)(2).

The Board has further determined that, because it relieves a restriction, the amendment will become effective upon publication. *See* 5 U.S.C. 553(d)(1). As these amendments do not entail the creation of any new recordkeeping or reporting requirements, the Paperwork Reduction Act is inapplicable. Finally, the requirements of the Regulatory Flexibility Act are inapplicable as the amendments are not subject to required public comment under the Administrative Procedure Act.

List of Subjects

12 CFR Part 330

Bank deposit insurance, Banks, Banking.

For the reasons set out above, Part 330 of Title 12 of the Code of Federal Regulations is amended as set forth below.

PART 330—CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

1. The authority citation for Part 330 continues to read as follows:

Authority: 12 U.S.C. 1813, 1817, 1821, 1822, unless otherwise noted.

§ 330.1 [Amended]

2. Section 330.1 is amended by removing and reserving paragraph (b)(3) thereof.

By Order of the Board of Directors this 3rd day of June, 1986.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–13145 Filed 6–10–86; 8:45 am]

BILLING CODE 6714–01–M

FARM CREDIT ADMINISTRATION

12 CFR Parts 622 and 623

Rules of Practice and Procedure and Practice Before the Farm Credit Administration

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by the Farm Credit Administration Board (FCA Board), publishes final regulations to be designated as 12 CFR Parts 622 and 623. 12 CFR Part 622 establishes rules of practice and procedure applicable to formal and informal hearings held before the FCA, and to formal investigations conducted under the Farm Credit Act of 1971, as amended (12 U.S.C. 2001, et seq.) (Act). 12 CFR Part 623 prescribes rules with regard to persons who may practice before the FCA and the circumstances under which such persons may be suspended or debarred from practice before the FCA.

EFFECTIVE DATE: The regulation shall become effective upon the expiration of 30 days after this publication during which either or both Houses of Congress are in session. Notice of effective date will be published.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Mullarkey or Nancy E. Lynch, Office of the General Counsel, (703) 883–4020, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090.

SUPPLEMENTARY INFORMATION: On March 31, 1986, the FCA noticed and published for public comment proposed regulations to be designated as 12 CFR Parts 622 and 623. Part 622 establishes rules of practice and procedure applicable to formal and informal hearings held before the FCA and to formal investigations conducted under the Act. Part 623 prescribes rules concerning persons who may practice before the FCA and the circumstances under which such persons may be suspended or debarred from practice before the FCA.

FCA received one letter on behalf of the Farm Credit System indicating the System had elected not to comment on the proposed regulations. No comments were received on the proposed regulations. In addition to minor editorial changes made to Part 622 and 623, §§ 622.80 and 622.82 were changed to provide for notice to the FCA's Office of General Counsel in informal hearings under Subpart C of Part 622.

List of Subjects

12 CFR Part 622

Administrative practice and procedure, hearing procedures, ex parte communication

12 CFR Part 623

Administrative practice and procedure, Practice and procedure.

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

1. Part 622 is added to 12 CFR Chapter VI to read as follows:

PART 622—RULES OF PRACTICE AND PROCEDURE

Subpart A—Rules Applicable to Formal Hearings

Sec.
622.1 Scope of regulations.
622.2 Definitions.
622.3 Appearance and practice.
622.4 Commencement of proceedings.
622.5 Answer.
622.6 Opportunity for informal settlement.
622.7 Conduct of hearings.
622.8 Rules of evidence.
622.9 Subpoenas.
622.10 Depositions.
622.11 Motions.
622.12 Proposed findings and conclusions; recommended decision.
622.13 Exceptions.
622.14 Briefs.
622.15 Oral argument before the Board.
622.16 Notice of submission to the Board.
622.17 Decision of the Board.
622.18 Filing.
622.19 Service.
622.20 Documents in proceedings confidential.
622.21 Computing time.
622.22 Retained Authority.
622.23–622.50 [Reserved]

Subpart B—Rules and Procedures for Assessment and Collection of Civil Money Penalties

622.51 Definitions.
622.52 Purpose and Scope.
622.53 Notice of assessment of civil money penalty.
622.54 Prenotice conference.
622.55 Request for formal hearing on assessment.
622.56 Waiver of hearing; Consent.
622.57 Hearing on assessment.
622.58 Assessment order.
622.59 Relevant considerations.
622.60 Payment of civil money penalty.
622.61–622.75 [Reserved]

Subpart C—Rules and Procedures Applicable to Suspension or Removal of an Individual Where Certain Crimes are Charged or Proven

622.76 Definitions.
622.77 Purpose and scope.
622.78 Suspension, prohibition or removal.
622.79 Petition for informal hearing.
622.80 Informal hearing.
622.81 Default.
622.82 Decision of the Board.
622.83–622.100 [Reserved]

Subpart D—Rules and Procedures Applicable to Formal Investigations

622.101 Definitions.
622.102 Scope.
622.103 Formal investigations are confidential.
622.104 Order to conduct formal investigation.
622.105 Conduct of investigation.
622.106 Service of subpoena and payment of witness fees.
622.107 Transcripts.

Authority: Secs. 5.9, 5.10, 5.17, 5.25–5.37, Pub. L. 99–205, 99 Stat. 1678, 12 U.S.C. §§ 2243, 2244, 2252, 2261–2273.

Subpart A—Rules Applicable to Formal Hearings

§ 622.1 Scope of regulations.

This Subpart prescribes rules of practice and procedure in connection with any formal hearing before the Farm Credit Administration (FCA) that is required by the Farm Credit Act of 1971, as amended (Act) or is ordered for other reasons by the FCA. In connection with any particular matter, reference should also be made to any special requirements of practice and procedure that may be contained in applicable provisions of the Act or the rules adopted by the FCA in Subpart B of this Part, which special requirements are controlling. The rules in Subpart A do not apply to the informal hearings described in Subpart C of this Part, to any other informal hearing that may be ordered by the FCA, or to formal investigations described in Subpart D of this Part.

§ 622.2 Definitions.

As used in this part:

(a) "Act" means the Farm Credit Act of 1971, as amended. 12 U.S.C. 2001, *et seq.*

(b) "FCA" means the Farm Credit Administration.

(c) "Board" means the Farm Credit Administration Board.

(d) The terms "institution in the System", "System institution" and "institution" mean all institutions enumerated in section 1.2 of the Act, any service organization chartered under Part D of Title IV of the Act, and the Farm Credit System Capital Corporation.

(e) "Party" means the FCA or a person or institution named as a party in any notice that commences a proceeding, or any person or institution who is admitted as a party or who has filed a written request and is entitled as of right to be a party.

(f) "Presiding officer" means an administrative law judge or any FCA employee or other person designated by the Board to conduct a hearing.

(g) "Ex parte communication" means an oral or written communication not on the record with respect to which reasonable prior notice to all parties is not given. It does not include requests for status reports.

§ 622.3 Appearance and practice.

(a) Appearance before the Board or a presiding officer.

(1) *By nonattorneys.* An individual may appear in his or her own behalf; a member of a partnership may represent the partnership; a duly authorized officer or other agent of a corporation, trust association or other entity not specifically listed herein may represent the corporation, trust association, or other entity; and a duly authorized officer or employee of any government unit, agency or authority may represent that unit, agency or authority. Any person appearing in a representative capacity shall file a written notice of appearance with the Board which shall contain evidence of his or her authority to act in such capacity.

(2) *By attorneys.* A party may be represented by an attorney who is a member in good standing of the bar of the highest court of any State,

possession, territory, Commonwealth or the District of Columbia, and who has not been suspended or debarred from practice before the FCA in accordance with the provisions of Part 623 of this chapter. Prior to appearing, an attorney representing a person in a proceeding shall file a written notice of appearance with the Board, which shall contain a declaration that he or she is currently qualified as provided by paragraph (a)(2) of this section and is authorized to represent the party on whose behalf he or she acts.

(3) *Representation of multiple interests.* A person shall not represent more than one party without informing each party of any actual or potential conflict of interest that may be involved in such representation. Such person shall file a statement with the Board indicating that such disclosure has been made. The presiding officer has authority to take protective measures at any stage of a proceeding, including the authority to prohibit multiple representation when deemed appropriate.

(b) *Summary suspension.* Dilatory, obstructionist, egregious, contemptuous, contumacious, or other unethical or improper conduct at any proceeding before the Board or a presiding officer shall be grounds for exclusion therefrom and suspension for the duration of the proceeding, or other appropriate action by the Board or presiding officer.

§ 622.4 Commencement of proceedings.

Proceedings under this Subpart are commenced by the issuance of a notice by the Board. Such notice shall state the time, place, and nature of the hearing, the name and address of the presiding officer if one has been designated, and a statement of the matters of fact and law constituting the grounds for the hearing. The matters of fact and law alleged in a notice may be amended by the Board at any stage of the proceeding and such amended notice may require an answer from the party or parties served and may set a new hearing date. A copy of any notice served by the FCA on any System association, director, officer or other person participating in the conduct of the affairs of the association will also be sent to the supervisory bank.

§ 622.5 Answer.

(a) *Answer is required.* Unless a different period is specified by the Board, a party who does not wish to consent to a final order must file an answer within 20 days after being served with a notice that commences the proceeding. Any subsequent notice which contains amended allegations and by its terms requires an answer must similarly be answered within 20 days after service.

(b) *Requirements of answer; effect of failure to deny.* An answer filed under this section shall concisely state any defenses and specifically admit or deny each allegation in the notice. A party who lacks information or knowledge sufficient to form a belief as to the truth of any particular allegation shall so state and this shall have the effect of a denial. Any allegation not denied shall be deemed to be admitted. A party who intends in good faith to deny only a part of or to qualify an allegation shall specify so much of it as is true and shall deny only the remainder.

(c) *Admitted allegations.* If a party filing an answer under this section elects not to contest any of the allegations of fact set forth in the notice, the answer shall consist of a statement admitting all of the allegations to be true. Such answer constitutes a waiver of hearing as to the facts alleged in the notice, and together with the notice will provide a record basis on which the presiding officer shall file with the Board a recommended decision in accordance with 5 U.S.C. 557. The recommended decision shall be served on the party, who may file exceptions thereto within the time provided in § 622.13.

(d) *Effect of failure to answer.* Failure of a party to file an answer required by this section within the time provided constitutes a waiver of the party's right to appear and contest the allegations in the notice and authorizes the presiding officer, without further notice to the party, to find the facts to be as alleged in the notice and to file with the Board a recommended decision containing such findings and appropriate conclusions. The Board or the presiding officer may, for good cause shown, permit the filing of a delayed answer after the time for filing and the answer has expired.

§ 622.6 Opportunity for informal settlement.

Any interested party may at any time submit to the Board for consideration written offers or proposals for settlement of a proceeding, without prejudice to the rights of the parties. No offer or proposal shall be admissible into evidence over the objection of any party in any hearing in connection with such proceeding. The foregoing provisions of this section shall not preclude settlement of any proceeding through the regular adjudicatory process by the filing of an answer as provided in § 622.5(c), or by submission of the case to the presiding officer on a stipulation of facts and an agreed order.

§ 622.7 Conduct of hearings.

(a) *Authority of presiding officer.* All hearings governed by this Subpart shall be conducted in accordance with the provisions of Chapter 5 of Title 5 of the United States Code. The presiding officer designated by the Board to preside at any such hearing shall have complete charge of the hearing, shall have the duty to conduct it in a fair and impartial manner and shall take all necessary action to avoid delay in the disposition of the proceeding. Such officer shall have all powers necessary to that end, including the following:

(1) To administer oaths and affirmations;

(2) To issue subpoenas and subpoenas duces tecum, as authorized by law, and to revoke, quash, or modify any such subpoena;

(3) To receive relevant evidence and to rule upon the admission of evidence and offers of proof;

(4) To take or cause depositions to be taken;

(5) To regulate the course of the hearing and the conduct of the parties and their counsel;

(6) To hold conferences for the settlement or simplification of issues or for any proper purpose; and

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in a proceeding under this Subpart, except that a presiding officer shall not have power to decide any motion to dismiss the proceeding or other motion which results in a final determination of the merits of the proceeding. This power rests only with the Board. Without limitation on the foregoing, the presiding officer shall, subject to the provisions of this Subpart, have all the authority set forth in 5 U.S.C. 556(c).

(b) *Prehearing conference.* The presiding officer may, on his or her own initiative or at the request of any party, direct counsel for all parties to meet with him or her at a specified time and place prior to the hearing, or to submit suggestions to him or her in writing, for the purpose of considering any or all of the following:

(1) Simplification and clarification of the issues;

(2) Stipulations, admissions of fact and of the contents and authenticity of documents;

(3) Matters of which official notice will be taken; and

(4) Such other matters as may aid in the orderly disposition of the proceeding.

At the conclusion of such conference(s) the presiding officer shall enter an order

which recites the results of the conference. Such order shall include the presiding officer's rulings upon matters considered at the conference, together with appropriate directions, if any, to the parties. Such order shall control the subsequent course of the proceeding, unless modified at the hearing for good cause shown.

(c) *Exchange of information.* Thirty (30) days prior to the hearing, parties shall exchange a list of the names of witnesses with a general description of their expected testimony, and a list and one copy of all documents or other physical exhibits which will be introduced in evidence in the course of the proceeding.

(d) *Attendance at hearings.* All hearings shall be private and shall be attended only by the parties, their counsel or authorized representatives, witnesses while testifying, and other persons having an official interest in the proceeding. However, if the Board, in its discretion, after fully considering the views of the party afforded the hearing, determines that a public hearing is necessary to protect the public interest, the Board may in its sole discretion order that the hearing be public.

(e) *Transcript of testimony.* Hearings shall be recorded. A copy of the transcript of the testimony taken at any hearing, duly certified by the reporter, together with all exhibits accepted into evidence shall be filed with the presiding officer. The presiding officer shall promptly serve notice upon all parties of such filing. The parties shall make their own arrangements with the person recording the testimony for copies of the testimony and exhibits. The presiding officer shall have authority to correct the record sua sponte with notice to all parties and to rule upon motions to correct the record. In the event the hearing is public, transcripts will be furnished to interested persons upon payment of the cost thereof.

(f) *Continuances and changes or extensions of time and changes of place of hearing.* Except as otherwise provided by law, the presiding officer may extend time limits prescribed by these rules or by any notice or order issued in the proceedings, may change the time for beginning any hearing, continue or adjourn a hearing from time to time, and/or change the location of the hearing. Prior to the appointment of a presiding officer and after the filing of a recommended decision pursuant to § 622.12, the Board may grant such extensions or changes. Subject to the approval of the presiding officer, the parties may by stipulation change the time limits specified by these rules or any notice or order issued hereunder.

(g) *Closing of hearing.* The record of the hearing shall be closed by an announcement to that effect by the presiding officer when the taking of evidence has been concluded. In the discretion of the presiding officer, the record may be closed as of a future date in order to permit the admission into the record, under circumstances determined by the presiding officer, of exhibits to be prepared.

(h) *Call for further evidence, oral arguments, briefs, reopening of hearing.* The presiding officer may call for the production of further evidence upon any issue, may permit oral argument and submission of briefs at the hearing and, upon appropriate notice, may reopen any hearing at any time prior to the filing of his or her recommended decision. The Board may reopen the record at anytime permitted by law.

(i) *Order of procedure.* The FCA shall open and close.

(j) *Ex parte communications.*

(1) No person shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to the presiding officer or anyone who is or may reasonably be expected to be involved in the decisional process.

(2) No person who is or may reasonably be expected to be involved in the decisional process shall make or knowingly cause to be made an ex parte communication relevant to the merits of the proceeding to any person.

(3) Except as authorized by law, the presiding officer shall not consult anyone on any fact in issue, unless upon notice and opportunity for all parties to participate. The presiding officer shall not be responsible to, or subject to the supervision or direction of, any officer, employee, or agent of the FCA engaged in the performance of investigative or prosecuting functions. An officer, employee or agent engaged in the performance of such functions in any case shall not, in that case or a factually related case, participate or advise in the decision of the presiding officer, except as a witness or counsel in the proceedings, or as otherwise authorized by law.

(4) If an ex parte communication is made or knowingly caused to be made, all such communications, and any responses, shall be placed in the record.

(5) Upon receipt of a communication knowingly made or caused to be made in violation of paragraph (j) of this section, the responsible party may be required to show cause why such party's claim or interest should not be dismissed, denied, or otherwise adversely affected. To the extent consistent with the interests of justice, a knowing violation of paragraph (j) of this section may be grounds for a decision adverse to a party in violation.

(6) The prohibitions against ex parte communications apply from the time a proceeding is noticed for hearing. However, when the person responsible for the communication has knowledge that the proceeding will be noticed, the prohibitions apply from the time such knowledge is acquired.

§ 622.8 Rules of evidence.

(a) *Evidence.* Every party shall have the right to present a case or defense by oral and documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. Irrelevant, immaterial or unduly repetitious evidence shall be excluded.

(b) *Objections.* Objections to the admission or exclusion of evidence shall be in short form, stating the grounds of objection relied upon but no argument thereon shall be permitted, except as ordered, allowed, or requested by the presiding officer. Rulings on such objections and all other matters shall be part of the transcript. Failure to object timely to the admission or exclusion of evidence or to any ruling constitutes a waiver of such objection.

(c) *Stipulations.* Independently of the orders or rulings issued as provided by § 622.7(b), the parties may stipulate as to any relevant matters of fact or the authenticity of any relevant documents. Such stipulations may be received in evidence at the hearing, and when so received shall be binding on the parties with respect to the matters therein stipulated.

(d) *Official notice.* All matters officially noticed by the presiding officer shall appear on the record.

§ 622.9 Subpoenas.

(a) *Issuance.* The presiding officer or, in the event he or she is unavailable, the Board may issue subpoenas and subpoena duces tecum at the request of any party requiring the attendance of witnesses or the production of documents at a designated place. The person seeking the subpoena may be required, as a condition precedent to the issuance of the subpoena, to show the general relevance and reasonable scope of the testimony or other evidence sought. Where it appears to the presiding officer that a subpoena may be unreasonable, oppressive, excessive in scope, unduly burdensome, or delay the

proceeding, the presiding officer has discretion to refuse to issue a subpoena or to issue it only upon such conditions as fairness requires.

(b) *Motions to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for compliance but in no event more than 10 days after the date the subpoena was served, with notice to the party requesting the subpoena, apply to the presiding officer, or in the event he or she is unavailable to the Board, to quash or modify the subpoena, accompanying such application with a brief statement of the reasons therefor. The presiding officer may deny the application or, upon notice to the party on whose behalf the subpoena was issued and after affording that party an opportunity to reply, may quash or modify the subpoena or impose reasonable conditions including, in the case of a subpoena duces tecum, a requirement that the party on whose behalf the subpoena was issued pay in advance the reasonable cost of copying and transporting the documentary evidence to the designated place.

(c) *Service of subpoena.* A subpoena may be served upon the person named therein by personal service or certified mail with a return receipt to the last known address of the person. The fees for one day's attendance and mileage as specified in paragraph (d) of this section must be tendered at the time of service unless the subpoena is issued on behalf of the FCA. If personal service is made by a U.S. marshal, a deputy U.S. marshal, or an employee of the FCA, such service shall be evidenced by the return thereon. If personal service is made by any other person, such person shall sign an affidavit describing the manner in which service is made, and return such affidavit with a copy of the subpoena. In case of failure to make service, reasons for the failure shall be stated on the original subpoena. The original or a copy of the subpoena, bearing or accompanied by the required return, affidavit, statement or return receipt, shall be returned without delay to the presiding officer.

(d) *Attendance of witnesses.* The attendance of witnesses at a designated place may be required from any place in any State or territory subject to the jurisdiction of the United States. Witnesses who are subpoenaed shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Fees required by this paragraph shall be paid by the party upon whose application the subpoena is issued.

(e) *Production of documents.* The production of documents at a designated place may be required from any place in any State or territory subject to the jurisdiction of the United States. In lieu of an original document, a certified or authenticated copy may be produced. However, any party has the right to inspect the original document.

§ 622.10 Depositions.

(a) *Application to take deposition.* Any party desiring to take the deposition of any person shall make written application to the presiding officer setting forth the name and address of the witness, the subject matter concerning which the witness is expected to testify, its relevance, the time and place of the deposition, and the reasons why such deposition should be taken. The application may include a request that specified documents be produced at the deposition. A copy of the application shall be served on the other parties at the same time the application is filed with the presiding officer.

(b) *Subpoena; notice to other parties.* Upon a showing that the testimony or other evidence sought will be material, and the taking of the deposition will not result in any undue burden to the witness or any party or undue delay of the proceedings, the presiding officer may issue a subpoena or subpoena duces tecum. Notice of the issuance of such subpoena shall be served upon all parties at least 10 days in advance of the date set for deposition.

(c) *Deposition by notice.* The requirements of paragraphs (a) and (b) of this section may be waived by agreement of the parties and the witness whose testimony or documentary evidence is sought. Such agreement shall be embodied in a stipulation which becomes part of the record and may provide for the taking of depositions upon notice without leave of the presiding officer.

(d) *Procedure on deposition.* Depositions may be taken before any person having the power to administer oaths. Each witness whose testimony is taken by deposition shall be duly sworn before any question is propounded. Examination and cross-examination of deponents may proceed as permitted at the hearing. Objections to questions or documents shall be in short form, stating the grounds relief upon for the objection. Failure to object to questions or evidence is deemed a waiver if the ground of the objection is one which might have been obviated or removed if presented at that time. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate) shall be recorded by or under the direction of the person before whom the deposition is taken. The deposition shall be signed by the witness, unless the parties by stipulation waive the signing or the witness is physically unable to sign, cannot be found, or refuses to sign. The deposition shall also be certified as a true and complete transcript by the person recording the testimony. If the deposition is not signed by the witness, the person recording the testimony shall state this fact and the reason therefor on the record. The person before whom the deposition is taken shall promptly file the transcript and all exhibits with the presiding officer. Interested parties shall make their own arrangements with the person recording the testimony for copies of the testimony and exhibits.

(e) *Introduction as evidence.* Subject to appropriate rulings by the presiding officer on such objections and answers as were noted at the time the deposition was taken or as would be valid were the witness personally present and testifying at the hearing, the deposition or any part thereof may be received in evidence by the presiding officer in his or her discretion. Only such part of a deposition as is received in evidence at a hearing shall constitute a part of the record upon which a decision may be based.

(f) *Payment of fees.* Deponents whose depositions are taken and the reporter taking the same shall be entitled to the same fees as are paid for like services in the district courts of the United States, which fees shall be paid by the party upon whose application the deposition is taken.

§ 622.11 Motions.

(a) *How made.* An application or request for an order or ruling not otherwise specifically provided for in this Subpart, unless made during a hearing, shall be made by written motion supported by a memorandum which concisely states the grounds therefor.

(b) *Opposition.* Within 10 days after service of any written motion, or within such other period of time as may be fixed by the presiding officer, any party may file a memorandum in opposition thereto. The moving party has no right to reply except as permitted by the presiding officer. The presiding officer has discretion to waive the requirements of this section as to motions for extension of time and may rule upon such motions ex parte.

(c) *Oral argument.* No oral argument will be heard on motions except as otherwise directed by the presiding officer or the Board.

(d) *Rulings and orders.* Except as otherwise provided in this Subpart, the presiding officer shall rule on all motions and may issue appropriate orders, except that motions may be referred to the Board if the presiding officer is unavailable or determines that such motion should be referred to the Board. Prior to the appointment of a presiding officer and after a recommended decision is filed pursuant to § 622.12, the Board shall rule on motions filed by the parties.

(e) *Appeal from rulings on motions.* All answers, motions, objections and rulings shall become part of the record. Rulings of a presiding officer on any motion may not be appealed to the Board prior to its consideration of the presiding officer's recommended decision, except by special permission of the Board. However, such rulings shall be considered by the Board in reviewing the record. Requests to the Board for special permission to appeal from a ruling of the presiding officer shall be filed in writing within 5 days of the ruling, and shall briefly state the grounds relied on. The moving party shall immediately serve a copy thereof on every other party to the proceeding who may then respond to such request within 5 days after service.

(f) *Continuation of hearing.* Unless otherwise ordered by the presiding officer or the Board, the hearing shall continue pending the determination of any request or motion by the Board.

§ 622.12 Proposed findings and conclusions; recommended decision.

(a) *Proposed findings and conclusions by parties.* Within 30 days after the hearing transcript has been filed, any party may file proposed findings of fact and conclusions of law. Such proposals shall be supported by citation of such statutes, decisions, and other authorities, and by specific page references to such portions of the record as may be relevant. All such proposals shall become a part of the record.

(b) *Recommended decision by presiding officer.* Within 30 days after the expiration of time allowed under paragraph (a) of this section, or within such further time as the Board for good cause allows, the presiding officer shall file the entire hearing record, including a recommended decision and findings and conclusions, the transcript, exhibits (including on request of any of the parties any exhibits excluded from evidence or tender of proof), exceptions, rulings and all briefs and memoranda filed in connection with the hearing. Promptly upon such filing, the presiding officer shall serve a copy of the recommended decision, findings and conclusions upon each party to the proceeding.

(c) *Board as presiding officer.* In proceedings in which the Board or one or more of its members has presided at the reception of evidence, the presiding officer's recommended decision, findings of fact, and conclusions of law will be omitted. In such proceedings the proposed findings and conclusions, briefs, and other submissions permitted under paragraph (a) of this section shall be filed with the Board for consideration.

§ 622.13 Exceptions.

(a) *Filing.* Within 15 days after service of the recommended decision of the presiding officer, any party may file exceptions thereto or to any portion thereof, or to the failure of the presiding officer to make any recommendation, finding, or conclusion, or to the admission or exclusion of evidence, or to any other ruling of the presiding officer.

(b) *Contents.* Each exception shall be supported by a concise argument and by citation of such statutes, decisions and other authorities, and by page references to such portions of the record as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief with appropriate references to the transcript.

(c) *Waiver.* Failure of a party to file exceptions to those matters specified in paragraph (a) of this section within the time prescribed shall be a waiver of objection thereto.

§ 622.14 Briefs.

(a) *Contents.* Any brief filed in a proceeding shall be confined to the particular matters in issue, citing statutes, decisions, and other authorities, and page references to such portions of the record or the recommended decision of the presiding officer as may be relevant.

(b) *Reply briefs.* Reply briefs may be filed within 10 days after service of original briefs of opposing parties, and shall be confined to matters in such briefs. Further briefs may be filed only with permission of the presiding officer or the Board with respect to a matter before the Board.

(c) *Delayed filing.* Briefs not filed on or before the time fixed in this Subpart or by the presiding officer will be received only upon special permission of the Board.

§ 622.15 Oral argument before the Board.

Upon its own initiative or upon written request by any party, the Board, in its discretion, may order the matter to be set down for oral argument before the Board or one or more members thereof. Any request for oral argument by a party filing exceptions shall be made within the time prescribed for filing such exceptions, or by any other party, within the time prescribed for the filing of a reply brief. Oral argument before the Board shall be recorded unless otherwise ordered by the Board.

§ 622.16 Notice of submission to the Board.

Upon the filing of the record with the Board, and upon the expiration of the time for the filing of exceptions and all briefs, including reply briefs or any further briefs permitted by the presiding officer or the Board, and upon the hearing of oral argument by the Board, if ordered by the Board, the Board shall notify the parties in writing that the case has been submitted for final decision.

§ 622.17 Decision of the Board.

Any person who has not engaged in the performance of investigative or prosecuting functions in the case, or in a factually related case, may advise and assist the Board in the consideration of the case. Copies of the decision and order of the Board shall be served upon the parties. A copy of the order will also be sent to the supervisory bank if the order relates to a System association, director, officer, or other person participating in the conduct of the affairs of the association.

§ 622.18 Filing.

(a) *Filing.* Papers required or permitted to be filed with the Board shall be filed with the Chairman of the Board, FCA, 1501 Farm Credit Drive, McLean, VA 22102–5090 or with the person designated to receive papers for the agency in a proceeding. Papers sent by mail must be postmarked or received within the prescribed time limit for filing. Papers sent by any other means must be received within the prescribed time limit for filing.

(b) *Formal requirements.* All filed papers shall be printed, typewritten, or otherwise reproduced, and copies shall be clear and legible. The original of all papers filed by a party shall be signed and dated as of the date of execution by the party filing the same, or a duly authorized agent or attorney. The signer's address and telephone number must appear on the original. Counsel for the FCA shall sign the original of all papers filed on behalf of the FCA. All papers filed must name in the heading or on a title page, the parties, the docket number and the subject of the papers.

(c) *Copies.* Parties shall file an original and three copies of all documents and papers required or permitted to be filed under this Subpart (except the transcript of testimony and exhibits), unless otherwise specifically provided by the Board.

§ 622.19 Service.

(a) *Service.* Except as otherwise provided in these rules, each party who files papers is responsible for serving a copy thereof upon the presiding officer and upon every other party or the attorney or representative of record of that party. A copy of all papers filed by the presiding officer or the Board, except for the transcript of testimony and exhibits, shall be served upon each of the parties. Service may be by personal service, private delivery service, or by express, certified or regular first-class mail. If a party is not represented, service shall be made at the last known address of the party or an officer thereof as shown on the records of the FCA.

(b) *Proof of service.* Proof of service of papers filed by a party shall be filed before action is to be taken thereon. The proof shall show the date and manner of service, and may be by written acknowledgment of service, by declaration of the person making service, or by certificate of an attorney or other representive of record. Failure to make proof of service shall not affect the validity of service. The presiding officer may allow the proof to be amended or supplied, unless to do so would result in material prejudice to a party.

§ 622.20 Documents in proceedings confidential.

Unless otherwise ordered by the Board or required by law, the entire record in any proceeding under this Subpart, including the notice of hearing, transcript, exhibits, proposed findings and conclusions, recommended decision of the presiding officer, exceptions thereto, decision and order of the Board, and any other papers which are filed in connection with the proceeding shall not be made public, and shall be for the confidential use only of the FCA and its staff, the presiding officer, the parties, and other appropriate supervisory authorities.

§ 622.21 Computing time.

(a) *General rule.* In computing any period of time prescribed or allowed by this Subpart, the date of the act or event from which the designated period of time begins to run is not to be included. The last day so computed shall be included, unless it is a Saturday, Sunday or Federal holiday, in which event the period shall run until the end of the next day which is not a Saturday, Sunday, or Federal holiday. When the period of time prescribed or allowed is 10 days or less, intermediate Saturdays, Sundays, and Federal holidays shall not be included in the computation.

(b) *Service by mail.* Whenever any party has the right or is required to do some act within the period of time prescribed in this Subpart after the service upon the party of any document or other paper of any kind, and such service is made by mail, three days shall be added to the prescribed period from the date when the matter served is deposited in the United States mail.

§ 622.22 Retained authority.

Nothing is this Part is in derogation of powers of examination and investigation conferred on the FCA by any provision of law.

§§ 622.23–622.50 [Reserved]

Subpart B—Rules and Procedures for Assessment and Collection of Civil Money Penalties

§ 622.51 Definitions.

Unless noted otherwise, the definitions set forth in § 622.2 or Subpart A shall apply of this Subpart.

§ 622.52 Purpose and scope.

The rules and procedures specified in this Subpart and in Subpart A are applicable to proceedings by the FCA to assess and collect civil money penalties for a violation of the terms of a final cease-and-desist order issued under §§ 5.25 and 5.26 of the Act.

§ 622.53 Notice of assessment of civil money penalty.

(a) *Notice of assessment.* Civil money penalty proceedings commence with the issuance by the Board of a notice of assessment of civil money penalty. The notice of assessment shall state:

(1) The legal authority for the assessment;

(2) The amount of the civil money penalty being assessed;

(3) The date by which the civil money penalty shall be paid;

(4) The matter of fact or law constituting the grounds for assessment of the civil money penalty;

(5) The right of the institution or person being assessed to a formal hearing to challenge the assessment; and

(6) The time limit to request such a formal hearing.

(b) *Service.* The notice of assessment may be served upon the institution or person being assessed by personal service or by certified mail with a return receipt to the institution's or the person's last known address. Such service constitutes issuance of the notice.

§ 622.54 Prenotice conference.

In the sole discretion of the FCA's General Counsel, the General Counsel may, prior to the issuance by the FCA of a notice of assessment of civil money penalty, advise the affected institution or person that the issuance of a notice of assessment of civil money penalty is being considered and the reasons and authority for the proposed assessment. The General Counsel may provide the institution or person an opportunity to present written materials or request a conference with members of the FAC's staff to show that the penalty should not be assessed or, if assessed, should be reduced in amount.

§ 622.55 Request for formal hearing on assessment.

An institution or person being assessed may request a formal hearing to challenge the assessment of civil money penalty. The request must be filed in writing, within 10 days of the issuance of the notice of assessment, with the Chairman of the Board, FCA, 1501 Farm Credit Drive, McLean, VA 22102–5090.

§ 622.56 Waiver of hearing; Consent.

(a) *Waiver.* Failure to request a hearing pursuant to § 622.55 constitutes a waiver of the opportunity of a hearing and the notice of assessment issued pursuant to § 622.53 shall constitute a final and unappealable order.

(b) *Consent.* Any party afforded a hearing who does not appear at the hearing personally or by a duly authorized representative is deemed to have consented to the issuance of an assessment order.

§ 622.57 Hearing on assessment.

(a) *Time and place.* An institution or person requesting a hearing shall be informed by order of the Board of the time and place set for hearing.

(b) *Answer; procedures.* The hearing order may require the person requesting the hearing to file an answer as prescribed in § 622.5 of Subpart A. The procedures of the Administrative Procedure Act (5 U.S.C. 554–557) and Subpart A of these Rules shall apply to the hearing.

§ 622.58 Assessment order.

(a) *Consent.* In the event of consent of the parties concerned to an assessment, or if, upon the record made at a hearing ordered under this Subpart, the Board finds that the grounds for having assessed the penalty have been established, the Board may issue an order of assessment of civil money penalty. In its assessment order, the Board may reduce the amount of the penalty specified in the notice of assessment.

(b) *Effective date and period.* An assessment order is effective immediately upon issuance, or upon such other date as may be specified therein, and shall remain effective and enforceable unless it is stayed, modified, terminated, or set aside by action of the Board or a reviewing court.

(c) *Service.* An assessment order may be served by personal service or by certified mail with a return receipt to the last known address of the institution or person being assessed. Such service constitutes issuance of the order.

§ 622.59 Relevant considerations.

In determining the amount of the penalty assessed, the Board shall consider the financial resources and good faith of the institution or person charged, the gravity of the violation, any previous violations, and such other matters as justice may require.

§ 622.60 Payment of civil money penalty.

(a) *Payment date.* Generally, the date designated in the notice of assessment for payment of the civil money penalty will be 60 days from the issuance of the notice. If, however, the Board finds, in a specific case, that the purposes of the statute would be better served if the 60-day period were changed, the Board may shorten or lengthen the period or make the civil money penalty payable immediately upon receipt of the notice of assessment. If a timely request for a formal hearing to challenge an assessment of a civil money penalty is filed, payment of the penalty shall not be required unless and until the Board issues a final order of assessment following the hearing. If an assessment order is issued, it will specify the date by which the civil money penalty is to be paid or collected.

(b) *Method of payment.* Checks in payment of civil money penalties should be made payable to the "Farm Credit Administration". Upon collection, the FCA shall forward the amount of the penalty to the Treasury of the United States.

§§ 622.61–622.75 [Reserved]

Subpart C—Rules and Procedures Applicable to Suspension or Removal of an Individual Where Certain Crimes Are Charged or Proven

§ 622.76 Definitions.

Unless noted otherwise, the definitions set forth in § 622.2 of Subpart A shall apply to this Subpart.

§ 622.77 Purpose and scope.

The rules and procedures set forth in this Subpart apply to informal hearings afforded to any officer, director, or other person participating in the conduct of the affairs of a System institution who has been suspended or removed from office or prohibited from further participation in any manner in the conduct of the institution's affairs by a notice or order issued by the Board upon the grounds set forth in section 5.29 of the Act.

§ 622.78 Suspension, prohibition or removal.

(a) *Content.* The Board may serve a notice of suspension or prohibition or order of removal upon a director, officer or other person participating in the conduct of the affairs of an institution. A copy of such notice or order shall also be served upon the institution, whereupon the individual concerned shall immediately cease service to the institution or participation in the affairs of the institution. Any notice or order shall indicate the basis for the suspension, prohibition, or removal and shall inform the individual of the right to request in writing, within 30 days of being served with such notice or order, an opportunity to show at an informal hearing that continued service to or participation in the conduct of the affairs of the institution does not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System.

(b) *Service.* A notice or order of suspension, removal or prohibition may be served by personal service or by certified mail with a return receipt to the last known address of the person being served.

§ 622.79 Petition for informal hearing.

(a) *Filing.* To obtain a hearing, the subject individual must file an original and three copies of a petition with the Board within 30 days of being served with the notice or order.

(b) *Content.* The petition shall:

(1) State whether the petitioner is requesting termination or modification of the notice or order;

(2) State with particularity how the petitioner intends to show that his or her continued service to or participation in the conduct of the affairs of the institution would not, or is not likely to, pose a threat to the interests of the institution's shareholders or the investors in Farm Credit System obligations or threaten to impair public confidence in the institution or the Farm Credit System;

(3) Include a request to present oral testimony or witnesses at the hearing, if the petitioner desires to do so. The request should specify the names of the witnesses and a summary of their expected testimony; and

(4) Indicate whether the petitioner desires oral argument or elects to have the matter determined solely on the basis of written submissions.

§ 622.80 Informal hearing.

(a) *Time and place.* Upon receipt of a timely petition for a hearing, the Board shall notify the petitioner of the time and place fixed for the hearing and shall designate one or more Board members or FCA employees to preside ("designated FCA representative"). The hearing shall be scheduled to be held no later than 30 days from the date a petition for hearing is received unless the time is extended at the request of the petitioner. Notice of the hearing shall also be sent to the FCA's Office of General Counsel.

(b) *Appearance.* A petitioner may appear personally or through counsel to submit relevant written materials and oral argument. An attorney is subject to all the requirements and limitations imposed on attorneys in § 622.3 of Subpart A. A representative(s) of the FCA's Office of General Counsel may participate in the hearing to the extent such representative deems appropriate.

(c) *Written material.* Any written material the petitioner wishes to have considered must be submitted to the designated FCA representative and the FCA's Office of General Counsel at least 10 days prior to the date of the hearing.

(d) *Oral testimony.* Oral testimony may be presented only if expressly permitted by the Board in the notice of hearing. The designated FCA representative may ask questions of any witness.

(e) *Transcripts.* Oral testimony, if any, and oral argument shall be recorded. A copy of the transcript shall be filed with the designated FCA representative, who shall have authority to correct the record sua sponte upon notice, or upon

the motion of the petitioner or the representative of the FCA's Office of General Counsel. The designated FCA representative shall promptly serve notice upon the petitioner and the FCA's Office of General Counsel of such filing. Such parties shall make arrangements with the person recording the testimony or argument for copies of the transcript.

(f) *Closing of record.* Upon the request of the petitioner or representative of the FCA's Office of General Counsel, the record shall remain open for a period of 5 business days following the hearing, during which time additional submissions for the record may be made. Thereafter, the record shall be closed.

(g) *Rules of evidence and procedure.* Neither the formal rules of evidence nor the adjudicative procedures of the Administrative Procedure Act (5 U.S.C. 554–557) or Subpart A of these Rules shall apply to the informal hearing ordered under this Subpart unless the Board orders that they apply in whole or in part.

§ 622.81 Default.

If the subject individual fails to file a petition for a hearing, or fails to appear at a hearing, either in person or by an attorney, or fails to submit a written argument where oral argument has been waived, the notice shall remain in effect until the information, indictment, or complaint is finally disposed of and the order shall remain in effect until terminated by the Board.

§ 622.82 Decision of the Board.

(a) *Recommended decision.* Within 30 days of the hearing, the designated FCA representative shall make a recommendation with findings and conclusions to the Board concerning the notice or order of suspension, removal, or prohibition.

(b) *Final decision.* Within 60 days of the hearing, the Board shall notify the subject individual and the FCA's Office of General Counsel whether the suspension or removal from office, or prohibition from participation in any manner in the affairs of the institution, will be continued, terminated, or otherwise modified. The Board's final decision, if adverse to the individual, shall contain a statement of the basis thereof. The Board may satisfy this requirement where it adopts the recommended decision of the designated FCA representative.

(c) *Guilt not an issue.* In deciding upon any suspension of prohibition by notice, the ultimate question of the guilt or innocence of the individual with respect to the criminal charge that is outstanding will not be considered. A finding of not guilty or other disposition of the charge shall not preclude the Board from thereafter instituting removal proceedings pursuant to section 5.28 of the Act.

(d) *Effective period.* A removal or prohibition by order remains in effect until terminated by the Board. A suspension or prohibition by notice remains in effect until the criminal charge is finally disposed of or until terminated by the Board.

(e) *Reconsideration.* A suspended or removed individual may petition the Board to reconsider the decision any time after the expiration of a 12-month period from the date of the decision, but no petition for reconsideration may be made within 12 months of a previous petition. A petition shall state with particularity the relief sought and the grounds therefor and may be accompanied by a supporting memorandum and any other documentation the petitioner wishes to have considered. No hearing need be granted on the petition for reconsideration.

§ 622.83–622.100 [Reserved]

Subpart D—Rules and Procedures Applicable to Formal Investigations

§ 622.101 Definitions.

Unless noted otherwise, the definitions set forth in § 622.2 of Subpart A shall apply to this Subpart.

§ 622.102 Scope.

The rules in this Subpart apply to formal investigations initiated by order of the Board and pertain to the exercise of powers specified in section 5.37 of the Act. These rules do not restrict or in any way affect the authority of the FCA, including but not limited to the powers enumerated in section 5.37 of the Act, to conduct examinations of System institutions.

§ 622.103 Formal investigations are confidential.

Information or documents obtained or testimony recorded in the course of a formal investigation shall be confidential and shall be disclosed only in accordance with the provisions of 12 CFR Part 602.

§ 622.104 Order to conduct formal investigation.

A formal investigation begins with the issuance of an order by the Board. The order shall designate the person or persons who will conduct the investigation, issue, revoke, quash or modify subpoenas and subpoenas duces tecum, take or cause to be taken depositions, administer oaths, and receive affirmations as to any matter under investigation by the FCA. Upon application and for good cause shown, the Board may limit, modify, or withdraw the order at any stage of the proceeding.

§ 622.105 Conduct of investigation.

(a) *Review of order.* Any person who is compelled or requested to furnish testimony, documentary evidence, or other information with respect to any matter under formal investigation shall upon request be shown the order initiating such investigation.

(b) *Right to counsel.* Any person who, in a formal investigation, is compelled to appear and testify or who appears and testifies by request or permission of the Board may be accompanied, represented, and advised by counsel. The right to be accompanied, represented, and advised by counsel shall mean the right of a person testifying to have an attorney present at all times while testifying and to have this attorney:

(1) Advise such person before, during and after the conclusion of testimony;

(2) Question such person briefly at the conclusion of testimony to clarify any of the answers given; and

(3) Make summary notes during the testimony solely for the use of such person.

(c) *Appearance.* The provisions of § 622.3 are applicable to this Subpart.

(d) *Exclusion.*

(1) Any person who has given or will give testimony, and counsel representing such person, may be excluded from the taking of testimony of any other witness in the discretion of the designated FCA representative conducting the investigation.

(2) The designated FCA representative conducting the investigation shall report to the Board any instances where any person has been guilty of dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or improper conduct during the course of the proceeding or any other instance involving a violation of these rules. The Board may thereupon take such action as the circumstances may warrant, including exclusion of the offending individual or individual from participation in the proceeding.

§ 622.106 Service of subpoena and payment of witness fees.

(a) *Service.* A subpoena may be served upon the person named therein by personal service or certified mail with a return receipt to the last known address of the person. Witnesses who are subpoenaed shall be paid the same

fees and mileage that are paid witnesses in the district courts of the United States. The fees and mileage need not be tendered at the time a subpoena is served.

(b) *Motions to quash.* Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the FCA representative authorized in the order, or if unavailable to the Board, to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The FCA representative, or the Board, may:

(1) Deny the application;

(2) Quash or revoke the subpoena;

(3) Modify the subpoena; or

(4) Condition the granting of the application on such terms as the FCA representative or the Board, determines, his, her, or its discretion, to be just, reasonable, and proper.

§ 622.107 Transcripts.

Transcripts, if any, of an investigative proceeding shall be recorded by any means authorized by the designated FCA representative conducting the investigation. A person who has given testimony in an investigative proceeding (or counsel for such person) upon proper identification shall have the right to inspect the transcript of the person's testimony but may not obtain a copy if the FCA's representative conducting the investigation has cause to believe that the contents should not be disclosed.

2. Part 623 is added to 12 CFR Chapter VI to read as follows:

PART 623—PRACTICE BEFORE THE FARM CREDIT ADMINISTRATION

Sec.

623.1 Scope of Part.
623.2 Definitions.
623.3 Who may practice.
623.4 Suspension and debarment.
623.5 Reinstatement.
623.6 Duty to file information concerning adverse judicial or administrative action.
623.7 Proceeding under this part.

Authority: Secs. 5.9, 5.10, 5.17, Pub. L. 99-205, 99 Stat. 1678, 12 U.S.C. 2243, 2244, 2252.

§ 623.1 Scope of Part.

This Part prescribes rules with regard to persons who may practice before the Farm Credit Administration and the circumstances under which attorneys, accountants, appraisers, or other persons may be suspended or debarred, either temporarily or permanently, from practicing before the Farm Credit Administration. In connection with any particular matter, reference also should be made to any special requirements of procedure and practice that may be contained in the particular statute involved or the rules and forms adopted by the Farm Credit Administration thereunder, which special requirements are controlling. In addition to any suspension hereunder, a person may be excluded from further participation in a particular adjudicative proceeding in accordance with § 622.3 or in a formal investigation in accordance with § 622.105.

§ 623.2 Definitions.

As used in this part:

(a) "FCA" means the Farm Credit Administration.

(b) "Board" means the Farm Credit Administration Board.

(c) "Act" means the Farm Credit Act of 1971, as amended. 12 U.S.C. 2001, et seq.

(d) The terms "institution in the System", "System institution" and "institution" means all institutions enumerated in section 1.2 of the Act, any service organization chartered under Part D of Title IV of the Act, and the Farm Credit System Capital Corporation.

(e) The term "presiding officer" includes the Board, one or more members thereof, FCA employees, or an administrative law judge. As used in this part, the term shall be construed to refer to whichever of the above-identified individuals presides at a hearing or other proceeding, except as otherwise specified in the text;

(f) The term "attorney" means any person who is a member in good standing of the bar of the highest court of any State, possession, territory, Commonwealth or the District of Columbia;

(g) The term "practice" means transacting any business with the FCA, including but not limited to:

(1) The representation of another person at any adjudicatory, investigatory, removal or rulemaking proceeding conducted before the FCA or a presiding officer;

(2) The preparation or certification of any statement, opinion, report of financial condition and performance, financial statement, appraisal report, audit report, or other document or report by any attorney, accountant, appraiser or other person which is filed with or submitted to the FCA, with such person's consent or knowledge in connection with any filing with the FCA;

(3) A presentation to the FCA or a presiding officer at a conference or meeting relating to an institution's or person's rights, privileges or liabilities under the laws administered by the FCA and rules and regulations promulgated thereunder;

(4) Any business correspondence or communication with the FCA or a presiding officer; and

(5) The transaction of any other business with the FCA on behalf of another, in the capacity of an attorney, accountant, appraiser, licensed expert or any other capacity.

§ 623.3 Who may practice.

(a) *By nonattorneys*—(1) An individual may appear on his or her own behalf; a member of a partnership may represent the partnership; a bona fide and duly authorized officer or other designated representative of a corporation, trust, association or other entity not specifically listed herein may represent the corporation, trust, association or other entity; and an authorized officer or other designated representative of any government unit, agency or authority may represent that unit, agency or authority.

(2) Any accountant, appraiser or licensed expert may practice before the FCA in a professional capacity.

(b) *By attorneys.* Any entity noted in paragraph (a) of this section may be represented in any proceeding or other matter before the FCA by an attorney.

(c) Any person transacting business with the FCA in a representative capacity may be required to show evidence of his or her authority to act in such capacity and certification of credentials.

§ 623.4 Suspension and debarment.

(a) *Grounds.* The Board may censure any person practicing before the FCA or may deny, temporarily or permanently, the privilege of any person to practice before the FCA if such person is found by the Board, after notice of and opportunity for hearing in the matter:

(1) Not to possess the requisite qualifications to represent others;

(2) To be lacking in character or professional integrity;

(3) To have engaged in any dilatory, obstructionist, egregious, contemptuous, contumacious or other unethical or improper conduct before FCA; or

(4) To have willfully violated, or willfully aided and abetted the violation of, any provision of the laws administered by the FCA or the rules and regulations promulgated thereunder.

(b) *Automatic suspension.*

(1) Any person who, after being licensed as a professional or expert by any competent authority, has been convicted by a Federal or State court of a felony, or of a misdemeanor involving moral turpitude, personal dishonesty or

breach of trust, shall be suspended automatically from practicing before the FCA without a hearing.

(2) Any accountant, appraiser or licensed expert whose license to practice has been revoked in any State, possession, territory, Commonwealth or the District of Columbia, or who has been suspended or otherwise barred from practice before any Federal or State regulatory authority, shall be suspended automatically from practicing before the FCA without a hearing.

(3) Any attorney who has been suspended or disbarred by a court of the United States or in any State, possession, territory, Commonwealth or the District of Columbia, shall be suspended automatically from practicing before the FCA without a hearing.

(4) A conviction (including a judgment or order on a plea of nolo contendere), revocation, suspension or disbarment under paragraphs (b)(1)(2) and (3) of this section shall be deemed to have occurred when the convicting, revoking, suspending or disbarring agency or tribunal enters its judgment or order, regardless of whether an appeal is pending or could be taken.

(5) For purposes of this section, it shall be irrelevant that any attorney, accountant, appraiser or licensed expert who has been suspended, disbarred or otherwise disqualified from practice before a court, regulatory authority, or in a jurisdiction continues in professional good standing before other courts, regulatory authorities, or in other jurisdictions.

(c) *Temporary suspension.*

(1) The Board, with due regard to the public interest and without preliminary hearing, by order, may temporarily suspend any person from appearing or practicing before it who by name, has been:

(i) Permanently enjoined (whether by consent, default or summary judgment or after trial) by any court of competent jurisdiction or by the Board in a final administrative order, by reason of his or her misconduct in any action brought by the FCA based upon violations of, or aiding and abetting the violation of any provision of any law that is administered by the FCA or of any rule or regulation promulgated thereunder; or

(ii) Found by any court of competent jurisdiction (whether by consent, default, upon summary judgment or after hearing) or in any administrative proceeding in which the FCA is a complainant and he or she is a party, to have willfully committed, caused, aided or abetted a violation of any provision of any law that is administered by the FCA, or of any rule or regulation promulgated thereunder.

(2) An order of temporary suspension shall become effective when served by certified mail with a return receipt directed to the last known business or residential address of the person involved. No order of temporary suspension shall be entered by the Board pursuant to paragraph (c)(1) of this section more than 3 months after the final judgment or order entered in a judicial or administrative proceeding described in paragraph (c)(1) (i) or (ii) of this section has become effective and all review or appeal procedures have been completed or are no longer available.

(3) Any person temporarily suspended from appearing and practicing before the FCA in accordance with paragraph (c)(1) of this section may, within 30 days after service of the order of temporary suspension, petition the Board to lift such suspension. If no petition is received by the Board within 30 days, the suspension shall become permanent.

(4) Within 30 days after the filing of a petition in accordance with paragraph (c)(3) of this section, the Board shall either lift the temporary suspension or set the matter down for hearing at a time and place to be designated by the Board, or both. After opportunity for hearing, the Board may censure the petitioner or may suspend the petitioner from appearing or practicing before the FCA temporarily or permanently. In any case in which the temporary suspension has not been lifted, the hearing and any other action taken pursuant to this paragraph shall be expedited by the Board in order to ensure the petitioner's right to address the allegations.

(5) In any hearing held on a petition filed in accordance with paragraph (c)(3) of this section, a showing that the petitioner has been enjoined or has been found to have committed, caused, aided or abetted violations as described in paragraph (c)(1) of this section, without more, may be a basis for suspension or debarment; that showing having been made, the burden shall then be on the petitioner to show why the petitioner should not be censured or be temporarily or pemanently suspended or debarred. A petitioner will not be permitted to contest any findings against the petitioner or any admissions made by the petitioner in the judicial or administrative proceedings upon which the proposed censure, suspension or debarment is based. A petitioner who has consented to the entry of a permanent injunction or order as described in paragraph (c)(1)(i) of this section, without admitting the facts set forth in the complaint, shall nevertheless be presumed for all purposes under this section to have been enjoined or ordered by reason of the misconduct alleged in the complaint.

§ 623.5 Reinstatement.

(a) Any person who is suspended from practicing before the FCA under § 623.4 (a) or (c) of this part may file an application for reinstatement at any time. Denial of the privilege of practicing before the FCA shall continue unless and until the applicant has been reinstated by order of the Board for good cause shown.

(b) Any person suspended under § 623.4(b) shall be reinstated by the Board, upon appropriate application, if all of the grounds for application of the provisions of that paragraph are removed subsequently by a reversal of the conviction or termination of the suspension, disbarment of revocation. An application for reinstatement on any other grounds by any person suspended under § 632.4(b) may be filed at any time. Such application shall state with particularity the relief requested and the grounds therefor and shall include supporting evidence, when available. The applicant shall be accorded an opportunity for an informal hearing in the matter, unless the applicant has waived a hearing in the application and, instead, has elected to have the matter determined on the basis of written submissions. Such hearing shall utilize the procedures established in Part 622, Subpart C. However, such suspension shall continue unless and until the applicant has been reinstated by order of the Board for good cause shown.

§ 623.6 Duty to file information concerning adverse judicial or administrative action.

Any person appearing or practicing before the FCA who has been or is the subject of a conviction, suspension, debarment, license revocation, injunction or other finding of the kind describe in § 623.4(b) or (c) of this Part is an action not instituted by the FCA shall promptly file a copy of the relevant order, judgment or decree with the Board together with any related opinion or statement of the agency or tribunal involved. Any person who fails to file a copy of such an order, judgment or decree within 30 days after the later of the entry of the order, judgment or decree, or the date such person initiates practice before the FCA, for that reason alone may be disqualified from practicing before the FCA until such time as the appropriate filing shall be made, but neither the filing of these documents nor the failure of a person to file them shall in any way impair the operation of any other provision of this Part.

§ 623.7 Proceeding under this part.

(a) *Rules.* All hearings required or permitted to be held under paragraphs (a) and (c) of § 623.4 of this part shall be held before a presiding officer utilizing the procedures established in the rules of practice and procedure under Part 622, Subpart A.

(b) *Closed hearings.* All hearings held under this Part shall be closed to the public unless the Board directs otherwise on its own motion or upon the request of a party.

(c) *Collateral proceedings.* Any proceeding brought under any section of this Part shall not preclude a proceeding under any other section of this Part or any other Part of the FCA's regulations.

Frank W. Naylor, Jr.,

Chairman, Farm Credit Administration Board.

[FR Doc. 86-13118 Filed 6-10-86; 8:45 am]

BILLING CODE 6705-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 5, and 31

Fees for Contract Market Designation, Contract Market Rule Enforcement and Financial Reviews, and Audits of Leverage Transaction Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final schedule of fees.

SUMMARY: The Commission has promulgated a number of fees for Commission services and activities. It is the Commission's intention to review those fees periodically in order to apply the formulas in the regulations to more recent fiscal year cost data.

The Commission has recently reviewed the actual costs for reviewing applications for contract market designations (17 CFR Part 5, Appendix B) and rule enforcement and financial reviews (17 CFR Part 1, Appendix B) and has determined that fees for these services should be increased. Contract market designation fees are being raised from $10,000 to $14,000 per application and the rule enforcement review fee for each contract market is being raised as indicated herein in order to keep these fees in line with current costs. The rise in these costs is not attributable to a corresponding increase in Commission staffing levels, but reflects a revised method of computing overhead and increased accuracy in recording the working hours of Commission employees.

This notice also advises affected parties that the $8,000 leverage audit fee for FY 1986 (17 CFR Part 31, Appendix B) will be due 30 days after publication of this final schedule of fees in the **Federal Register.** This release puts affected parties on notice of the fees which result from the application of those regulations to cost data from FY 1983, FY 1984 and FY 1985.

EFFECTIVE DATE: July 11, 1986.

FOR FURTHER INFORMATION CONTACT: Gerry Smith, Office of the Executive Director, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, telephone number 202-254-6090.

SUPPLEMENTARY INFORMATION: The Commission published previously the following final regulations and schedules for fees discussed herein: fee for contract market designation, 48 FR 38214 (August 23, 1983); fee for audits of leverage transaction merchants, 49 FR 20644 (May 16, 1984); fee for leverage commodity registration, 49 FR 25834 (June 25, 1984); and fee for contract market rule enforcement reviews and financial reviews, 50 FR 930 (January 8, 1985). In those **Federal Register** releases, the Commission indicated its intention to review periodically the actual costs of providing these services and to adjust its fees accordingly. The Commission has recently undertaken such a review and is now changing the fees charged for contract market designation applications and for rule enforcement reviews. All other fees will remain the same at this time.

I. Revised Computation of Overheard Costs

The schedule of fees reflects an analysis of actual costs including a revision to the Commission's method of calculating overhead. In previous calculations of actual costs, the Commission first determined personnel costs by extracting data from the agency's Budget Account Code system, added 10% for personnel benefits (including CFTC's contribution to retirement, insurance, and other fringe benefits and medicare), and then multiplied these salary and benefit costs by a general and administrative overhead factor of 32%, resulting in a total overhead factor of 45% over salaries. The 32% general and administrative factor was derived by computing the average percentage of Commission appropriations spent on salary and benefits (68%) and the average percentage spent on non-personnel overhead such as space, supplies and travel (32%) over a period of three years.

Subsequent to the promulgation of the regulations relating to fees, the Commission has determined that the method of calculating overhead contained in OMB Circular A-76 and upheld in recent decision (*Central and Southern Motor Freight Tariff Association, Inc.* v. *United States and Interstate Commerce Commission*, 777 F.2d 722 (D.C. Circ., 1985)) is more accurate and, therefore, preferable to the Commission's present method. The OMB method of calculation includes three types of overhead costs: Benefits, General and Administrative, and Operational. Because, in the above court case, the ICC's method of calculating Operational overhead was remanded to the ICC for revision, the Commission has determined not to include an operational overhead figure in its overhead calculations for the purposes of the fees. However, the government-wide benefits standard and the method of calculating General and Administrative costs as set forth in A-76 are included in the Commission's revision to its overhead calculations. It should be noted that the benefits calculation includes the cost to the federal government (not just the Commission) of retirement and includes the cost of leave and holiday time. As a result, the Commission's revised overhead calculation includes the following:

	Percent
Benefits (A-76 Government-Wide Standard)	55.4
Retirement	27.9
Insurance	4.7
Other Fringes	1.8
Medicare	1.3
Leave/holidays	19.7
General and Administrative (Based on CFTC budget)	43.4
Travel	3.6
Transportation	0.1
Communications, Rent, Utilities	26.7
Printing and Reproduction	1.6
Other Services	8.3
Supplies	2.1
Equipment	1.0
Total overhead	98.8

The 98.8% factor is rounded to 98% for purposes of computing the cost of overhead. Because the Commission previously applied an overhead factor of 45% for benefits and non-personnel costs in calculating its costs through FY 1984, the Commission intends to apply the revised 98% overhead factor only to costs incurred in FY 1985 and beyond.

Therefore, in calculating the costs for purposes of this **Federal Register** notice, a 45% overhead figure was applied to salary costs for FY 1983 and FY 1984 and a 98% overhead figure was applied to salary costs for FY 1985.

The Commission intends to continue to apply the 98% overhead factor in future years and, accordingly, fees are likely to increase.

II. Contract Market Designation Fees

As the Commission noted in its initial contract market designation fee proposal, the Commission intends to publish a new schedule of application fees each year based on a three-year moving average of actual costs and the number of contracts reviewed during that period of time (48 FR 27412, June 15, 1983).

The Commission spent $1,420,593 in FY 1983, FY 1984 and FY 1985 to review 98 contracts. The average cost of review of a single contract during this period of three years was $14,496. This cost includes the cost of staff time, a 45% overhead factor for FY 1983 and FY 1984, and a 98% overhead factor for FY 1985. Therefore, the Commission is raising the fee for applications for contract market designation from $10,000 to $14,000. The fee will continue to be due at the time the application is submitted. Part (d) of Appendix B to Part 5 is being deleted since it was relevant only to the treatment of contracts pending at the time the fee was initiated.

III. Rule Enforcement and Financial Review Fees

The FY 1986 fee to be charged to each exchange for rule enforcement and financial reviews is shown below, along with the fee charged in FY 1985. The FY 1986 fee was determined by applying the formula contained in the Commission's regulations (17 CFR Part 1, Appendix B) which takes into account the trading volume of the exchange (see Attachment 1 to this notice), the number of approved contracts (see Attachment 2), and the average annual review costs which the Commission incurred with respect to each exchange during the last three years. As indicated above, the calculation of the costs incurred by the Commission includes the cost of staff time, a 45% overhead factor for FY 1983 and FY 1984, and a 98% overhead factor for FY 1985. The average cost per year for the three period was $485,630.

	FY 1985 fee	FY 1986 fee
Chicago Board of Trade	$63,000	[1] $125,000
Chicago Mercantile Exchange	47,000	76,000
Commodity Exchange, Inc	22,000	32,000
MidAmerica Commodity Exchange	18,000	[2]
Coffee, Sugar and Cocoa Exchange	11,000	15,000
New York Mercantile Exchange	11,000	16,000
New York Cotton Exchange	8,000	9,000
Kansas City Board of Trade	8,000	10,000
New York Futures Exchange	8,000	10,000
Minneapolis Grain Exchange	6,000	7,000
Chicago Rice & Cotton Exchange	5,000	[2]
Philadelphia Board of Trade		5,000
Amex Commodities Corp		5,000
Total fees	207,000	310,000
Total actual average cost	298,648	485,630

[1] Due to the ownership by the Chicago Board of Trade of the MidAmerica Commodity Exchange and the earlier affiliation of the Chicago Rice and Cotton Exchange with the MidAmerica Commodity Exchange, the calculations for the Chicago Board of Trade for FY 1986 include the trading volume, approved contracts, and review costs of MidAmerica Commodity Exchange and Chicago Rice and Cotton Exchange. Approximately 30% of the total amount is attributable to MidAmerica and Chicago Rice and Cotton Exchange.
[2] See CBT.

Rule enforcement and financial review fees for FY 1986 will be due from each exchange no later than 60 days after publication of this schedule.

IV. Other Fees

Because the Commission has had less than two full years of experience in performing audits of leverage transaction merchants and in reviewing leverage commodity registrations, no change to these fees is contemplated. However, the Commission's actual costs for the first two years of performing these audits and registration reviews were higher than these fees. The $3,500 fee for leverage commodity registration required under 17 CFR Part 31, Appendix A will continue to be due with each application. The $8,000 audit fee for FY 1986 (see 17 CFR Part 31, Appendix B) will be due not later than 30 days after publication of this schedule of fees.

The Commission is in the process of reviewing actual costs for other services, and will publish a separate notice on revisions to fees for these services including subscriptions to the weekly advisory calendar (17 CFR Part 145, Appendix D), requests for Commission records (17 CFR Part 145, Appendix B and 17 CFR Part 146, Appendix A), *Commitments of Traders* reports (17 CFR Part 145, Appendix C), and transcripts of Commission meetings (17 CFR 147.9).

V. Regulatory Flexibility Act

The changes proposed in this release affect contract markets (also referred to as "exchanges"). The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* 47 FR 18618 (April 30, 1982). The requirement of the Regulatory Flexibility Act, therefore, does not apply to contract markets. Accordingly, the Chairman, on behalf of the Commission, certifies that the schedule of fees proposed herein will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 17 CFR Parts 1, 5, and 31

Contract market rule enforcement reviews, Contract market financial reviews, Contract market designation, Audits of leverage transaction merchants, Leverage commodity registration, Fees.

For the reasons set out in the preamble, Title 17, Part 5, Appendix B, is amended as set forth below.

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

Appendix B—Schedule of Fees

1. The authority citation for Part 5, Appendix B, continues to read as follows:

Authority. 7 U.S.C. 6c(c), 7, 7a, 12a(5) and 16a, 31 USCA 9701.

2. Appendix B, paragraph (a) is revised to read as follows: (a) Applications for Contract Market Designation. Each application for designation as a contract market must be accompanied by a check or money order in the amount of $14,000 made payable to the Commodity Futures Trading Commission.

3. Appendix B, paragraph (d) is removed.

* * * * *

Attachment 1

The following is a list of the 106 contracts traded during fiscal year 1985 in which 13 boards of trade have been designated as contract markets.

Chicago Board of Trade (20)—18.87%

Corn
Oats
Soybeans
Soybean Meal
Soybean Oil
Wheat
Silver
Gold
GNMA Mortgages, CDR
GNMA II
T-Bonds
T-Notes (6½—10 yr.)
Muncipal Bond
Major Market Index
MMI Maxi
T-Bonds, Option
T-Notes, Option
Soybeans Option
Corn, Option
Silver Option

Chicago Mercantile Exchange (25)—23.58%

Live Hogs
Pork Bellies

Live Cattle
Feeder Cattle
Lumber
Gold
T-Bills, 90-Day
Certificates of Deposit, 90-Day
Eurodollar
British Pound
Canadian Dollar
Deutsche Mark
Japanese Yen
Mexican Peso
Swiss Franc
French Franc
S&P 100 Stock Index
Live Hogs, Option
Live Cattle, Option
Eurodollar, Option
British Pound, Option

Chicago Mercantile Exchange

Deutsche Mark, Option
Swiss Franc, Option
French Franc
S&P 500 Index, Option

Commodity Exchange, Inc. (6)—5.66%

Copper
Silver
Gold
Aluminum
Gold, Option
Silver, Option

MidAmerica Commodity Exchange (23)—21.70%

Wheat
Corn
Oats
Soybeans
Soybean Meal
Live Cattle
Live Hogs
Silver
New York Silver
Gold
New York Gold
Platinum
Copper
T-Bonds
T-Bills
British Pound
Swiss Franc
Deutsche Mark
Japanese Yen
Canadian Dollar
Gold, Option
Soft Red Winter Wheat, Option
Soybeans, Option

Coffee, Sugar and Cocoa Exchange (7)—6.61%

Coffee "C"
Sugar #11
Sugar #12
Sugar #14
Cocoa
CPI–W
Sugar, Option

New York Mercantile Exchange (7)—6.61%

Palladium
Platinum
Potatoes
Heating Oil, New York #2
Gasoline, New York Leaded
Gasoline, New York Unleaded
Crude Oil

Kansas City Board of Trade (4)—3.78%

Wheat
Value Line Index
Mini Value Line
Wheat, Option

New York Futures Exchange (2)—1.89%

NYSE Composite Index
NYSE Composite Index, Option

Minneapolis Grain Exchange (3)—2.83%

Wheat
White Wheat
Spring Wheat, Option

Chicago Rice and Cotton Exchange (2)—1.89%

Rice, Rough
Cotton Short Staple

New York Cotton Exchange (4)—3.78%

Cotton #2
Orange Juice, Frozen Concentrated
Propane
Cotton, Option

Amex Commodities Corporation (1)—0.95%

Gold, Option

Philadelphia Board of Trade (2)—1.89

Eurodollar Time Deposit, Option
National Over-the-Counter Index Futures

Attachment 2

The following is a list of trading volume, by exchange, for fiscal years 1983, 1984 and 1985.

Chicago Board of Trade—45.56%	
1983	59,205,337
1984	73,667,320
1985	77,564,885
SUM	210,527,342
Chicago Mercantile Exchange—28.99%	
1983	38,043,739
1984	42,627,371
1985	53,265,218
SUM	133,936,328
Commodity Exchange, Inc.—12.71%	
1983	20,369,008
1984	20,190,027
1985	18,189,520
SUM	58,748,555
MidAmerica Commodity Exchange—1.93%	
1983	3,041,461
1984	3,360,077
1985	2,536,858
SUM	8,938,396
Coffee, Sugar and Cocoa Exchange—2.89%	
1983	4,637,263
1984	4,374,944
1985	4,349,313
SUM	13,361,520
New York Mercantile Exchange—3.39%	
1983	3,580,697
1984	5,010,738
1985	7,090,555
SUM	15,681,990
New York Cotton Exchange—0.89%	
1983	1,648,433
1984	1,588,481
1985	878,456
SUM	4,115,370
Kansas City Board of Trade—1.18%	
1983	1,744,388
1984	1,837,882
1985	1,871,128
SUM	5,453,389
New York Futures Exchange—2.23%	
1983	3,413,827
1984	3,775,408
1985	3,118,450
SUM	10,307,685
Minneapolis Grain Exchange—0.22%	
1983	383,350
1984	337,346
1985	318,555
SUM	1,039,251
Chicago Rice and Cotton Exchange—0.0038%	
1983	9,546
1984	6,168
1985	1,782
SUM	17,496
Amex Commodities Corporation—0.0071%	
1983	0
1984	0
1985	32,779
SUM	32,779
Philadelphia Board of Trade—0.0001%	
1983	0
1984	0
1985	270
SUM	270
All Exchanges—100%	
1983	136,077,049
1984	156,775,762
1985	169,184,715
SUM	462,037,526

Issued in Washington, DC on June 5, 1986, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 13116 Filed 6–10–86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 6, 24, 111, 123, and 145

[T.D. 86-109]

Amendments to the Customs Regulations Regarding Users Fees for Customs Service

AGENCY: Customs Service, Treasury.

ACTION: Interim regulations.

SUMMARY: This document amends the Customs Regulations on an interim basis to provide for the payment of specific fees to Customs for the processing of persons, aircraft, vehicles, and merchandise arriving in the U.S., as well as for the payment of an annual fee by customs brokers. These fees were authorized as part of the recently enacted Consolidated Omnibus Budget Reconciliation Act of 1985 and must be paid in exchange for a variety of services performed by Customs officers relating to the arrival of commercial vessels of 100 net tons or more; the arrival of commercial trucks; the arrival of railway cars; the arrival of many private vessels and aircraft; the arrival of passengers (with certain exceptions) aboard commercial vessels or aircraft; the preparation of documentation in connection with dutiable mail entries; and an annual fee from customs brokers. The amendments are being made on an interim basis due to the limited period of time available to initiate these changes before the law becomes effective. However, any written comments received will be considered before a final rule is issued.

DATES: Interim regulations effective on July 7, 1986. Written comments must be received by August 11, 1986.

ADDRESS: Written comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, Customs Services Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Operational Aspects: Charles Davies, Office of Inspection and Control (202-566-9425).

Legal Aspects: Arthur I. Rettinger, Office of the Chief Counsel, (202-566-2482). On carrier fees, John A. Mathias, Office of Regulations and Rulings, (202-566-5706), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

Accounting Aspects: Robert Hamilton, National Finance Center, (317-298-1308), c/o Revenue Accounting, P.O. Box 68901, Indianapolis, Indiana 46278.

SUPPLEMENTARY INFORMATION:

Background

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (the Act, Pub. L. 99-272), establishes a schedule of fees chargeable to users of various services provided by the Customs Service in connection with the processing of persons, aircraft, vehicles, vessels, and merchandise arriving in the U.S., as well as for the payment of an annual fee by customs brokers. In addition to established specific fees, the Act sets forth certain limitations or conditions concerning the collection of fees, and authorizes the the promulgation of such rules and regulations as may be necessary to carry out the provisions of the new law.

Prior to enactment of this legislation, Customs had no general legal authority to collect fees for the processing of persons, aircraft, vehicles, vessels, and merchandise arriving in or departing from the U.S. Customs does, however, have specific authority to charge fees under certain limited circumstances, such as when providing pre-clearance of passengers and private aircraft, when such services are of special benefit to particular persons. Customs also has authority to assess fees on operators of bonded warehouses and foreign trade zones and on the entry of vessels into ports. Further, Customs has authority to collect the navigation fees specified in § 4.98, Customs Regulations (19 CFR 4.98). Finally, Customs is authorized to receive reimbursement from carriers for overtime services provided during non-business hours, and reimbursement from local authorities for services provided to certain small airports.

By the terms of the Act, the Congress has given Customs the authority to collect fees for services provided in connection with:

(1) The arrival of commercial vessels of 100 net tons or more.

(2) The arrival of a commercial truck.

(3) The arrival of railroad cars, whether passenger or freight.

(4) The arrival of private vessels or aircraft.

(5) The processing of dutiable mail for which Customs prepares documentation.

(6) An annual fee for each customs broker permit held by individuals, partnerships, associations, or corporate brokers.

(7) The processing of each passenger aboard a commercial vessel or aircraft arriving from outside the U.S.

Fees for several of the above categories of services are subject to certain limitations which are detailed later in this document. However, one example of a limitation merits special mention. Pursuant to 46 U.S.C. (see § 4.94, Customs Regulations (19 CFR 4.94)), pleasure vessels from certain nations are granted cruising licenses which exempt them, after they report their first arrival to Customs, from formal entry, from filing manifests, from obtaining permits to proceed between ports of the U.S., and from clearance for a period of one year. Although there is no specific exemption for such vessels in the Act, neither is there an indication that the Congress intended to revise 46 U.S.C. 104, which specifically exempts such vessels from "charges for entering or clearing, dues, duty per ton, or tonnage taxes." Thus, an administrative exception is being made. Owing to the mid-year implementation date for these new requirements, it has been decided that for the calendar year 1986 only, the annual one-time fee for private vessels and aircraft will be $12.50.

The main body of the amendments will appear as new §§ 24.22 and 111.96, Customs Regulations (19 CFR 24.22 and 111.96), with appropriate cross references added to the following parts of the Customs Regulations.

(1) For commercial vessels and passengers—Part 4, Customs Regulations (19 CFR Part 4).

(2) For private aircraft and commercial aircraft passengers—Part 6, Customs Regulations (19 CFR Part 6).

(3) For railroad cars and commercial trucks—Part 123, Customs Regulations (19 CFR Part 123).

(4) For mail entries—Part 145, Customs Regulations (19 CFR Part 145).

Comments

Before adopting the interim regulations as a final rule, Customs will give consideration to any written comments (preferably in triplicate) timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Customs Service Headquarters, Room 2426, 1301 Constitution Avenue, NW., Washington, DC 20229.

Inapplicability of Notice and Delayed Effective Date Provisions

The statutory effective date for collection of user fees is July 7, 1986. In light of the limited deadline imposed upon Customs to implement these changes, it has been determined that,

pursuant to 5 U.S.C. 553(b)(B), notice and public procedure is impracticable. For the same reason, pursuant to 5 U.S.C. 553(d)(3), we are dispensing with a delayed effective date. However, before adopting final regulations, consideration will be given to all written comments timely submitted.

E.O. 12291 and Regulatory Flexibility Act

Because the amendments do not meet the criteria for a "major rule" within the meaning of § 1(b) of E.O. 12291, Customs has not prepared a regulatory impact analysis.

Because no notice of proposed rulemaking is required for these interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Paperwork Reduction Act

The collections of information contained in the interim regulations have been submitted to the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3507). Notice of OMB action will be published in the **Federal Register**.

List of Subjects

19 CFR Part 4

Cargo vessels, Passenger vessels, Vessels, Yachts.

19 CFR Part 6

Air carriers, Aircraft.

19 CFR Part 24

Accounting, Taxes.

19 CFR Part 111

Administrative practice and procedure, Brokers.

19 CFR Part 123

Canada, Mexico, Motor carriers, Railroads, Vessels.

19 CFR Part 145

Postal service.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendments to the Regulations

Parts 4, 6, 24, 111, 123, and 145, Customs Regulations (19 CFR Parts 4, 6, 24, 111, 123, and 145), are amended as set forth below:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority for Part 24, Customs Regulations, continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1624; 31 U.S.C. 9701; Pub. L. 99-272.

2. Part 24 is amended by adding a new § 24.22 to read as follows:

§ 24.22 Fees for certain services.

(a) *Definitions.* For purposes of this section:

(1) The word "vessel" includes every description of watercraft or other contrivance used or capable of being used as a means of transportation on water, but does not include aircraft or any ferry.

(2) The word "arrival" means arrival at a port of entry in the customs territory of the U.S., or any place served by a port of entry.

(3) The words "calendar year" mean the period from January 1 to December 31 of any particular year.

(b) *Fee for arrival of a commercial vessel of 100 net tons or more.* (1) The master, licensed deck officer, or purser of any commercial vessel of 100 net tons or more which is required to enter under § 4.3 of this Chapter, and any U.S.-flag vessel proceeding coastwise under § 4.85 of this Chapter shall, upon arrival, proceed to Customs and tender a processing fee in the amount of $397 for the services provided. The fee shall be collected at each port of arrival.

(2) *Exceptions.* Foreign passenger vessels making at least three trips a week from a port in the U.S. to the high seas and returning to the same U.S. port, not having touched any foreign port or place, shall be exempt from the payment of an arrival fee, even though formal entry is still required.

(c) *Fee for arrival of a commercial truck.*—(1) *Commercial truck defined.* For the purposes of this paragraph, a commercial truck is defined as a self-propelled vehicle designed and used for the transportation of commercial merchandise, or the transportation of non-commercial merchandise on a for-hire basis. Empty trucks and truck cabs without trailers fitting this description are also included.

(2) *Fee.* The driver or other person in charge of a commercial truck or truck cab entering the customs territory of the U.S. shall, upon arrival at a port of entry in the customs territory of the U.S., proceed to Customs and tender the sum of $5 for the services provided.

(3) *Prepayment.* The owner or operator of a commercial truck may apply for a prepaid permit for a calendar year upon payment of $100. The following information, together with the payment, shall be provided:

(i) Vehicle make, model, and model year.

(ii) Vehicle Identification Number (VIN).

(iii) License numbers issued by state, province, or county.

(iv) Owner's name and address.

(4) Payment may be made to the Customs officer at the port of entry, or in accordance with the provision of paragraph (i) of this section. The prepaid permit will be in the form of a decal to be placed in the lower left hand corner of the truck windshield, prior to first clearance through Customs for any calendar year. No credit toward the annual fee shall be given for payments made at individual crossings.

(d) *Fee for arrival of each railroad car.*—(1) *Fee.* A fee of $5 shall be charged for each railroad car, whether passenger or freight, loaded or empty, upon each arrival at a port of entry in the customs territory of the U.S. The railroad company receiving a rail car in interchange at a port of entry or, barring interchange, the company moving a car in line haul service into the customs territory of the U.S., shall be responsible for payment of the fee. No fee shall be required for locomotives and cabooses, but the $5 fee shall be assessed for empty railroad cars which are dropped from an in-transit train in the U.S. and are placed in the railroad interchange system.

(2) *Prepayment.* Railroad companies may, at their option, prepay a $100 calendar year fee for each railroad car. This payment shall be remitted in accordance with the provision of paragraph (i) of this section. No credit will be given for payments made toward the annual fee at individual crossings.

(3) *Payment and monthly statement procedures.* (i) The Association of American Railroads (AAR), and the National Railroad Passenger Corporation (AMTRAK), shall file monthly statements with the Director, National Finance Center, within 60 days after the end of each calendar month. Each statement shall indicate:

(A) The number of railroad cars entering the customs territory of the U.S. during the relevant period;

(B) The number of those railroad cars pulled by each carrier; and

(C) The total monthly processing fee due from each carrier.

(ii) The individual carriers shall remit the fees calculated by AAR, and AMTRACK shall remit the fees it has calculated, within 60 days after the end of each calendar month in which railroad cars entered the customs

territory of the U.S. The submission of monthly statements and the remission of fees shall be in accord with the procedures specified in paragraph (i) of this section.

(4) *Maintenance of records.* The Association of American Railroads (AAR), and the National Railroad Passenger Corporation (AMTRAK) shall maintain all such documentation necessary for Customs to verify the accuracy of fee computations and to otherwise determine compliance under the law. Such documentation shall be maintained for a period of 3 years from the date of fee calculation. The AAR, AMTRAK, and each railroad company responsible for making fee payments shall advise the Director, National Finance Center, of the name, address, and telephone number of a responsible officer who shall be able to verify any statements or records required to be filed or maintained under this paragraph. The Director, National Finance Center, shall be promptly notified of any changes in the identifying information submitted. The information required to be submitted under this subparagraph shall be in accord with the procedures set forth in paragraph (i) of this section.

(5) *Exemptions.* No fee shall be collected under this paragraph for Customs services provided in connection with the arrival of any railroad car that is part of a train whose journey originates and terminates in the same country, if—

(i) The car is part of the train when the train departs the U.S.; and

(ii) No passengers board or disembark from the car, and no cargo is loaded or unloaded from the car, while the train is within any country other than the country in which the train originates and terminates.

(e) *Fee for arrival of a private vessel or private aircraft.* Except as otherwise provided in this paragraph, the master or other person in charge of a private vessel or aircraft shall, upon first arrival at a port in the customs territory of the the U.S. in any calendar year, proceed to Customs and tender the sum of $25 for the services provided. Only one $25 fee shall be collected in connection with arrivals of each private vessel or private aircraft in a clander year. The $25 fee may be prepaid to Customs. A receipt for the payment of the fee shall be provided by Customs to the master or other person in charge of the private vessel or private aircraft and shall be retained as proof of payment. The proof of payment shall be presented to Customs upon each arrival of the vessel or aircraft. The requirements of this paragraph shall not apply to private pleasure vessels of less than 30 feet in length, so long as they are not carrying any goods required to be declared to Customs, nor to private pleasure vessels granted a cruising license under § 4.94 of this chapter, during the pendency of that license. The fee specified in this paragraph shall be in addition to any overtime charges.

(f) *Fee for dutiable mail.* The addressee of each item of dutiable mail for which a Customs officer prepares documentation shall be assessed a processing fee in the amount of $5. When the merchandise is delivered by the Postal Service, the fee shall be shown as a separate item on the entry and collected at the time of delivery of the shipment along with any duty and taxes due. When Customs collects the fee directly from the importer or his agent, the fee will be included as a separate item on the informal entry or entry summary document.

(g) *Fee for arrival of passengers aboard commercial vessels and commercial aircraft.*—(1) *Fee.* Except as set forth in this paragraph, each passenger requiring Customs processing who is aboard a commercial vessel or commercial aircraft which arrives in the customs territory of the U.S. from a place outside thereof, shall be assessed a fee in the amount of $5 for the processing.

(2) *Exceptions.* The fee set forth in paragraph (g)(1) of this section shall not be assessed for the following categories of arriving passengers:

(i) Persons whose journey originates in Canada, Mexico, a territory or possession of the U.S., or any adjacent island. The U.S. territories and possessions include American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands. The adjacent islands include all of the islands in the Caribbean Sea, the Bahamas, Bermuda, St. Pierre, Miquelon, and the Turks and Caicos Islands.

(ii) Crew members and persons directly connected with the operation, navigation, ownership, or business of the vessel or aircraft;

(iii) Diplomats, except for U.S. diplomats, who can show that their names appear on the accreditation listing maintained by the U.S. Department of State. In lieu of such listing an individual diplomat may present appropriate proof of diplomatic status to include possession of a diplomatic passport or visa, or diplomatic identification card issued by a foreign government;

(iv) Persons departing and returning to the U.S. without having touched a foreign port or place;

(v) Persons arriving as passengers on any aircraft used exclusively in the governmental service of the U.S. or a foreign government, including any agency or political subdivison thereof, so long as the aircraft is not carrying persons or merchandise for commercial purposes. Passengers on commercial aircraft under contract to the U.S. Department of Defense are exempted if they have been precleared abroad under the joint DOD/Customs Military Inspection Program; and

(vi) Persons arriving on an aircraft due to an emergency or forced landing when the original destination of the aircraft was a foreign airport.

(vii) Persons transiting the U.S. and not processed by Customs.

(3) The fees specified in this paragraph shall be collected under the following circumstances:

(i) When through tickets or travel documents are issued indicating travel to the U.S. which originates in a location other than as specified in paragraph (g)(2) of this section.

(ii) When through tickets or travel documents are issued in an exempt location indicating an arrival in the U.S. following a stopover (layover) in a location other than as specified in paragraph (g)(2)(i) of this section; and

(iii) When passengers arrive in the U.S. in transit from a non-exempt location and are processed by Customs.

(4) *Collection of fees.* Carriers issuing tickets or travel documents on or after July 7, 1986, are responsible for the collection of the passenger processing fee from all passengers transported into the U.S. for whom the fee applies. The ticket or travel document shall be marked to indicate that the required fee has been collected from the passenger. If the ticket is not so marked and was issued in a foreign country, the fee shall be collected and remitted by the departing carrier upon departure of the passenger from the U.S. If collected at time of departure from the U.S., the carrier making the collection shall issue a receipt to the passenger. U.S.-based tour wholesalers who contract for passenger space and issue non-carrier tickets will collect and remit the processing fee to Customs in the same manner as the carrier.

(5) *Payment and quarterly statement procedures.* Payment must be made no later than 31 days after the close of the calender quarter in which the fees are collected. If the issuing carrier has not collected the required fee from passengers, the person who first collects that fee shall remit it to Customs.

(i) Fee payments shall be accompanied by a statement which includes the following information:

(A) Name and address of the party remitting payment;

(B) Taxpayer Identification number of the party remitting payment; and

(C) Calendar quarter covered by the payment.

(ii) Fee payments shall be at the location and in accordance with the procedures specified in paragraph (i) of this section.

(6) Carriers contracting with a U.S.-based tour wholesaler are responsible for notifying Customs of all flights or voyages contracted, the number of spaces contracted for, and the name, address and taxpayer identification number of the tour wholesaler all within 31 days after the close of the calendar quarter in which such a flight or voyage occurred.

(7) *Maintenance of records.* Each airline and vessel company affected by this paragraph shall maintain all such documentation necessary for Customs to verify the accuracy of fee computations and to otherwise determine compliance under the law. Such documentation shall be maintained for a period of 2 years from the date of fee calculation. The affected companies shall advise the Director, National Finance Center, of the name, address, and telephone number of a responsible officer who shall be able to verify any records required to be maintained under this paragraph. The Director, National Finance Center, shall be promptly notified of any changes in the identifying information submitted. Required information shall be submitted as set forth in paragraph (i) of this section.

(8) *Limitation on charges.* Other than the $5 processing fee for arriving passengers specified in this paragraph, arriving scheduled airline flights as defined in § 6.1(f) of this chapter and operating within the requirements of § 6.2 of this chapter, shall be provided inspectional services for their passengers at no additional cost.

(h) *Annual customs broker fee.* Customs brokers are subject to an annual fee for each permit held by an individual, partnership, association, or corporate broker as specified in § 111.96 of this chapter.

(i) *Fee remittance and information submission procedures.*—(1) *Fee remittance.* All fees required to be remitted pursuant to this section shall be payable by check or money order to the U.S. Customs Service, in the amounts prescribed in these regulations. Unless otherwise provided for in this section, all fee remittances required by this section shall be mailed to: U.S. Customs Service, P.O. Box 198151, Atlanta, Georgia 30384. Each payment shall be accompanied by information sufficient to identify the person or organization remitting the fee, a brief description of the type of fee being remitted (whether railroad, commercial airline passenger, or other), and the time period to which the payment applies.

(2) *Information submission.* Unless otherwise specified, all information, summaries, reports, or other data required to be submitted to Customs pursuant to this section shall be mailed to the Director, National Finance Center, Attn: Revenue Accounting, P.O. Box 68901, Indianapolis, Indiana 46278.

PART 111—CUSTOMS BROKERS

1. The authority citation for Part 111, Customs Regulations (19 CFR Part 111), is amended to read as set forth below. The statutory citations appearing elsewhere in Part 111 are removed.

Authority: 19 U.S.C. 66, 1202 (Gen Hdnte. 11), 1624, 1641.

2. Part 111 is amended by creating a new Subpart E and adding a new § 111.96, to read as follows:

Subpart E—Fees

§ 111.96 Fees.

(a) [Reserved].

(b) [Reserved].

(c) *User Fee.* An annual user fee of $125 will be assessed for each permit held by an individual, partnership, association or corporate broker.

(1) The fee is payable for each calendar year in each district where a broker has a permit to do business. If a broker receives a permit at a time other than the beginning of a calendar year, the full $125 must be paid immediately. If a broker fails to pay the fee by January 1 of each year or immediately at the time he receives his permit, the district director will notify the broker in writing of his failure to pay and that the permit is revoked. The notice will constitute revocation of the permit.

(2) For calendar year 1986, brokers must remit payment of $125 by August 5, 1986, in each district where they have a permit to do business. If payment is not made by August 5, 1986, notice will be given and revocation will be effective August 5, 1986.

(d) [Reserved].

(e) *Payment of fee.* All fees shall be paid by check or money order payable to the U.S. Customs Service.

Conforming Amendments; Parts 4, 6, 123, and 145 Customs Regulations

To conform the Customs Regulations to the changes made by the amendments to Part 24, Customs Regulations (19 CFR Part 24), Parts 4, 6, 123, and 145, Customs Regulations (19 CFR Parts 4, 6, 123, and 145), are amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The authority citation for Part 4 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. 3, 2103.

2. Part 4 is amended by adding a new paragraph (i) to § 4.98 to read as follows:

§ 4.98 Navigation fees.

* * * * *

(i) Vessels, whether private or commercial, and passengers arriving in the customs territory of the U.S. abroad commercial vessels, may be subject to the payment of fees for services provided them as set forth in § 24.22 of this chapter.

PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624; 49 U.S.C. 1474, 1509.

2. Part 6 is amended by adding a new § 6.1a to read as follows:

§ 6.1a Customs private aircraft and commercial passenger fees.

Private aircraft and passengers aboard commercial aircraft arriving in the customs territory of the U.S., may be subject to the payment of fees for services provided them as set forth in § 24.22 of this chapter.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The authority citation for Part 123 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624.

§ 123.1 also issued under 19 U.S.C. 1459;

§ 123.2 also issued under 19 U.S.C. 1460;

§ 123.3 also issued under 19 U.S.C. 1459;

§ 123.4 also issued under 19 U.S.C. 1484, 1498;

§ 123.7 also issued under 19 U.S.C. 1498;

§ 123.8 also issued under 19 U.S.C. 1448, 1450–1454, 1459;

§ 123.9 also issued under 19 U.S.C. 1460, 1584, 1618;

§ 123.11 also issued under 19 U.S.C. 1465;

§ 123.12–123.18 also issued under 19 U.S.C. 1322;

§§ 123.21–123.23, 123.25–123.29, 123.41, 123.51 also issued under 19 U.S.C. 1554;

§ 123.24 also issued under 19 U.S.C. 1551;

§§ 123.31–123.34, 123.42, 123.52, 123.64 also issued under 19 U.S.C. 1553;

§ 123.63 also issued under 19 U.S.C. 1461, 1462;

§ 123.71 also issued under 19 U.S.C. 1595.

2. All other statutory authority cited at the end of the table of contents and various sections in Part 123 is removed.

3. Part 123 is amended by adding a new § 123.1a to read as follows:

§ 123.1a Customs railroad car and commercial truck fees.

Each commercial truck, truck cab, and railroad car (except locomotives and cabooses), whether passenger or freight, whether empty or otherwise, which enters the customs territory of the U.S., is subject to the payment of fees for services provided them as set forth in § 24.22 of this chapter.

PART 145—MAIL IMPORTATIONS

1. The authority citation for Part 145 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624.

2. Part 145 is amended by adding a new § 145.1a to read as follows:

§ 145.1a Customs fees for certain dutiable mail entries.

Each item of dutiable mail for which Customs prepares documentation will be subject to the payment of a fee for services provided, as set forth in § 24.22 of this chapter.

William von Raab,

Commissioner of Customs.

Approved: June 4, 1986.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86-13260 Filed 6-9-86; 1:22 pm]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security Benefits and Supplemental Security Income for the Aged, Blind, and Disabled; Project to Improve the Hearing Process Through the Involvement of SSA Representatives

AGENCY: Social Security Administration, HHS.

ACTION: Notice of continuance and restructuring of the SSA representation project under auspices of the adjudicatory improvement project.

SUMMARY: This provides notice of: (1) The Adjudicatory Improvement Project, an agency-wide task force that will manage all aspects of the field testing of the Social Security Administration (SSA) Representation Project and conduct all data collection, evaluation, and planning activities required to determine whether permanent implementation of SSA representation should be proposed; (2) restructuring of the operational format of the SSA Representation Project; and (3) evaluation of testing under this restructured format after 1 year beginning April 30, 1986. Operational experience under the SSA Representation Project as conducted to date indicates that representation may result in improvement in the hearing process. However, reaching a sound decision on whether to propose permanent implementation of SSA representation requires that testing be continued in a restructured format and evaluated under agency-wide auspices.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Judith A. Hidalgo, Director, Program, Planning and Analysis Group, Adjudicatory Improvement Project, Social Security Administration, Room L2103 West Low Rise Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7002.

SUPPLEMENTARY INFORMATION: Final rules for the SSA Representation Project were published in the **Federal Register** on August 19, 1982 (47 FR 36117). The project commenced in October 1982 in five hearing offices located in Baltimore, MD; Brentwood, MO; Columbia, SC; Kingsport, TN; and Pasadena, CA. The Brentwood hearing office ceased to participate in October 1983. Continuance of the project was announced by notice published in the **Federal Register** on April 9, 1984 (49 FR 13872).

As stated in the final rules at 20 CFR 404.965(c) and 416.1465(c):

. . . [t]he purpose of the project is to determine whether participation of SSA representatives in the hearings process will—

(i) Help to improve the overall disability adjudicatory process;

(ii) Reduce delays in conducting hearings and issuing decisions;

(iii) Improve the quality of hearing decisions;

(iv) Increase the productivity of administrative law judges;

(v) Achieve more uniformity and consistency in hearing decisions; and

(vi) Reduce hearing costs.

The rules further define the project's purpose by stating that:

. . . [t]he results of the project will be evaluated to determine whether to propose the implementation of SSA representation on a larger scale.

Under the rules at 20 CFR 404.965(a) and 416.1465(a), project procedures apply to requests for administrative law judge (ALJ) hearings that are within the jurisdiction of the participating hearing offices and involve the issue of disability under title II and/or title XVI of the Social Security Act.

The rules define the authority and responsibilities of the SSA representatives. This notice does not modify the responsibilities or authority of the SSA representative. Instead, the notice announces continuance of the SSA Representation Project under a modified operational format.

The rules at §§ 404.965 and 416.1465 do not specify where project offices will be located or how they will be staffed, organized, and managed; nor are case processing/workflow procedures specified. The rules define the project's size by stating that project procedures will be applied to disability cases in a small number of ALJ hearing offices selected to participate. The duration of the project and the methodologies to be used in evaluating project results are not specified.

As originally implemented, the SSA Representation Project was designed to allow testing of representation under a format that would minimize the costs and any disruptive effects of testing during a period when ALJ hearing caseloads were increasing. Thus, it was decided to superimpose representation on existing case processing procedures at the ALJ hearing level, rather than to revise those procedures to maximize the efficiency of SSA representatives. The representatives were placed organizationally within SSA's Office of Hearings and Appeals (OHA), and their offices were collocated with or placed nearby the participating hearing offices. Cases requiring travel by the ALJ, and thus by the SSA representative as well, were excluded from the project. The SSA representatives were required to rely on ALJ hearing office personnel for staff and administrative support. Finally, it was also decided to evaluate project results through a relatively simple management analysis approach under which project data would be compared to available national data.

Testing under this format has provided valuable experience with SSA representation and has shown that it may constitute a practical approach to improving the appeals process.

However, additional information is needed to reach a fully informed decision on an issue as consequential as SSA representation.

The SSA Representation Project has heretofore been managed and evaluated by a single component, OHA. Restructured testing will be carried out under auspices of the Adjudicatory Improvement Project, an agency-wide task force that can call upon agency resources as necessary to test and evaluate SSA representation. The Adjudicatory Improvement Project is specifically charged with responsibility to conduct all data collection, evaluation, and planning activities required to determine if SSA representation should be implemented on a permanent basis.

To determine the full effectiveness of SSA representation in improving processing times and decisional quality at the ALJ hearing level we need to test how well the representatives function when organizationally separate from OHA. To determine cost effectiveness, we must assess the efficiency with which a single office of representatives can service more than one hearing office. For the same reason, we need to test the effectiveness of SSA representation when the representative participates in cases requiring travel by the ALJ and the representative. Finally, we need to assess project results through improved, more comprehensive evaluation methodologies.

Based on these considerations, we are restructuring the operational format of the SSA Representation Project as follows:

(1) Organizational separation of the representatives from OHA will be tested by physically separating their offices from participating ALJ hearing offices, by providing necessary staff and by placing them under the management of the Adjudicatory Improvement Project.

(2) To determine the full effectiveness of SSA representation, case processing procedures will be revised so that after a request for hearing is filed, the SSA component having the claim file(s) will forward it directly to the office of the SSA representative. Claim files will be available for inspection in those offices, and copies of the evidence will be made available to the claimants or their appointed representatives.

(3) To determine the cost effectiveness of SSA representation, we will: (a) test the efficiency with which a single office of representatives can service more than one ALJ hearing office by relocating our project office in Pasadena to Upland, from which it will service both the Pasadena and the San Bernardino ALJ hearing offices; and (b) include cases in the project that require travel by the ALJ and the SSA representative.

(4) Administrative procedures are being established to allow assessment of how SSA representation could contribute to improved communication and feedback by establishing liaison functions between the offices of the SSA representatives and the State agencies, district offices, hearing offices and SSA central office components.

(5) To improve the way in which SSA representation is assessed—

(a) Statistical sampling and assessment methodologies will be applied to data derived from participating hearing offices and matched comparison hearing offices;

(b) Enhanced data and management information will be collected;

(c) An end-of-line sample of cases from both participating and comparison offices will be reviewed to determine decisional consistency and uniformity;

(d) A comprehensive cost analysis study will be made to determine the impact of SSA representation on the SSA appeals process; and

(e) The use of opinion polls to help us determine participant reaction to SSA representation is being explored.

Following the close of 1 year of testing, we will evaluate test results to determine whether SSA representation should be continued or terminated. The number of participating hearing offices will not be increased except by amending the existing regulations through the notice and public comment procedures required for rulemaking. No proposal to permanently implement SSA representation will be made without consultation with Congress.

Paperwork Reduction Act

This notice does not impose recordkeeping or reporting requirements on the public.

Dated: June 5, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

[FR Doc. 86-13156 Filed 6-10-86; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Parts 41 and 42

[Department Regulation 108.851]

Visas; Documentation of Nonimmigrants and Immigrants

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: This final rule amends 22 CFR Parts 41 and 42 to reflect Immigration and Naturalization Service regulations relating to the filing and approval of blanket petitions, to provide for refusal by consular officers of L visas to aliens applying for such visas as the beneficiaries of blanket petitions approved under INS regulations if the consular officer is not statisfied that the alien qualifies as a manager or an executive under the provisions of section 101(a)(15)(L) of the Immigration and Nationality Act; to substitute the word "person" for the word "woman" in the first sentence of §§ 41.91(a)(12) and 42.91(a)(12); and to increase to $100,000 the minimum monetary investment an alien must make in an enterprise in the United States in order to establish exemptions from the labor certification requirement of section 212(a)(14) of the Act. The rule also makes changes to §§ 41.91(a)(17) and 42.91(a)(17) to conform with section 4(1) of the Immigration and Nationality Act Amendments of 1981 and subsequent INS regulations to implement the Act of December 29, 1981.

EFFECTIVE DATE: June 11, 1986.

ADDRESS: Stephen K. Fischel, Chief, Legislation and Regulations Division, Visa Services, Washington, DC 20520 (202) 663-1204.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel or Guida Evans-Magher, Legislation and Regulations Division, Visa Services, (202) 663-1206.

SUPPLEMENTARY INFORMATION: On November 6, 1985 the Department published a Notice of Proposed Rulemaking to amend several sections of 22 CFR Parts 41 and 42. Only three comments were received. Two comments were related to the proposed amendment of § 42.91(a)(14)(ii)(d). This amendment increase from $40,000 to $100,000 the minimum monetary investment an alien, seeking status as an investor, must make in an enterprise in the United States in order to establish exemption from the labor certification requirement. The exemption applies only to aliens seeking classification as nonpreference immigrants. The increase does not apply to aliens seeking temporary visas as treaty investors under the provisions of section 101(a)(15)(E) of the Immigration and Nationality Act who are required to invest only a substantial amount of capital.

Discussion of the three comments received

One commenter alleged that the Immigration and Naturalization

Service's construction, of section 4(1) of the 1981 amendments to the Immigration and Nationality Act was in error because the statutory language does not suggest that the Congress had intended section 4(1) amendments to apply only to those aliens who had remained outside of the United States for five succesive years since deportation or removal. The commenter urged the Department to reconsider the proposed amendments to §§ 41.91(a)(17) and 42.91(a)(17) and to allow the matter to be resolved judicially. Since these issues were addressed by the Immigration and Naturalization Service in a proposed rulemaking published on March 22, 1982, 47 FR 12129, the Department concludes that the opportunity to comment was available to the commenter at that time. The Department amends §§ 41.91(a)(17) and 42.91(a)(17) to conform with the Service's regulations. Two commenters opposed the increase from $40,000 to $100,000 in the minimum investment an alien must make. The commenters contended that investments of considerably less than $100,000 are often sufficient to establish a business enterprise with an excellent probability of success and that the proposed amendment of the rule was therefore without justification, particularly since the increase to $100,000 substantially exceeds the cumulative rate of inflation since the last increase made in 1976.

Based on the very different results that follow a business failure by a lawful permanent resident immigrant as opposed to a nonimmigrant treaty investor, the Department considers that the viability of the new business is crucial in the immigrant case and accordingly adopts the amendment to increase the minimum investment amount. As a practical matter, no benefits are likely to come to any alien under the investors regulations due to the improbability that nonpreference numbers will become available in the foreseeable future. However, this amendment will be reviewed in the event nonpreference numbers do become available at some later time.

This rule is not considered to be major rule for purposes of E.O. 12291 nor is it expected to have significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects 22 CFR Parts 41 and 42

Visas, Aliens, Nonimmigrants, Immigrants, Ineligible classes, Investors.

Adoption of Amendments

In view of the foregoing, Parts 41 and 42 are amended to read as proposed.

PART 41—VISAS: DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for Part 41 is revised to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), 91 Stat. 847.

2. Section 41.67 is amended by revising paragraph (a)(1)(iii), by adding paragraph (a)(1)(iv) and by adding a new paragraph (c) to read as follows. Paragraph (a) introductory text is republished.

§ 41.67 Executives, managers and specialists (intracompany transferees).

(a) An alien shall be classifiable under the provisions of section 101(a)(15)(L) of the Act if—

* * * * *

(1) * * *

(iii) The alien shall have presented to the consular officer official confirmation of the approval of an individual petition according such classification or confirmation of extension of alien's authorized stay in such classification; or

(iv) The alien shall have presented an approved blanket petition or a notification of approval listing only those intracompany relationships and positions which were found to qualify under section 101(a)(15)(L) of the Act; or

* * *

* * * * *

(c) The consular officer shall refuse issuance of a visa if the documentation presented by an alien applying as an executive or managerial beneficiary or a blanket petition approved by the Immigration and Naturalization Service under the provisions of section 101(a)(15)(L) does not establish to the satisfaction of the consular officer that—

(1) The alien has been continuously employed by the same employer, or an affiliate or subsidiary thereof, for the one year immediately preceding the application for the (L) visa; or

(2) The alien is qualified to fill an executive or managerial position.

* * * * *

§ 41.91 [Amended]

3. In § 41.91(a)(12)(i) the word "woman" in the first sentence is changed to the word "person".

4. Section 41.91(a)(17) is revised to read:

§ 41.91 Aliens ineligible to receive visas.

* * * * *

(a) * * *

(17) *Aliens arrested and deported or removed from the United States.* An alien who was arrested and deported from the United States, or who was removed from the United States as stated in section 212(a)(17) of the Act shall not be issued a visa unless the alien has remained outside the United States for at least five successive years following the last deportation or removal or has obtained permission from the Immigration and Naturalization Service to reapply for admission to the United States.

* * * * *

PART 42—VISAS: DOCUMENTATION OF IMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation for Part 42 is revised to read as follows:

Authority: Sec. 104, 66 Stat. 174, 8 U.S.C. 1104; Sec. 109(b)(1), 91 Stat. 847.

§ 42.91 [Amended]

2. In § 42.91(a)(12)(i) the word "woman" in the first sentence is changed to the word "person".

3. In § 42.91 paragraph (a)(14)(ii)(*d*) is revised to read:

§ 42.91 Aliens ineligible to receive visas.

(a) * * *

(14) *Aliens entering to perform skilled or unskilled labor.* * * *

(ii) * * *

(d) An alien who establishes to the satisfaction of the consular officer that entry into the United States is sought for the purpose of engaging in an enterprise in which the alien has invested, or is actively in the process of investing, capital totaling at least $100,000, and in which the alien will be a principal manager and will employ a least one person in the United States who is a United States citizen or an alien lawfully admitted for permanent residence, exclusive of the principal alien, and the spouse and children of such principal alien; and * * *

* * * * *

4. Section 42.91(a)(17) is revised to read:

(a) * * *

(17) *Aliens arrested and deported or removed from the United States.* An alien who was arrested and deported from the United States, or who was removed from the United States as stated in section 212(a)(17) of the Act shall not be issued a visa unless the alien has remained outside the United States for at least five successive years following the last deportation or removal or has obtained permission from the Immigration and Naturalization

Service to reapply for admission to the United States.

* * * * *

Dated: June 2, 1986.

Joan M. Clark,

Assistant Secretary for Consular Affairs.

[FR Doc. 86-13104 Filed 6-10-86; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-86-1613; FR-2253]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

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

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by adding the limits of thirteen designated high-cost areas to the list. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT:

For single family: John Coonts, Acting Director, Single Family Development Division, Room 9270; telephone (202) 755-8720.

For manufactured homes: Christopher Peterson, Director, Office of Title I Insured Loans, Room 9160; telephone (202) 755-6880; 451 Seventh Street, SW., Washington, D.C. 20410. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1710-1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, section 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

The Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, November 30, 1983) (the 1983 Act) further amended HUD's insuring authority. Of particular interest here are: (1) The authorization to insure condominiums in high-cost areas at the same levels as the high-cost limits for one-family residences insured under section 203(b) of the National Housing Act; and (2) the authorization to increase maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and for individual lot loans in high-cost areas, so long as the percentage increase in the maximum loan limit does not exceed the percentage increase made to a one-family residence in the area authorized under section 203(b) of the NHA.

The Department has implemented these provisions of the 1983 Act in related documents published in the **Federal Register** on April 11, 1984 (see 49 FR 14332, 14335, 14336), effective May 22, 1984. These documents amended the Department's rules to codify the procedure of announcing high-cost mortgage limits for single-family residences, condominiums, combination manufactured homes and lots and manufactured home lots by notice in the **Federal Register** (see 24 CFR 201.1504, 203.18b, 203.29, 234.27, and 234.49).

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features (see 49 FR 21520). First, there was no separate listing for condominium units, since these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam and Hawaii. And, third, it made changes to the list based on a new definition of "metropolitan area".

On December 6, 1984 (49 FR 47657), May 8, 1985 (50 FR 19341), July 24, 1985 (50 FR 30154), November 6, 1985 (50 FR 45993), January 7, 1986 (51 FR 596), and January 10, 1986 (51 FR 1249), the Department published amendments to the "high-cost" mortgage amounts that added additional areas and further increased the limits of several previously designated high-cost areas.

This Document

Today's document adds Barnstable County, Massachusetts; Burlington, Camden and Mercer Counties, New Jersey; Bucks County, Pennsylvania; Shelby County, Alabama; Jefferson County, Kentucky; Seminole County, Florida; Olmstead County, Minnesota; Santa Fe County, New Mexico; Shawnee County, Kansas; Washington County, Utah; and Coconino County, Arizona to the list of high-cost areas.

These amendments to the high-cost areas appear in two parts. Parts I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists changes for single family residences insured under sections 203(b) or 234(c) of the National Housing Act.

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example, Shelby County, Alabama, has a one-family limit of $80,000. The combination home and lot loan limit for Shelby County is $80,000 × .80, or $64,000.

B. *Section 2(b)(1)(E): Lot only (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Shelby County, Alabama has a one-family limit of $80,000. The lot-only loan limit for Shelby County is $80,000 × .20, or $16,000.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits:* The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam and Hawaii are as follows:

1. For manufactured homes: $56,700. ($40,500 × 140%).

2. For combination manufactured homes and lots: $75,600. ($54,000 × 140%).

3. For lots only: $18,900. ($13,500 × 140%).

II. Areas With Increased High Cost Limits for Single Family Residences Insured Under § 203(b) or 234(c), National Housing Act

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
Region I—HUD Field Office—Boston, MA				
Barnstable County	$87,400	$98,400	$119,600	$138,000
Region II—HUD Field Office—Camden, NJ				
Burlington County Camden County Mercer County	70,650	79,550	96,650	111,550
Region III—HUD Field Office—Philadelphia, PA				
Bucks County	81,150	91,400	111,050	128,150
Region IV—HUD Field Office—Birmingham, AL				
Shelby County	80,000	90,700	110,200	127,200
HUD Field Office—Louisville, KY				
Jefferson County	75,050	84,500	102,700	118,500
HUD Field Office—Orlando, FL				
Seminole County	78,850	88,800	107,900	124,500
Region V—HUD Field Office—Minneapolis-St. Paul, MN				
Olmstead County	78,850	88,800	107,900	124,500
Region VI—HUD Field Office—Albuquerque, NM				
Santa Fe County	90,000	101,300	122,650	142,650
Region VII—HUD Field Office—Kansas City, MO				
Shawnee County	69,800	78,600	95,550	110,250
Region VIII—HUD Field Office—Salt Lake City, UT				
Washington County	75,900	85,450	103,850	119,850
Region IX—HUD Field Office—Phoenix, AZ				
Coconino County	80,750	90,950	110,500	127,500

Dated: June 5, 1986.

Susan K. Zagame,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 86-13082 Filed 6-10-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Parts 63, 64, 67, 68, 71, 72, 74, and 77

Removal of Various Parts

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs is publishing a final rule that removes various Parts of 25 CFR Chapter I. The Parts being removed are: Part 63, Preparation of a roll of Eastern Creek Indians; Part 64, Preparation of a roll of Pyramid Lake Paiute Indians; Part 67, Preparation of a roll of Mohave descendants enrolled as members of the Colorado River Indian Tribes; Part 68, Preparation of a roll to serve as the basis for the distribution of judgment funds awarded to the Pembina Band of Chippewa Indians; Part 71, Preparation of a roll to serve as the basis for the distribution of judgment funds awarded certain Warm Springs Indians; Part 72, Preparation of a roll of persons of Grand River Ottawa Indian blood to be used as the basis to distribute judgment funds; Part 74, Enrollment of Indians of the Rincon, San Luiseno Band of Mission Indians in California; and Part 77, Preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George. In each case it has been determined that there is no further need for or applicability of the rule or the rule is no longer necessary.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Slover, Division of Tribal Government Services, Bureau of Indian Affairs, Room 1352, N. Interior, 1951 Constitution Avenue, NW., Washington, DC 20245, telephone number: (202) 343-3592 (FTS 343-3592.

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

25 CFR Part 63, Preparation of a roll of Eastern Creek Indians, is being removed because, as a result of review, it has been determined that there is no further need for the rule. The rule governed the one-time compilation of a roll of Eastern Creek Indian descendants pursuant to a plan prepared in accordance with the Indian Judgment Funds Distribution Act of October 19, 1973, as amended, 25 U.S.C. 1401 et seq., and effective June 15, 1978. The plan authorized the use and distribution of judgment funds awarded the Creek Nation of Indians in Indian Claims Commission Docket 275. The roll was to serve as the basis for a per capita distribution of an apportioned share of the judgment funds. The roll has been completed and approved and the per capita distribution made. Therefore, there is no further need for or applicability of this rule.

25 CFR Part 64, Preparation of a roll of Pyramid Lake Paiute Indians, is being removed because it has been determined, as a result of review, that this rule is no longer necessary. The rule governed the one-time compilation of a roll of members of the Pyramid Lake Paiute Tribe eligible to share in the distribution of judgment funds awarded the Pyramid Lake Paiute Indians by the Indian Claims Commission in Docket No. 87-B. The use and distribution of the judgment funds was authorized by a plan prepared pursuant to the Indian Judgment Funds Distribution Act of October 19, 1973, as amended, 25 U.S.C. 1401 et seq., and effective June 12, 1979. The roll was completed and approved June 19, 1983, and the per capita distribution of judgment funds made. Therefore, there is no further need for or applicability of this rule.

Part 67, Preparation of a roll of Mohave descendants enrolled as members of the Colorado River Indian Tribes, is being removed because there is no further need for the rule. The rule governed the one-time compilation of a roll of Mohave descendants enrolled as members of the Colorado River Indian Tribes who were eligible to share in an apportioned share of judgment funds awarded the Mohave Indians by the Indian Claims Commission in Dockets Nos. 283 and 295. A plan, effective April 12, 1976, prepared pursuant to the Indian Judgment Funds Distribution Act of

October 19, 1973, as amended, 25 U.S.C. 1401 et seq., authorized the use and distribution of the judgment funds. The roll was completed and approved June 25, 1983, and the per capita distribution of judgment funds made. There is, therefore, no further need for or applicability of this rule.

25 CFR Part 68, Preparation of a roll to serve as the basis for the distribution of judgment funds awarded to the Pembina Band of Chippewa Indians, is being removed because it has been determined that there is no further need for the rule. The rule governed the one-time preparation of a roll pursuant to the Act of July 29, 1971, 85 Stat. 158, of lineal descendants of members of the Pembina Band of Chippewa Indians as it was constituted in 1863. The roll was to serve as the basis for a per capita distribution of an apportioned share of judgment funds awarded the Pembina Band of Chippewa Indians in Indian Claims Commission dockets numbered 18–A, 113, and 191. The roll was completed and approved and the per capita payment made. Therefore, there is no further need for or applicability of this rule.

25 CFR Part 71, Preparation of a roll to serve as the basis for the distribution of judgment funds awarded certain Warm Springs Indians, is being removed because there is no further need for the rule. The rule governed the one-time compilation of a roll of certain members of the Confederated Tribes of the Warm Springs Reservation eligible to share in the distribution of judgment funds awarded the Warm Springs Tribes by the Indian Claims Commission in Docket 198 pursuant to Act of January 8, 1983, Pub. L. 97–436, 96 Stat. 2283. The roll was completed and approved and the distribution of judgment funds was made in February of 1985. Therefore, there is no further need for or applicability of this rule.

25 CFR Part 72, Preparation of a roll of persons of Grand River Ottawa Indian blood, is being removed because it has been determined that there is no further need for this rule. The rule governed the one-time compilation of a roll of persons who possessed Grand River Ottawa Indian blood to be used to distribute the judgment funds awarded the Grand River Band of Ottawa Indians in Indian Claims Commission Docket 40–K. The use and distribution of the judgment funds was authorized by the Act of October 18, 1976, 90 Stat. 2503. The roll was completed and approved December 3, 1979, and the per capita payment made. Therefore, there is no further need for or applicability of this rule.

25 CFR Part 74, Enrollment of Indians of the Rincon, San Luiseno Band of Mission Indians in California, is being removed because it has been determined that the rule is no longer necessary. The rule provided for the preparation of a base roll as of July 21, 1957, of the Rincon, San Luiseno Band of Mission Indians in California and for the maintenance of a current membership roll once the base roll was completed. Articles of Association were approved by the Secretary of the Interior in 1960 for the Rincon, San Luiseno Band of Mission Indians. The membership provisions as contained in the Articles of Association now govern the enrollment of members and the rule in this Part is not needed.

25 CFR Part 77, Preparation of a membership roll of the Pribilof Islands Aleut Communities of St. Paul and St. George, is being removed because there is no further need for the rule. The rule governed the one-time compilation of a roll of members of the Pribilof Islands Aleut Communities of St. Paul and St. George eligible to share in a per capita distribution of judgment funds awarded the Aleut Communities of the Pribilof Islands by the U.S. Court of Claims in Dockets 352 and 369–A. The use and distribution of the judgment funds was authorized by a plan prepared pursuant to the Indian Judgment Funds Distribution Act of October 19, 1973, as amended, 25 U.S.C. 1401 et seq. The roll was completed and approved and a final payment made in May of 1984. Therefore, there is no further need for or applicability of the rule in this Part.

It has been determined that notice and public procedure on this rulemaking action are unnecessary because there is no need for or applicability of the rules to be removed and are dispensed with under the exception provided in 5 U.S.C. 553(b)(B). For these same reasons, good cause exists to make this action effective immediately upon publication in the **Federal Register** as provided by 5 U.S.C. 553(d)(3).

List of Subjects in 26 CFR Parts 63, 64, 68, 71, 72, 74, and 77

Indians—claims, Indians—enrollment.

PARTS 63, 64, 67, 68, 71, 72, 74, and 77 [REMOVED]

Accordingly, Parts 63, 64, 67, 68, 71, 72, 74, and 77 of Chapter I of Title 25 of the Code of Federal Regulations are hereby removed.

Ross O. Swimmer,

Assistant Secretary, Indian Affairs.

June 5, 1986.

[FR Doc. 86–13085 Filed 6–10–86; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 16

[Order No. 1136–86]

Freedom of Information Act; Revision of Fee Regulations

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This notice sets forth a revision to the procedural regulations of the Department of Justice, 28 CFR 16.10, setting forth the fees to be charged under the Freedom of Information Act ("FOIA"), 5 U.S.C. 552. Certain of the fees charged under the Act are increased for the first time since 1975. No change is made in the current charge of $0.10 per page for duplication.

EFFECTIVE DATE: July 11, 1986.

FOR FURTHER INFORMATION CONTACT: Daniel J. Metcalfe, Co-Director, Office of Information and Privacy, United States Department of Justice, Washington, DC 20530 (202–724–7400).

SUPPLEMENTARY INFORMATION: The regulations of the Department of Justice implementing the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act of 1974, 5 U.S.C. 552a, were amended in their entirety, effective April 30, 1984. 49 FR 12248 (Mar. 29, 1984). This rulemaking complements those amendments by revising the provision relating to the fees under the FOIA. This final rule makes certain changes in the fees charged to requesters under the FOIA—the costs of searching for requested information and of related materials and services, including audio tapes and computer services and materials. No change is made in the current duplication charge of $0.10 per page.

The Department's current fee regulation was first adopted in 1975, in response to the 1974 amendments to the Freedom of Information Act. That regulation set the charge for duplication at $0.10 per page, and provided for a charge of $1.00 per quarter hour spent by clerical personnel in excess of the first quarter hour in searching for and retrieving requested records, and a charge of $2.00 per quarter hour for nonclerical, nonroutine searches where the time of professional or managerial personnel is required. That regulation also provided a schedule of charges for computer services and materials and audio tapes needed to reproduce computerized or audio records.

These provisions have remained unchanged since 1975, except to

renumber them as 28 CFR 16.10. 49 FR at 12257–58. The considerable inflation since that time has rendered these charges well out of date. In particular, the charges for computer time and materials and for audio tapes are in most cases far out of line with the current actual costs of those services and items to the Department today.

Accordingly, the Department's regulation is amended to increase the fees to $1.75 per quarter hour after the first quarter hour for clerical searches and to $3.50 per quarter hour after the first for nonclerical, professional searches. The regulations governing computer services and materials and audio tapes are revised to provide for the charging of current actual costs to the Department of those services and items.

The standard for waiving or reducing fees is modified to conform to the statutory language set forth in 5 U.S.C. 552(a)(4)(A). That section requires that documents be furnished at no charge or at a reduced charge where the agency determines that a waiver or reduction of fees is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

One comment was received in response to the Notice of Proposed Rulemaking, 50 FR 52335 (Dec. 23, 1985), which related to the charges for computer time and services. In accordance with the provisions of 5 U.S.C. 552(a)(4)(A) and 31 U.S.C. 9701, which authorizes the charging of reasonable fees for duplication, the final rule provides for the charging of "the direct cost of such services or materials" relating to the duplication of computer information. This actual cost approach will best allow the Department to charge accurate fees for computer services, the cost of which may increase or decrease over time.

These rules do not constitute "major rules" within the meaning of Executive Order No. 12291 (Improving Government Regulations). The requirements of the Regulatory Flexibility Act, 5 U.S.C. 605(b), do not apply.

List of Subjects in 28 CFR Part 16

Freedom of Information.

PART 16—[AMENDED]

Accordingly, under the authority vested in me by 28 U.S.C. 509 and 510, 5 U.S.C. 301 and 552, and 31 U.S.C. 9701, Part 16 of Chapter I of Title 28 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 28 CFR Part 16 continues to read as follows:

Authority: 28 U.S.C. 509; 5 U.S.C. 301, 552; 31 U.S.C. 483a, unless otherwise noted.

2. Section 16.10 is revised to read as follows:

§ 16.10 Fees.

(a) *When charged.* Fees pursuant to 31 U.S.C. 9701 and 5 U.S.C. 552 shall be assessed according to the schedule contained in paragraph (c) of this section for services rendered by components in responding to and processing requests for records under this subpart. All fees so assessed shall be charged to a requester, unless the requester makes a request for a waiver or reduction of the fees and the official of a component making a decision to grant all or part of the request, or making the decision on appeal, determines that all or part of the fees should be waived. Documents shall be furnished without charge or at a reduced charge if the official determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(b) *When not charged.* Fees shall not be charged where they would amount, in the aggregate, for one request or for a series of related requests, to less than $3.00. However, a component may, in its discretion, increase the amount of this minimum fee. Fees also shall not ordinarily be charged if the requested records do not exist or cannot be located, except that search fees in excess of $25.00 may be charged in such cases if notice pursuant to paragraph (d) of this section has been given or the requester has agreed to bear those costs.

(c) *Charges.* In responding to requests under this subpart, the following charges shall be assessed, unless a waiver or reduction of the fees has been granted pursuant to paragraph (a) of this section:

(1) *Copies.* For a paper photocopy of a record (no more than one copy of any record need be supplied) the fee shall be $0.10 per page.

(2) *Clerical searches.* For each quarter hour spent by clerical personnel in excess of the first quarter hour in searching for and retrieving a requested record, the fee shall be $1.75.

(3) *Nonroutine, nonclerical searches.* To the extent that a search and retrieval cannot be performed by clerical personnel (for example, where the identification of records within the scope of a request requires the use of professional or managerial personnel), for each quarter hour spent by higher-level personnel in excess of the first quarter hour, the fee shall be $3.50.

(4) *Examination and processing of records.* No charge shall be assessed for any time spent examining or processing records to determine whether they are exempt from mandatory disclosure and should be withheld.

(5) *Other charges.* When a response to a request requires services or materials for search or duplication other than those described in paragraphs (c) (1), (2) and (3) of this section, the direct costs of such services or materials shall be charged.

(d) *Notice of anticipated fees in excess of $25.00.* When a component determines or estimates that the fees to be assessed under this section may amount to more than $25.00, the component shall notify the requester as soon as practicable of the actual or estimated amount of the fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. (If only a portion of the fee can be estimated readily, the component shall advise the requester that the estimated fee may be only a portion of the total fee.) In cases where a requester has been notified that actual or estimated fees may amount to more than $25.00, the request will be deemed not to have been received until the requester has agreed to pay the anticipated fee. A notice to the requester pursuant to this paragraph shall offer him the opportunity to confer with Department personnel with the object of reformulating his request to meet his needs at a lower cost.

(e) *Form of payment.* Requesters must pay fees by check or money order made payable to the Treasury of the United States.

(f) *Advance deposits.* (1) Where the estimated fee chargeable under this section exceeds $25.00, a component may require a requester to make an advance deposit of 25% of the estimated fee or an advance payment of $25.00, whichever is greater.

(2) Where a requester has previously failed to pay a fee charged under this part, the requester must pay the component or the Department the full amount owed and make an advance deposit of the full amount of any estimated fee before a component shall be required to process a new request or a pending request from that requester.

Dated: May 30, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86–13179 Filed 6–10–86; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Ch. XXV

Technical Amendment of Rules Relating to Pension and Welfare Benefits

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This document contains a final rule which amends the *Code of Federal Regulations* by changing the heading of a chapter relating to employee benefit plans. This change is necessary as a result of a recent reorganization within the Department and should enhance the usability of the Department's regulations.

EFFECTIVE DATE: July 11, 1986.

FOR FURTHER INFORMATION CONTACT: Mark Greenstein, Office of Regulations and Interpretations, (202) 523-8671.

SUPPLEMENTARY INFORMATION:

Background

The Employee Retirement Income Security Act of 1974 (ERISA) places responsibility in the Department of Labor for the administration of a comprehensive program to protect the interests of participants and beneficiaries of private employee benefit plans. The Secretary of Labor's Order 1-86 (51 FR 3521, January 28, 1986) established the Pension and Welfare Benefits Administration (PWBA), headed by the Assistant Secretary for Pension and Welfare Benefits, as successor agency to the Office of Pension and Welfare Benefit Programs (OPWBP). Because OPWBP no longer exists and the authority and responsibility it possessed with respect to the administration of ERISA has been transferred to PWBA, it is necessary to change the heading of Chapter 25 of Title 29 of the *Code of Federal Regulations* from "Pension and Welfare Benefits Programs, Labor" to "Pension and Welfare Benefits Administration, Labor." This document effects this change.

Publication in Final

The Department has determined that this technical amendment of the regulations need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA), 5 U.S.C. 553, since this rulemaking merely reflects agency organization, practice and procedure. It is therefore exempt under section 553(b)(A) of the APA.

Effective Date

This document will become effective upon publication pursuant to 5 U.S.C. 553(d). The undersigned has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. This determination is based upon the fact that the rule is technical and nonsubstantive and merely reflects agency organization, practice and procedure.

Executive Order 12291

This rule is not classified as a "rule" under Executive Order 12291 on Federal Regulation because it is a regulation relating to agency organization, management or personnel. See section 1(a)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under section 553(b) of the APA, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601) pertaining to regulatory flexibility analysis do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

This final rule is not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since it does not contain any new collection of information requirement.

Adoption of Amendment of Regulations

For the reasons set forth above, Chapter XXV of Title 29, *Code of Federal Regulations*, is amended as set forth below.

CHAPTER XXV—PENSION AND WELFARE BENEFITS ADMINISTRATION, DEPARTMENT OF LABOR

The heading of Chapter XXV, now reading "Office of Pension and Welfare Benefit Programs, Department of Labor", is changed to read "Pension and Welfare Benefits Administration, Department of Labor."

Dated: June 4, 1986.

Dennis M. Kass,

Assistant Secretary for Pension and Welfare Benefits.

[FR Doc. 86-13081 Filed 6-10-86; 8:45 am]

BILLING CODE 4510-29-M

DEPARTMENT OF EDUCATION

34 CFR Part 75

Direct Grant Programs; Application Procedures for New Awards

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Department's procedures for soliciting applications for new awards under direct grant programs. The Secretary takes this action to improve application procedures. Unnecessary and duplicative information will no longer be included in application notices published by the Department.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: A. Neal Shedd, Director, Division of Regulations Management, 400 Maryland Ave., SW. (Room 2131, FOB-6), Washington, DC 20202. Telephone: (202) 732-2887.

SUPPLEMENTARY INFORMATION:

The Secretary amends Part 75 of Title 34 of the Code of Federal Regulations to accommodate procedural changes in the solicitation of applications for new awards under direct grant programs of the Department.

In order to avoid duplication and to reduce publication costs, it is the Secretary's intention to shorten the application notice that is currently used to invite applications for grants under these programs. The application notice will continue to contain information essential to applicants, but in an abbreviated form.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations apply to information furnished by the Secretary in application notices published by the Department for direct grant programs. They will not

have an economic impact on any small entities.

Paperwork Reduction Act of 1980

These regulations do not contain any information collection requirements under the provisions of the Paperwork Reduction Act of 1980.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by, or is available from, any other agency or authority of the United States.

Waiver of Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act (20 U.S.C. 1232(b)(2)(A)), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the only changes made by this document involve a change in the Department's procedures for including information in application notices for new awards under direct grant programs published in the **Federal Register**. Since the change is procedural in nature, the Secretary has determined under 5 U.S.C. 553(b)(A) that proposed rulemaking on the change is not required.

List of Subjects in 34 CFR Part 75

Grant programs—education, Grants administration.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

Dated: June 3, 1986.

William J. Bennett,

Secretary of Education.

PART 75—[AMENDED]

The Secretary amends Part 75 of Title 34 of the Code of Federal Regulations as follows:

1. The authority citation for Part 75 is revised to read as follows:

Authority: 20 U.S.C. 1221e–3(a)(1), unless otherwise noted.

2. Section 75.101, paragraph (a), as amended at 51 FR 20823, published on June 9, 1986, is revised to read as follows:

§ 75.101 Information in the application notice.

(a) The Secretary may include such information as the following in an application notice:

(1) How an applicant can get an application package that contains—

(i) Information about the program; and

(ii) The application form that the applicant must use.

(2) The amount of funds available for grants and the estimated number and amounts of those grants.

(3) If the Secretary plans to approve multi-year projects, the project period that will be approved.

(4) Any priorities established by the Secretary for the program for that year and the method the Secretary will use to implement the priorities. (See § 75.105 *Annual priorities.)*

(5) Where to find the regulations that apply to the program.

(6) The statutory authority for the program.

(7) The deadlines established under § 75.102 (Deadline date for applications.) and 34 CFR 79.8 (How does the Secretary provide States an opportunity to comment on proposed Federal financial assistance?)

* * * * *

[FR Doc. 86–12753 Filed 6–10–86; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–3006–8]

Standards of Performance for New Stationary Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Methods 3A, 6C, 7E, and related revisions to Subparts D and Da were proposed in the **Federal Register** on February 28, 1985 (50 FR 8290). This action promulgates the methods and revisions to Subparts D and Da. The methods apply to the measurement of O_2, CO_2, SO_2, and NO_x concentrations in stationary sources by instrumental sampling and analysis techniques.

The intended effect of the additional methods and related additions to Subparts D and Da is to provide less costly and more rapid measurement methods, and to permit their use for source compliance determinations that may be performed on Subpart D and Da sources. With the addition of these methods, Subparts D and Da source owners may choose to use instrumental sampling and analysis techniques to meet their regulatory compliance determination objectives.

EFFECTIVE DATE: June 11, 1986.

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 brought by EPA to enforce these requirements.

ADDRESSES: *Summary of Comments and Responses.* This document for the promulgated test methods may be obtained from the U.S. EPA Library (MD–35), Research Triangle Park, North Carolina 27711, telephone number (919) 541–2777. Please refer to "Addition of Methods 3A, 6C, and 7E to Appendix A of 40 CFR Part 60, and Revisions to Subparts D and Da of 40 CFR Part 60 (proposed February 28, 1985, 50 FR 08290)—Summary of Comments and Responses, EPA–450/3–85–023."

Docket. A docket, number A–84–35, containing information considered by EPA in development of the promulgated standards, 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, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Willian Grimley or Mr. Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD–19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

The methods are instrumental sampling and analysis procedures for the determination of O_2, CO_2, SO_2, and NO_x concentrations in stationary sources, where applicable. They address applicability and principle, range and sensitivity, definitions, measurement system performance specifications (PS's), apparatus and reagents, measurement system performance test procedures, emission test procedure, emission calculation, and bibliography.

This rulemaking does not impose emission measurement requirements beyond those specified in the current regulations, nor does it change any emission standard. Rather, this rulemaking provides useable procedures for performing instrumental sampling

and analyses to determine SO_2 and NO_x emissions, as well as related CO_2 and O_2 measurements, and permits their use for source compliance determinations that may be performed on Subpart D and Da sources.

II. Public Participation

A public hearing was scheduled for April 5, 1985, at 10:00, but was not held because no one requested to speak. The public comment period began February 28, 1985, and originally was scheduled to end May 6, 1985, but was extended to June 6, 1985, at the request of one commenter to allow additional time to develop comments. Twelve comment letters were received concerning issues related to the proposed test methods. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made to the proposed rulemaking.

III. Significant comments and changes to the proposed rulemaking

Twelve comment letters were received on the proposed test methods. A detailed discussion of these comments and responses can be found in the background information document which is referred to in the **ADDRESSES** section of this preamble. The summary of comments and responses serves as the basis for the revisions which have been made to the test methods between proposal and promulgation. The major comments and responses are summarized in this preamble. Most of the comment letters contained multiple comments.

One commenter thought that EPA had not sufficiently demonstrated the adequacy of the three proposed methods for general use in determining compliance with SO_2 and NO_x emission standards.

The technical adequacy of Methods 3A, 6C, and 7E is based on a thorough and sound understanding of emission monitoring instrumentation, and the application of this technology to the measurement of emissions from stationary sources. Each of the methods contains equipment specifications to ensure that appropriate instrumentation is used. Each of the methods includes operational PS's. Each specification has been carefully considered, as has the corresponding qualification that it places on the data provided by the method. When the equipment and operational PS's are met, the methods will provide accurate and precise data. The fact that conformance with the applicable operational PS's can be demonstrated during each field test provides a greater level of assurance of the quality of the results than heretofore achievable.

One commenter thought the proposal was deficient because it did not designate the proposed methods as either reference, equivalent, or alternative methods.

Appendix A of 40 CFR Part 60 is meant to serve as a repository of test methods that may be used or referred to in specific subparts of Part 60 (Subparts D and Da, for example) for specific compliance determination purposes. Except as they are cited for application in a specific subpart or subparts to Part 60, no other representation of a method is made or intended. It was EPA's intention that the proposed revisions to Subparts D and Da mean that the proposed methods could be alternative choices, and no mandatory use was expected. The revisions to Subparts D and Da have been clarified to say specifically that Methods, 3A, 6C, and 7E are to be used only at the sole discretion of the source owner or operator.

Several commenters thought that no real incentive would exist for testers to use Methods 3A, 6C, and 7E as proposed due to the methods' over-emphasis on quality assurance and quality control requirements.

Revisions to the methods made since proposal will significantly reduce the cost of performing tests using Methods 3A, 6C, and 7E. These revisions include (1) requiring the Method 6C interference check for only the first use of each analyzer on a particular source category, (2) reducing the number of calibration gases required for the analyzer calibration error test, (3) eliminating separate calibration gas injections used to quantify the measurement system response time, (4) relaxing the sampling system bias check specification from ± 3 to ± 5 percent of span, and (5) relaxing the zero and calibration drift specifications from ± 2 to ± 3 percent of span.

IV. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards, and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [Section 307(d)(7)(A)].

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis. The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." The rulemaking does not add any requirements to the testing of new sources, but, instead, provides additional procedures that may permit the determination of source compliance at a savings in cost and time. The Agency has, therefore, concluded that this regulation is not a "major rule" under Executive Order 12291.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a regulatory flexibility analysis (RFA) in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, an RFA has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the promulgated rule will not have any significant economic impact on small entities, because no additional testing costs will be incurred.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, ammonium sulfate plants, Asphalt, Can surface coating, Cement industry, Coal, Copper, Electric power plants, Fiberglass insulation, Fossil-fuel-fired steam generators, Glass and glass products, Grains, Incorporation by reference, Industrial organic chemicals, Intergovernmental relations, Iron, Lead, Metals, Metallic minerals, Motor vehicles, Nitric acid plants, Organic solvent cleaners, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Synthetic fibers, Tires, Waste treatment and disposal, Zinc.

Dated: June 3, 1986.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

40 CFR Part 60 is amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Sections 101, 111, 114, 116, 301 of the Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. Section 60.45 is amended by revising paragraph (c)(1) as follows:

§ 60.45 Emission and fuel monitoring.

* * * * *

(c) * * *

(1) Methods 6 or 6C and 7, 7A, 7C, 7D, or 7E, as applicable, shall be used for conducting performance evaluations of sulfur dioxide and nitrogen oxides continuous monitoring systems. Methods 6C and 7E shall be used only at the sole discretion of the source owner or operator.

* * * * *

3. Section 60.46 is amended by revising paragraphs (a)(2), (a)(4), (a)(5), (f)(2), (f)(3) introductory text, and (f)(3)(i) as follows:

§ 60.46 Test methods and procedures.

(a) * * *

(2) Method 3 or 3A for gas analysis to be used when applying Methods 5, 6 or 6C, and 7, 7A, 7C, 7D, or 7E. Method 3A shall be used only at the sole discretion of the source owner or operator.

(3) * * *

(4) Method 6 or 6C for concentration of SO_2. Method 6A may be used whenever Methods 6 or 6C and 3 or 3A data are used to determine the SO_2 emission rate in ng/J. Method 6C shall be used only at the sole discretion of the source owner or operator.

(5) Method 7, 7A, 7C, 7D, or 7E for concentration of NO_X. Method 7E shall be used only at the sole discretion of the source owner or operator.

* * * * *

(f) * * *

(2) C=pollutant concentration, ng/dscm (lb/dscf) determined by Method 5, 6, 6C, 7, 7A, 7C, 7D, or 7E.

(3) Percent O_2=Oxygen content by volume (expressed as percent), dry basis. Percent oxygen shall be determined by using the integrated or grab sampling and analysis procedures of Method 3 as applicable, or by using Method 3A. Method 3A shall be used only at the sole discretion of the source owner or operator. Oxygen samples shall be obtained as follows:

(i) For determination of sulfur dioxide by Method 6 or 6C and nitrogen oxides emissions by Method 7, 7A, 7C, 7D, or 7E, the oxygen sample shall be obtained simultaneously at the same point in the duct. For Method 7 or 7A, the oxygen sample shall be obtained using the grab sampling and analysis procedures of Method 3, or by using Method 3A.

* * * * *

4. Section 60.46 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 60.46 Test methods and procedures.

* * * * *

(c) For Methods 6 or 6C, and 7, 7A, 7C, 7D, or 7E, the sampling site shall be the same as that selected for Method 5. * * *

* * * * *

5. Section 60.47a is amended by revising the first two sentences of paragraph (h)(1), the first sentence of paragraph (h)(4), and all of paragraph (h)(5)(i)(1) to read as follows:

§ 60.47a Emission monitoring.

* * * * *

(h) * * *

(1) Methods 3 or 3A, 6 or 6C, and 7, 7A, 7C, 7D, or 7E, as applicable, are used. Methods 3A, 6C, and 7E are used only at the sole discretion of the source owner or operator; Method 6B may be used whenever Methods 6 or 6C and 3 or 3A data are required to determine the SO_2 emission rate in ng/J. * * *

* * * * *

(4) For Method 3, the oxygen or carbon dioxide sample is to be taken for each hour when continuous SO_2 and NO_X data are taken or when Methods 6 or 6C and 7, 7A, 7C, 7D, or 7E are required. * * *

* * * * *

(5) * * *

(i) * * *

(1) Method 6, 6C, 7, 7A, 7C, 7D, or 7E, as applicable, is used for conducting performance evaluations of sulfur dioxide and nitrogen oxides continuous monitoring systems. Methods 6C and 7E are used only at the sole discretion of the source owner or operator.

* * * * *

6. Section 60.48a is amended by revising paragraph (a)(1) as follows:

§ 60.48a Compliance determination procedures and methods.

(a) * * *

(1) Method 3 or 3A is used for gas analysis when applying Method 5 or Method 17. Method 3A is used only at the sole discretion of the source owner or operator.

* * * * *

7. In Appendix A, Test Methods 3A, 6C, and 7E are added as follows:

Appendix A—[Amended]

Method 3A—Determination of Oxygen and Carbon Dioxide Concentrations in Emissions From Stationary Sources (Instrumental Analyzer Procedure)

1. *Applicability and Principle.*

1.1 Applicability. This method is applicable to the determination of oxygen (O_2) and carbon dioxide (CO_2) concentrations in emissions from stationary sources only when specified within the regulations.

1.2 Principle. A sample is continuously extracted from the effluent stream; a portion of the sample stream is conveyed to an instrumental analyzer(s) for determination of O_2 and CO_2 concentration(s). Performance specifications and test procedures are provided to ensure reliable data.

2. *Range and Sensitivity.*

Same as Method 6C, Sections 2.1 and 2.2, except that the span of the monitoring system shall be selected such that the average O_2 or CO_2 concentration is not less than 20 percent of the span.

3. *Definitions.*

3.1 Measurement System. The total equipment required for the determination of the O_2 or CO_2 concentration. The measurement system consists of the same major subsystems as defined in Method 6C, Sections 3.1.1, 3.1.2, and 3.1.3.

3.2 Span, Calibration Gas, Analyzer Calibration Error, Sampling System Bias, Zero Drift, Calibration Drift, Response Time, and Calibration Curve. Same as Method 6C, Sections 3.2 through 3.8, and 3.10.

3.3 Interference Response. The output response of the measurement system to a component in the sample gas, other than the gas component being measured.

4. *Measurement System Performance Specifications.*

Same as Method 6C, Sections 4.1 through 4.4.

5. *Apparatus and Reagents.*

5.1 Measurement System. Any measurement system for O_2 or CO_2 that meets the specifications of this method. A schematic of an acceptable measurement system is shown in Figure 6C–1 of Method 6C. The essential components of the measurement system are described below:

5.1.1 Sample Probe. A leak-free probe, of sufficient length to traverse the sample points.

5.1.2 Sample Line. Tubing, to transport the sample gas from the probe to the moisture removal system. A heated sample line is not required for systems that measure the O_2 or CO_2 concentration on a dry basis, or transport dry gases.

5.1.3 Sample Transport Line, Calibration Value Assembly, Moisture Removal System, Particulate Filter, Sample Pump, Sample Flow Rate Control, Sample Gas Manifold, and Data Recorder. Same as Method 6C, Sections 5.1.3 through 5.1.9, and 5.1.11, except that the requirements to use stainless steel, Teflon, and nonreactive glass filters do not apply.

5.1.4 Gas Analyzer. An analyzer to determine continuously the O_2 or CO_2 concentration in the sample gas stream. The analyzer shall meet the applicable performance specifications of Section 4. A means of controlling the analyzer flow rate and a device for determining proper sample flow rate (e.g., precision rotameter, pressure gauge downstream of all flow controls, etc.) shall be provided at the analyzer. The requirements for measuring and controlling the analyzer flow rate are not applicable if data are presented that demonstrate the

analyzer is insensitive to flow variations over the range encountered during the test.

5.2 Calibration Gases. The calibration gases for CO_2 analyzers shall be CO_2 in N_2 or CO_2 in air. Alternatively, CO_2/SO_2, O_2/SO_2, or $O_2/CO_2/SO_2$ gas mixtures in N_2 may be used. Three calibration gases, as specified Section 5.3.1 through 5.3.3 of Method 6C, shall be used. For O_2 monitors that cannot analyze zero gas, a calibration gas concentration equivalent to less than 10 percent of the span may be used in place of zero gas.

6. *Measurement System Performance Test Procedures.*

Perform the following procedures before measurement of emissions (Section 7).

6.1 Calibration Concentration Verification. Follow Section 6.1 of Method 6C, except if calibration gas analysis is required, use Method 3 and change the acceptance criteria for agreement among Method 3 results to 5 percent (or 0.2 percent by volume, whichever is greater).

6.2 Interference Response. Conduct an interference response test of the analyzer prior to its initial use in the field. Thereafter, recheck the measurement system if changes are made in the instrumentation that could alter the interference response (e.g., changes in the type of gas detector). Conduct the interference response in accordance with Section 5.4 of Method 20.

6.3 Measurement System Preparation, Analyzer Calibration Error, and Sampling System Bias Check. Follow Sections 6.2 through 6.4 of Method 6C.

7. *Emission Test Procedure.*

7.1 Selection of Sampling Site and Sampling Points. Select a measurement site and sampling points using the same criteria that are applicable to tests performed using Method 3.

7.2 Sample Collection. Position the sampling probe at the first measurement point, and begin sampling at the same rate as used during the sampling system bias check. Maintain constant rate sampling (i.e., ±10 percent) during the entire run. The sampling time per run shall be the same as for tests conducted using Method 3 plus twice the system response time. For each run, use only those measurements obtained after twice the response time of the measurement system has elapsed to determine the average effluent concentration.

7.3 Zero and Calibration Drift Test. Follow Section 7.4 of Method 6C.

8. *Quality Control Procedures.*

The following quality control procedures are recommended when the results of this method are used for an emission rate correction factor, or excess air determination. The tester should select one of the following options for validating measurement results:

8.1 If both O_2 and CO_2 are measured using Method 3A, the procedures described in Section 4.4 of Method 3 should be followed to validate the O_2 and CO_2 measurement results.

8.2 If only O_2 is measured using Method 3A, measurements of the sample stream CO_2 concentration should be obtained at the sample by-pass vent discharge using an Orsat or Fyrite analyzer, or equivalent. Duplicate samples should be obtained concurrent with at least one run. Average the duplicate Orsat or Fyrite analysis results for each run. Use the average CO_2 values for comparison with the O_2 measurements in accordance with the procedures described in Section 4.4 of Method 3.

8.3 If only CO_2 is measured using Method 3A, concurrent measurements of the sample stream CO_2 concentration should be obtained using an Orsat or Fyrite analyzer as described in Section 8.2. For each run, differences greater than 0.5 percent between the Method 3A results and the average of the duplicate Fyrite analysis should be investigated.

9. *Emission Calculation.*

For all CO_2 analyzers, and for O_2 analyzers that can be calibrated with zero gas, follow Section 8 of Method 6C, except express all concentrations as percent, rather than ppm.

For O_2 analyzers that use a low-level calibration gas in place of a zero gas, calculate the effluent gas concentration using Equation 3A–1.

$$C_{gas} = \frac{C_{ma} - C_{oa}}{C_m - C_o}(\bar{C} - C_m) + C_{ma}$$

Eq. 3A–1

where:

C_{gas} = Effluent gas concentration, dry basis, percent.

C_{ma} = Actual concentration of the upscale calibration gas, percent.

C_{oa} = Actual concentration of the low-level calibration gas, percent.

C_m = Average of initial and final system calibration bias check responses for the upscale calibration gas, percent.

C_o = Average of initial and final system calibration bias check responses for the low-level gas, percent.

$\bar{C}$ = Average gas concentration indicated by the gas analyzer, dry basis, percent.

10. *Bibliography.*

Same as bibliography of Method 6C.

* * * * *

Method 6C—Determination of Sulfur Dioxide Emissions From Stationary Sources (Instrumental Analyzer Procedure)

1. *Applicability and Principle.*

1.1 *Applicability.* This method is applicable to the determination of sulfur dioxide (SO_2) concentrations in controlled and uncontrolled emissions from stationary sources only when specified within the regulations.

1.2 Principle. A gas sample is continuously extracted from a stack, and a portion of the sample is conveyed to an instrumental analyzer for determination of SO_2 gas concentration using an ultraviolet (UV), nondispersive infrared (NDIR), or fluorescence analyzer. Performance specifications and test procedures are provided to ensure reliable data.

2. *Range and Sensitivity.*

2.1 Analytical Range. The analytical range is determined by the instrumental design. For this method, a portion of the analytical range is selected by choosing the span of the monitoring system. The span of the monitoring system shall be selected such that the pollutant gas concentration equivalent to the emission standard is not less than 30 percent of the span. If at any time during a run the measured gas concentration exceeds the span, the run shall be considered invalid.

2.2 Sensitivity. The minimum detectable limit depends on the analytical range, span, and signal-to-noise ratio of the measurement system. For a well designed system, the minimum detectable limit should be less than 2 percent of the span.

3. *Definitions.*

3.1 Measurement System. The total equipment required for the determination of gas concentration. The measurement system consists of the following major subsystems:

3.1.1 Sample Interface. That portion of a system used for one or more of the following: sample acquisition, sample transport, sample conditioning, or protection of the analyzers from the effects of the stack effluent.

3.1.2 Gas Analyzer. That portion of the system that senses the gas to be measured and generates an output proportional to its concentration.

3.1.3 Data Recorder. A strip chart recorder, analog computer, or digital recorder for recording measurement data from the analyzer output.

3.2 Span. The upper limit of the gas concentration measurement range displayed on the data recorder.

3.3 Calibration Gas. A known concentration of a gas in an appropriate diluent gas.

3.4 Analyzer Calibration Error. The difference between the gas concentration exhibited by the gas analyzer and the known concentration of the calibration gas when the calibration gas is introduced directly to the analyzer.

3.5 Sampling System Bias. The difference between the gas concentrations exhibited by the measurement system when a known concentration gas is introduced at the outlet of the sampling probe and when the same gas is introduced directly to the analyzer.

3.6 Zero Drift. The difference in the measurement system output reading from the initial calibration response at the zero concentration level after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

3.7 Calibration Drift. The difference in the measurement system output reading from the initial calibration response at a mid-range calibration value after a stated period of operation during which no unscheduled maintenance, repair, or adjustment took place.

3.8 Response Time. The amount of time required for the measurement system to display 95 percent of a step change in gas concentration on the data recorder.

3.9 Interference Check. A method for detecting analytical interferences and excessive biases through direct comparison of gas concentrations provided by the measurement system and by a modified Method 6 procedure. For this check, the modified Method 6 samples are acquired at the sample by-pass discharge vent.

3.10 Calibration Curve. A graph or other systematic method of establishing the relationship between the analyzer response and the actual gas concentration introduced to the analyzer.

4. *Measurement System Performance Specifications.*

4.1 Analyzer Calibration Error. Less than ±2 percent of the span for the zero, mid-range, and high-range calibration gases.

4.2 Sampling System Bias. Less than ±5 percent of the span for the zero, and mid- or high-range calibration gases.

4.3 Zero Drift. Less than ±3 percent of the span over the period of each run.

4.4 Calibration Drift. Less than ±3 percent of the span over the period of each run.

4.5 Interference Check. Less than ±7 percent of the modified Method 6 result for each run.

5. *Apparatus and Reagents.*

5.1 Measurement System. Any measurement system for SO_2 that meets the specifications of this method. A schematic of an acceptable measurement system is shown in Figure 6C–1. The essential components of the measurement system are described below:

5.1.1 Sample Probe. Glass, stainless steel, or equivalent, of sufficient length to traverse the sample points. The sampling probe shall be heated to prevent condensation.

5.1.2 Sample Line. Heated (sufficient to prevent condensation) stainless steel or Teflon tubing, to transport the sample gas to the moisture removal system.

5.1.3 Sample Transport Lines. Stainless steel or Teflon tubing, to transport the sample from the moisture removal system to the sample pump, sample flow rate control, and sample gas manifold.

5.1.4 Calibration Valve Assembly. A three-way valve assembly, or equivalent, for blocking the sample gas flow and introducing calibration gases to the measurement system at the outlet of the sampling probe when in the calibration mode.

5.1.5 Moisture Removal System. A refrigerator-type condenser or similar device (e.g., permeation dryer), to remove condensate continuously from the sample gas while maintaining minimal contact between the condensate and the sample gas. The moisture removal system is not necessary for analyzers that can measure gas concentrations on a wet basis; for these analyzers, (1) heat the sample line and all interface components up to the inlet of the analyzer sufficiently to prevent condensation, and (2) determine the moisture content and correct the measured gas concentrations to a dry basis using appropriate methods, subject to the approval of the Administrator. The determination of sample moisture content is not necessary for pollutant analyzers that measure concentrations on a wet basis when (1) a wet basis CO_2 analyzer operated according to Method 3A is used to obtain simultaneous measurements, and (2) the pollutant/CO_2 measurements are used to determine emissions in units of the standard.

5.1.6 Particulate Filter. An in-stack or heated (sufficient to prevent water condensation) out-of-stack filter. The filter shall be borosilicate or quartz glass wool, or glass fiber mat. Additional filters at the inlet or outlet of the moisture removal system and inlet of the analyzer may be used to prevent accumulation of particulate material in the measurement system and extend the useful life of the components. All filters shall be fabricated of materials that are nonreactive to the gas being sampled.

5.1.7 Sample Pump. A leak-free pump, to pull the sample gas through the system at a flow rate sufficient to minimize the response time of the measurement system. The pump may be constructed of any material that is nonreactive to the gas being sampled.

5.1.8 Sample Flow Rate Control. A sample flow rate control valve and rotameter, or equivalent, to maintain a constant sampling rate within 10 percent.

(**Note.**—The tester may elect to install a back-pressure regulator to maintain the sample gas manifold at a constant pressure in order to protect the analyzer(s) from overpressurization, and to minimize the need for flow rate adjustments.)

5.1.9 Sample Gas Manifold. A sample gas manifold, to divert a portion of the sample gas stream to the analyzer, and the remainder to the by-pass discharge vent. The sample gas manifold should also include provisions for introducing calibration gases directly to the analyzer. The manifold may be constructed of any material that is nonreactive to the gas being sampled.

5.1.10 Gas Analyzer. A UV or NDIR absorption or fluorescence analyzer, to determine continuously the SO_2 concentration in the sample gas stream. The analyzer shall meet the applicable performance specifications of Section 4. A means of controlling the analyzer flow rate and a device for determining proper sample flow rate (e.g., precision rotameter, pressure gauge downstream of all flow controls, etc.) shall be provided at the analyzer.

(**Note.**—Housing the analyzer(s) in a clean, thermally-stable, vibration-free environment will minimize drift in the analyzer calibration.)

5.1.11 Data Recorder. A strip chart recorder, analog computer, or digital recorder, for recording measurement data. The data recorder resolution (i.e., readability) shall be 0.5 percent of span. Alternatively, a digital or analog meter having a resolution of 0.5 percent of span may be used to obtain the analyzer responses and the readings may be recorded manually. If this alternative is used, the readings shall be obtained at equally spaced intervals over the duration of the sampling run. For sampling run durations of less than 1 hour, measurements at 1-minute intervals or a minimum of 30 measurements, whichever is less restrictive, shall be obtained. For sampling run durations greater than 1 hour, measurements at 2-minute intervals or a minimum of 96 measurements, whichever is less restrictive, shall be obtained.

5.2 Method 6 Apparatus and Reagents. The apparatus and reagents described in Method 6, and shown by the schematic of the sampling train in Figure 6C–2, to conduct the interference check.

5.3 SO_2 Calibration Gases. The calibration gases for the gas analyzer shall be SO_2 in N_2 or SO_2 in air. Alternatively, SO_2/CO_2, SO_2/O_2, or $SO_2/CO_2/O_2$ gas mixtures in N_2 may be used. For fluorescence-based analyzers, the O_2 and CO_2 concentrations of the calibration gases as introduced to the analyzer shall be within 1 percent (absolute) O_2 and 1 percent (absolute) CO_2 of the O_2 and Co_2 concentrations of the effluent samples as introduced to the analyzer. Alternatively, for fluorescence-based analyzers, use calibration blends of SO_2 in air and the nomographs provided by the vendor to determine the quenching correction factor (the effluent O_2 and CO_2 concentrations must be known). Use three calibration gases as specified below:

5.3.1 High-Range Gas. Concentration equivalent to 80 to 90 percent of the span.

5.3.2 Mid-Range Gas. Concentration equivalent to 50 to 60 percent of the span.

5.3.3 Zero Gas. Concentration of less than 0.25 percent of the span. Purified ambient air may be used for the zero gas by passing air through a charcoal filter, or through one or more impingers containing a solution of 3 percent H_2O_2.

6. *Measurement System Performance Test Procedures.*

Perform the following procedures before measurement of emissions (Section 7).

6.1 Calibration Gas Concentration Verification. There are two alternatives for establishing the concentrations of calibration gases. Alternative Number 1 is preferred.

6.1.1 Alternative Number 1—Use of calibration gases that are analyzed following the Environmental Protection Agency Traceability Protocol Number 1 (see Citation 1 in the Bibliography). Obtain a certification from the gas manufacturer that Protocol Number 1 was followed.

6.1.2 Alternative Number 2—Use of calibration gases not prepared according to Protocol Number 1. If this alternative is chosen, obtain gas mixtures with a manufacturer's tolerance not to exceed ±2 percent of the tag value. Within 6 months before the emission test, analyze each of the calibration gases in triplicate using Method 6. Citation 2 in the Bibliography describes procedures and techniques that may be used for this analysis. Record the results on a data sheet (example is shown in Figure 6C–3). Each of the individual SO_2 analytical results for each calibration gas shall be within 5 percent (or 5 ppm, whichever is greater) of the triplicate set average; otherwise, discard the entire set, and repeat the triplicate analyses. If the average of the triplicate analyses is within 5 percent of the calibration gas manufacturer's cylinder tag value, use the tag value; otherwise, conduct at least three additional analyses until the results of six consecutive runs agree with 5 percent (or 5 ppm, whichever is greater) of their average. Then use this average for the cylinder value.

6.2 Measurement System Preparation. Assemble the measurement system by following the manufacturer's written instructions for preparing and preconditioning the gas analyzer and, as applicable, the other system components. Introduce the calibration gases in any sequence, and make all necessary adjustments to calibrate the analyzer and the

data recorder. Adjust system components to achieve correct sampling rates.

6.3 Analyzer Calibration Error. Conduct the analyzer calibration error check by introducing calibration gases to the measurement system at any point upstream of the gas analyzer as follows:

6.3.1 After the measurement system has been prepared for use, introduce the zero, mid-range, and high-range gases to the analyzer. During this check, make no adjustments to the system except those necessary to achieve the correct calibration gas flow rate at the analyzer. Record the analyzer responses to each calibration gas on a form similar to Figure 6C–4.

Note.—A calibration curve established prior to the analyzer calibration error check may be used to convert the analyzer response to the equivalent gas concentration introduced to the analyzer. However, the same correction procedure shall be used for all effluent and calibration measurements obtained during the test.

6.3.2 The analyzer calibration error check shall be considered invalid if the gas concentration displayed by the analyzer exceeds ±2 percent of the span for any of the calibration gases. If an invalid calibration is exhibited, take corrective action, and repeat the analyzer calibration error check until acceptable performance is achieved.

6.4 Sampling System Bias Check. Perform the sampling system bias check by introducing calibration gases at the calibration valve installed at the outlet of the sampling probe. A zero gas and either the mid-range or high-range gas, whichever most closely approximates the effluent concentrations, shall be used for this check as follows:

6.4.1 Introduce the upscale calibration gas, and record the gas concentration displayed by the analyzer on a form similar to Figure 6C–6. Then introduce zero gas, and record the gas concentration displayed by the analyzer. During the sampling system bias check, operate the system at the normal sampling rate, and make no adjustments to the measurement system other than those necessary to achieve proper calibration gas flow rates at the analyzer. Alternately introduce the zero and upscale gases until a stable response is achieved. The tester shall determine the measurement system response time by observing the times required to achieve a stable response for both the zero and upscale gases. Note the longer of the two times as the response time.

6.4.2 The sampling system bias check shall be considered invalid if the difference between the gas concentrations displayed by the measurement system for the analyzer calibration error check and for the sampling system bias check exceeds ±5 percent of the span for either the zero or upscale calibration gas. If an invalid calibration is exhibited, take corrective action, and repeat the sampling system bias check until acceptable performance is achieved. If adjustment to the analyzer is required, first repeat the analyzer calibration error check, then repeat the sampling system bias check.

7. *Emission Test Procedure.*

7.1 Selection of Sampling Site and Sampling Points. Select a measurement site and sampling points using the same criteria that are applicable to Method 6.

7.2 Interference Check Preparation. For each individual analyzer, conduct an interference check for at least three runs during the initial field test on a particular source category. Retain the results, and report them with each test performed on that source category.

If an interference check is being performed, assemble the modified Method 6 train (flow control valve, two midget impingers containing 3 percent H_2O_2, and dry gas meter) as shown in Figure 6C–2. Install the sampling train to obtain a sample at the measurement system sample by-pass discharge vent. Record the initial dry gas meter reading.

7.3 Sample Collection. Position the sampling probe at the first measurement point, and begin sampling at the same rate as used during the sampling system bias check. Maintain constant rate sampling (i.e., ±10 percent) during the entire run. The sampling time per run shall be the same as for Method 6 plus twice the system response time. For each run, use only those measurements obtained after twice response time of the measurement system has elapsed, to determine the average effluent concentration. If an interference check is being performed, open the flow control valve on the modified Method 6 train concurrent with the initiation of the sampling period, and adjust the flow to 1 liter per minute (±10 percent).

(Note.—If a pump is not used in the modified Method 6 train, caution should be exercised in adjusting the flow rate since overpressurization of the impingers may cause leakage in the impinger train, resulting in positively biased results).

7.4 Zero and Calibration Drift Tests. Immediately preceding and following each run, or if adjustments are necessary for the measurement system during the run, repeat the sampling system bias check procedure described in Section 6.4 (Make no adjustments to the measurement system until after the drift checks are completed.) Record and analyzer's responses on a form similar to Figure 6C–5.

7.4.1 If either the zero or upscale calibration value exceeds the sampling system bias specification, then the run is considered invalid. Repeat both the analyzer calibration error check procedure (Section 6.3) and the sampling system bias check procedure (Section 6.4) before repeating the run.

7.4.2 If both the zero and upscale calibration values are within the sampling system bias specification, then use the average of the initial and final bias check values to calculate the gas concentration for the run. If the zero or upscale calibration drift value exceeds the drift limits, based on the difference between the sampling system bias check responses immediately before and after the run, repeat both the analyzer calibration error check procedure (Section 6.3) and the sampling system bias check procedure (Section 6.4) before conducting additional runs.

7.5 Interference Check (if performed). After completing the run, record the final dry gas meter reading, meter temperature, and barometric pressure. Recover and analyze the contents of the midget impingers, and determine the SO_2 gas concentration using the procedures of Method 6. (It is not necessary to analyze EPA performance audit samples for Method 6.) Determine the average gas concentration exhibited by the analyzer for the run. If the gas concentrations provided by the analyzer and the modified Method 6 differ by more than 7 percent of the modified Method 6 result, the run is invalidated.

8. *Emission Calculation.*

The average gas effluent concentration is determined from the average gas concentration displayed by the gas analyzer, and is adjusted for the zero and upscale sampling system bias checks, as determined in accordance with Section 7.4. The average gas concentration displayed by the analyzer may be determined by integration of the area under the curve for chart recorders, or by averaging all of the effluent measurements. Alternatively, the average may be calculated from measurements recorded at equally spaced intervals over the entire duration of the run. For sampling run durations of less than 1 hour, measurements at 1-minute intervals or a minimum of 30 measurements, whichever is less restrictive, shall be used. For sampling run durations greater than 1 hour, measurements at 2-minute intervals or a minimum of 96 measurements, whichever is less restrictive, shall be used. Calculate the effluent gas concentration using Equation 6C–1.

$$C_{gas} = (\bar{C} - C_o)\ \frac{C_{Ma}}{C_m - C_o}$$

Eq. 6C–1

where:

C_{gas} = Effluent gas concentration, dry basis, ppm.

$\bar{C}$ = Average gas concentration indicated by gas analyzer, dry basis, ppm.

C_o = Average of initial and final system calibration bias check responses for the zero gas, ppm.

C_m = Average of initial and final system calibration bias check responses for the upscale calibration gas, ppm.

C_{ma} = Actual concentration of the upscale calibration gas, ppm.

9. *Bibliography.*

1. Traceability Protocol for Establishing True Concentrations of Gases Used for Calibrations and Audits of Continuous Source Emission Monitors: Protocol Number 1. U.S. Environmental Protection Agency, Quality Assurance Division. Research Triangle Park, NC. June 1978.

2. Westlin, Peter R. and J. W. Brown. Methods for Collecting and Analyzing Gas Cylinder Samples. Source Evaluation Society Newsletter. *3*(3):5–15. September 1978.

BILLING CODE 6560-50-M

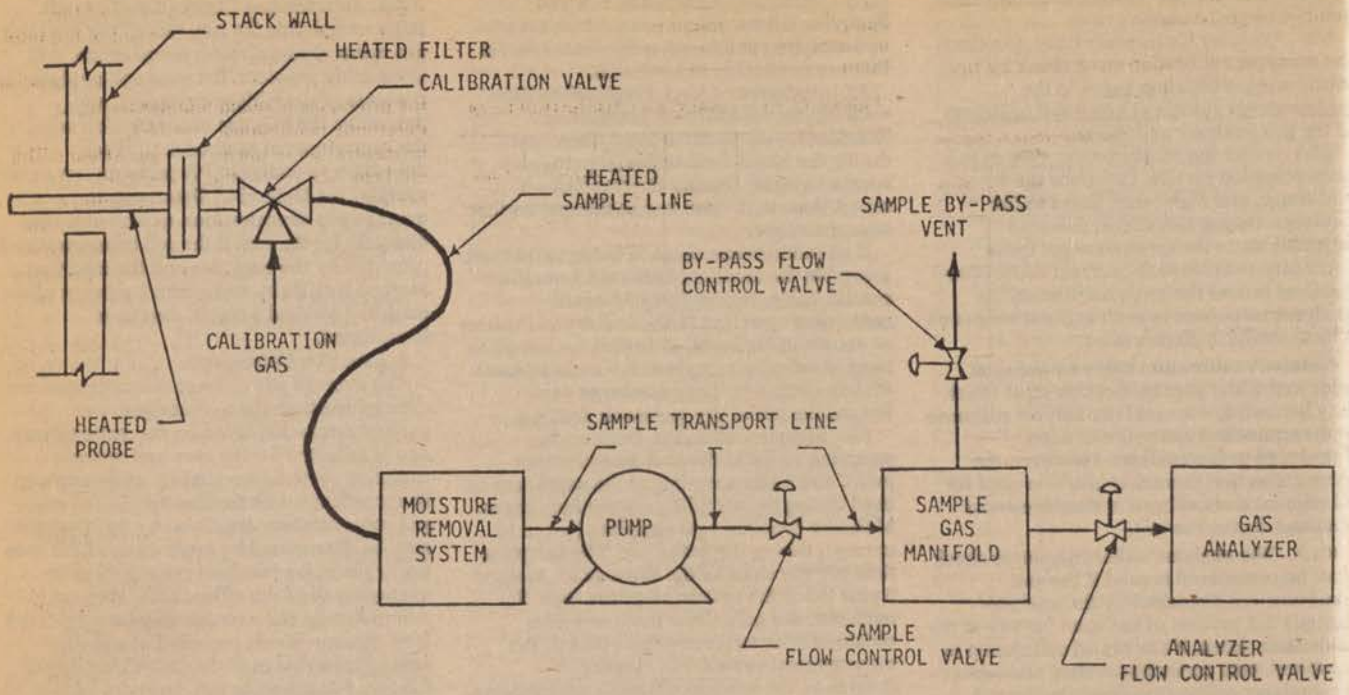

Figure 6C-1. Measurement system schematic.

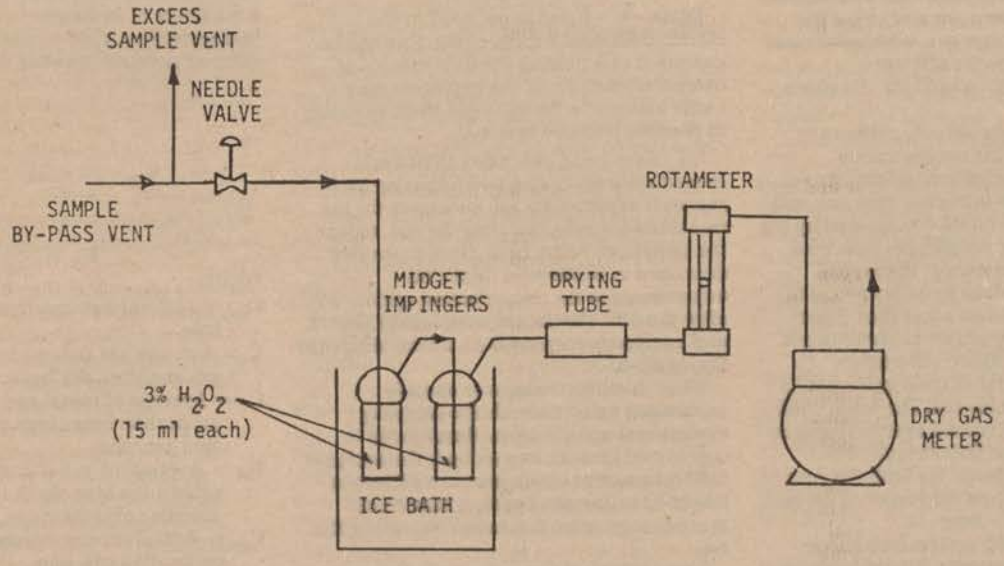

Figure 6C-2. Interference check sampling train.

BILLING CODE 6560-50-C

Date _____
Analytic method used _____

FIGURE 6C-3.—ANALYSIS OF CALIBRATION GASES

	Gas concentration (indicate units)		
	Zero [a]	Mid-range [b]	High-range [c]
Sample run:			
1			
2			
3			
Average			
Maximum percent deviation			

[a] Average must be less than 0.25 percent of span.
[b] Average must be 50 to 60 percent of span.
[c] Average must be 80 to 90 percent of span.

Source identification: _____
Test personnel: _____

Date: _____
Analyzer calibration data for sampling runs: _____
Span: _____

FIGURE 6C-4.—ANALYZER CALIBRATION DATA

	Cylinder value	Analyzer calibration response (indicate units)	Absolute difference	Difference (percent of span)
Zero gas				
Mid-range gas				
High-range gas				

Source identification: _____
Test personnel: _____
Date: _____
Run number: _____
Span: _____

		Analyzer calibration response	Initial values		Final values	
			System calibration response	System cal. bias (percent of span)	(percent of span)	
					System cal. bias	Drift
Zero gas						
Upscale gas						

$$\text{System Calibration Bias} = \frac{\text{System Cal. Response} - \text{Analyzer Cal. Response}}{\text{Span}} \times 100$$

$$\text{Drift} = \frac{\text{Final System Cal. Response} - \text{Initial System Cal. Response}}{\text{Span}} \times 100$$

Figure 6C-5. System calibration bias and drift data.

* * * * *

Method 7E—Determination of Nitrogen Oxides Emissions From Stationary Sources (Instrumental Analyzer Procedure)

1. *Applicability and Principle*

1.1 Applicability. This method is applicable to the determination of nitrogen oxides (NO_x) concentrations in emissions from stationary sources only when specified within the regulations.

1.2 Principle. A gas simple is continuously extracted from a stack, and a portion of the sample is conveyed to an instrumental chemiluminescent analyzer for determination of NO_x concentration. Performance specifications and test procedures are provided to ensure reliable data.

2. *Range and Sensitivity*

Same as Method 6C, Sections 2.1 and 2.2.

3. *Definitions*

3.1 Measurement System. The total equipment required for the determination of NO_x concentration. The measurement system consists of the following major subsystems:

3.1.1 Sample Interface, Gas Analyzer, and Data Recorder. Same as Method 6C, Sections 3.1.1, 3.1.2, and 3.1.3.

3.1.2 NO_2 to NO Converter. A device that converts the nitrogen dioxide (NO_2) in the sample gas to nitrogen oxide (NO).

3.2 Span, Calibration Gas, Analyzer Calibration Error, Sampling System Bias, Zero Drift, Calibration Drift, and Response Time. Same as Method 6C, Sections 3.2 through 3.8.

3.3 Interference Response. The output response of the measurement system to a component in the sample gas, other than the gas component being measured.

4. *Measurement System Performance Specifications*

Same as Method 6C, Sections 4.1 through 4.4.

5. *Apparatus and Reagents*

5.1 Measurement System. Any measurement system for NO_x that meets the specifications of this method. A schematic of an acceptable measurement system is shown in Figure 6C-1 of Method 6C. The essential components of the measurement system are described below:

5.1.1 Sample Probe, Sample Line, Calibration Valve Assembly, Moisture Removal System, Particulate Filter, Sample Pump, Sample Flow Rate Control, Sample Gas Manifold, and Data Recorder. Same as Method 6C, Sections 5.1.1 through 5.1.9, and 5.1.11.

5.1.2 NO_2 to NO Converter. That portion of the system that converts the nitrogen dioxide (NO_2) in the sample gas to nitrogen oxide (NO). An NO_2 to NO converter is not necessary if data are presented to demonstrate that the NO_2 portion of the exhaust gas is less than 5 percent of the total NO_x concentration.

5.1.3 NO_x Analyzer. An analyzer based on the principles of chemiluminescence, to determine continuously the NO_x concentration in the sample gas stream. The analyzer shall meet the applicable performance specifications of Section 4. A means of controlling the analyzer flow rate and a device for determining proper sample flow rate (e.g., precision rotameter, pressure gauge downstream of all flow controls, etc.) shall be provided at the analyzer.

5.2 NO_x Calibration Gases. The calibration gases for the NO_x analyzer shall be NO in N_2. Three calibration gases, as specified in Sections 5.3.1 through 5.3.3. of Method 6C, shall be used. Ambient air may be used for the zero gas.

6. *Measurement System Performance Test Procedures*

Perform the following procedures before measurement of emissions (Section 7).

6.1 Calibration Gas Concentration Verification. Follow Section 6.1 of Method 6C, except if calibration gas analysis is required, use Method 7, and change all 5 percent performance values to 10 percent (or 10 ppm, whichever is greater).

6.2 Interference Response. Conduct an interference response test of the analyzer prior to its initial use in the field. Thereafter, recheck the measurement system if changes are made in the instrumentation that could alter the interference response (e.g., changes in the gas detector). Conduct the interference response in accordance with Section 5.4 of Method 20.

6.3 Measurement System Preparation, Analyzer Calibration Error, and Sample System Bias Check. Follow Sections 6.2 through 6.4 of Method 6C.

6.4 NO_2 to NO Conversion Efficiency. Unless data are presented to demonstrate that the NO_2 concentration within the sample stream is not greater than 5 percent of the NO_x concentration, conduct an NO_2 to NO conversion efficiency test in accordance with Section 5.6 of Method 20.

7. *Emission Test Procedure*

7.1 Selection of Sampling Site and Sampling Points. Select a measurement site and sampling points using the same criteria that are applicable to tests performed using Method 7.

7.2 Sample Collection. Position the sampling probe at the first measurement point, and begin sampling at the same rate as used during the system calibration drift test. Maintain constant rate sampling (i.e., ±10 percent) during the entire run. The sampling time per run shall be the same as the total time required to perform a run using Method 7, plus twice the system response time. For each run, use only those measurements obtained after twice the response time of the measurement system has elapsed, to determine the average effluent concentration.

7.3 Zero and Calibration Drift Test. Follow Section 7.4 of Method 6C.

8. *Emission Calculation*

Follow Section 8 of Method 6C.

9. *Bibliography*

Same as bibliography of Method 6C.

* * * * *

[FR Doc. 86-13148 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP 300145A; FRL-3027-5]

Technical Amendments to the Definition and Interpretation of Certain Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document amends (1) 40 CFR 180.34(f)(9)(vi)(A) on legume vegetables (succulent or dried) group by expanding the raw agricultural commodities listing to include lupines and (2) 40 CFR 180.1(h) by expanding the definition of the general category of the raw agricultural commodity "beans" to also include the *Lupinus* spp. These amendments, which will clarify and update the current definition of beans, were submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on June 11, 1986.

ADDRESS: Written objections, identified by the document control number [OPP-300145A], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of April 16, 1986 (51 FR 12887), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted a request to EPA on behalf of Dr. Robert H. Kupelian, National Director and the IR-4 Technical Committee proposing to amend: (1) 40 CFR 180.34(f)(9)(vi)(A) by expanding the raw agricultural commodities listing to include lupines in the legume vegetables (succulent or dried) group; specifically to add, "beans (*Lupinus spp.*) (includes sweet lupine, white sweet lupine, white lupine, and grain lupine)" and (2) 40 CFR 180.1(h) by expanding the definition of the general category of the raw agricultural commodity "beans" in column A by including "*Lupinus* spp. (sweet lupine, white sweet lupine, white lupine, and grain lupine)" in the corresponding specific raw agricultural commodities list in column B.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The date submitted and relevant information in support of the amendments have been evaluated and discussed in the proposed rulemaking. Based on the data and information considered, the Agency concludes that the amendments would protect the public health. Therefore the amendments are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural Commodities Pesticides and pests.

Dated: May 30, 1986.

Douglas D. Campt,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1(h) is amended by revising the list of specific raw agricultural commodities under column B for the general category "Beans" in column A to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
*	*
Beans	*Cicer arietinum* (chick peas, garbanzo beans); *Lupinus* spp. (including sweet lupine, white sweet lupine, white lupine, and grain lupine); *Phaseolus* spp. (including kidney beans, lima beans, mung beans, navy beans, pinto beans, snap beans, and waxbeans); *Vicia faba* (broad beans, fava beans); *Vigna* spp. (including asparagus beans, blackeyed peas and cowpeas);
*	*

3. Section 180.34 is amended by revising paragraph (f)(9)(vi)(A) to read as follows:

§ 180.34 Tests on the amount of residue remaining.

* * * * *

(f) * * *

(9) * * *

(vi) * * *

(A) *Commodities.* Beans (*Phaseolus* spp.) (includes adzuki beans, field beans, kidney beans, lima beans, moth beans, mung beans, navy beans, pinto beans, rice beans, runner beans, snap beans, tepary beans, urd beans, wax beans); beans (*Lupinus* spp.) (includes sweet lupine, White sweet lupine, white lupine, and grain lupine); beans (*Vigna* spp.) (includes asparagus beans, black-eyed peas, catjang, Chinese longbean, cowpeas, Crowder peas, southern peas, yardlong beans); broad beans (Fava beans) (*Vicia faba*); chick peas (garbanzo beans) (*Cicer arietinum*); guar (*Cyamopsis tetragonoloba*); jackbean (sword bean) (*Canavalia ensiformis*); lablab beans (hyacinth bean) (*Dolichos lablab*); lentils (*Lens esculenta*); peas (*Pisum* spp.) (includes garden peas, field peas, sugar peas); pigeon peas (*Cajanus cajan*); soybeans (*Glycine max*);

* * * * *

[FR Doc. 86-12892 Filed 6-10-86 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5E3291/5E3292/R839; FRL-3028-5]

Pesticide Tolerances for Carbaryl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide carbaryl in or on the raw agricultural commodities crop group pome fruits and avocados. This regulation, to establish maximum permissible levels for residues of carbaryl in or on the commodities, was requested in petitions submitted by

the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on June 11, 1986.

ADDRESS: Written objections, identified by the document control number [PP 5E3291/5E3292/R839], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M ST., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of April 23, 1986 (51 FR 15353), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petitions 5E3291 and 5E3292 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Station of California proposing the establishment of tolerances for residues of the insecticide carbaryl (1-naphthyl *N*-methyl-carbamate) in or on the raw agricultural commodities pome fruits group [PP 5E3291) and avocados [PP 5E3292) at 10 parts per million (ppm). Tolerances are currently established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate at 10.0 ppm in or on the representative commodities of the pome fruit group, apples and pears.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted and other relevant information have been evaluated and discussed in the proposed rulemaking. Based on the data and information considered, the Agency concludes that the tolerances would protect the public health. Therefore the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 40 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated May 30, 1986.

Douglas D. Campt,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.169 is amended by (1) removing the commodities apples and pears from the table in paragraph (a); (2) revising paragraph (d), and (3) adding paragraph (e) to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Apples [Removed]	10.0 [Removed]
* * * * *	
Pears [Removed]	10.0 [Removed]
* * * * *	

(d) Tolerances are established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Pineapples	2.0
Pome fruits	10.0

(e) Tolerances with regional registration are established for the insecticide carbaryl (1-napthyl *N*-methylcarbamate) in or on the following raw agricultural commodities.

Commodities	Parts per million
Avocados	10.0

[FR Doc. 86–12896 Filed 6–10–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 3E2861, 5E3225/R835; FRL–3027–4]

Pesticide Tolerances for Permethrin

AGENCY: Environmental Protectior Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide permethrin and the sum total of its metabolites in or on the raw agricultural commodities cantaloupes and pumpkins. The regulation, to establish maximum permissible levels for residues of permethrin in or on the commodities, was requested in petitions submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on June 11, 1986.

ADDRESS: Written comments, identified by the document control number [PP 3E2861, 5E3225/R835], may be submitted to the Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22022 (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of April 16, 1986 (51 FR 12885), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted the following pesticide petitions (PP) to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the name Agricultural Experiment Stations. The petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the insecticide permethrin [(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)-2,2-dimethyl-cyclopropane carboxylate] and its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl) methanol (3-PBA) calculated as parent, in or on the given commodities:

1. *PP 3E2861.* On behalf of the Agricultural Stations of Illinois and

Puerto Rico in or on pumpkins at 2.0 parts per million (ppm).

2. *PP 5E3225.* On behalf of the Agricultural Stations of California, Florida, Indiana, New York, Oklahoma, and Texas and the U.S. Department of Agriculture in or on cantaloupes at 2.0 ppm. The petition was later amended to propose 3.0 ppm.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petitions and other relevant material have been evaluated and discussed in a final rule document on permethrin, published in the **Federal Register** of October 13, 1982 (47 FR 45008). Based on the data and information considered, the Agency concludes that the tolerances would protect the public health. Therefore the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 30, 1986.

Douglas D. Campt,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.378(b) is amended by adding, and alphabetically inserting, the following commodities to read as follows:

§ 180.378 Permethrin; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
* * * * *	
Cantaloupes	3.0
* * * * *	
Pumpkins	2.0
* * * * *	

[FR Doc. 86-12886 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-176; RM-4934]

Radio Broadcasting Services; Tawas City, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes FM Channel 284C2 for Channel 284A at Tawas City, Michigan, and modifies the license of Station WKJC(FM) to reflect the new channel, in response to a petition filed by Carroll Enterprises, Inc. The new channel could provide a first wide area coverage channel to the community. With this action, the proceeding is terminated.

EFFECTIVE DATE: July 14, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-176, adopted May 22, 1986, and released June 5, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154, 303.

2. Section 73.202(b) is amended by revising the following entry:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

City	Channel No.
Tawas City, MI	269A, 284C2

Ralph A. Haller,

Acting Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 86-13140 Filed 6-10-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-719; RM-4691]

Radio Broadcasting Services; Detroit Lakes, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 236 to Detroit Lakes, Minnesota, and modifies the license of Station KVLR to reflect Channel 236, at the request of Knutson-Leighton, Inc., licensee of Station KVLR. Supporting comments were filed by petitioner. With this action, this proceeding is terminated.

EFFECTIVE DATE: July 11, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket 84-719, adopted May 22, 1986, and released June 4, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR Part 73 is amended as follows:

PART 47—[AMENDED]

1. The authority citation for Part 73 continues to read:

Authority: 47 United States 154, 303.

2. Section 73.202(b) is amended by revising the following entry:

§ 73.202 Table of allotments.

* * * * *

(b) * * *

City	Channel No.
Detroit Lakes, MN	236

Mark Lipp,
Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 86-13139 Filed 6-10-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 97

Amateur Radio Service; Deletion of Reference to Amateur Stations Having Call Signs Prefixed by the Letters "WR"

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document removes from the rules a reference to amateur stations having call signs prefixed by the letters "WR". This action is necessary because the licenses of all stations in this category have expired. The effect of the rule amendment is to remove an obsolete provision in the rules.

DATE: This rule amendment is effective June 11, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John T. Small, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

Order

Adopted: May 30, 1986.
Released: June 2, 1986.

In the matter of amendment of Part 97, Amateur Radio Service rules to Delete Reference to Amateur Stations Having Call Signs Prefixed by the letters "WR".

1. This Order amends Part 97 by deleting the parenthetical reference in § 97.84(d)(1) to amateur stations having call signs prefixed by the letters "WR".

2. In the Commission's Second Report and Order, adopted March 22, 1978, in Docket No. 21135, FCC 78-211, (43 FR. 15325; April 12, 1978) it was ordered that licenses for amateur repeater stations not be renewed. Such stations had been assigned call signs having the prefix "WR". Since the licenses of all repeater stations have now expired, we are deleting the reference to them. An amateur station now indicates it is in repeater operation by appending a suitable identifier at the end of the station call sign during station identification. See §97.84(d)(1).

3. Since these amendments clarify our rules and are non-substantive, the notice and comment provisions and the effective date requirements of the Administrative Procedure Act are not applicable.

4. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(i) and 303(r)), and § 0.231(d) of the Commission's Rules (47 CFR 0.231(d)).

5. Accordingly, it is ordered, that Part 97 of the Commission's Rules (47 CFR Part 97) is amended as set forth below.

List of Subjects in 47 CFR Part 97

Call signs, Radio.

Federal Communications Commission.
Edward J. Minkel,
Managing Director.

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended, as follows:

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

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064-1068, 1081-1105, as amended; 47 U.S.C. 151-155, 301-609, unless otherwise noted.

§ 97.84 [Amended]

2. Section 97.84(d)(1) is amended by removing the parenthetical sentence at the end thereof.

[FR Doc. 86-13132 Filed 6-10-86; 8:45 am]
BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 501

[APD 2800.12 CHGE 25]

General Services Administration Acquisition Regulation; Correction

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 86-9856 on Page 16690 in the issue of Tuesday, May 6, 1986, make the following correction:

501.603-2 [Corrected]

In the third column, paragraph (c)(3) of the section entitled *"Mandatory training requirements for contracting officer candidates,"* is corrected to read as follows:

* * * * *

(3) *Mandatory training requirements for contracting officer candidates.* A candidate must complete the minimum core training required for the warrant levels described below. To qualify for an intermediate level warrant, a candidate must complete the basic and intermediate level training. A candidate must complete the basic, intermediate, and senior level training in order to qualify for a senior level warrant. Supervisors are responsible for providing their employees with advice and assistance necessary to complete this required training. Mandatory training includes the following general topics as a minimum:

* * * * *

FOR FURTHER INFORMATION CONTACT: Ms. Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), (202) 566-1224.

Dated: May 28, 1986.
Richard H. Hopf, III,
Acting Associate Administrator for Acquisition Policy.

[FR Doc. 86-13175 Filed 6-10-86; 8:45 am]
BILLING CODE 6820-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce (Secretary) announces the closure of the non-Indian commercial salmon fishery in the fishery conservation zone (FCZ) from Sisters Rocks, Oregon, to Chetco Point, Oregon, at midnight June 6, 1986, to ensure that the chinook salmon quota is not exceeded. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with the Oregon Department of Fish and Wildlife (ODFW) that the commercial fishery quota of 7,500 chinook salmon for the area will be reached by midnight June 6, 1986. This action is intended to ensure conservation of chinook salmon.

DATES: Closure of the FCZ from Sisters Rocks, Oregon, to Chetco Point, Oregon, to commercial salmon fishing is effective at 2400 hours Pacific Daylight Time June 6, 1986.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Regional

Director, Northwest Regional Office, NMFS, BIN C15700, 7600 Sand Point Way, NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director), 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries at 50 CFR Part 661 specify at § 661.21(a)(1) that: "When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Director to be reached on or by a certain date, the Secretary will, by publishing a notice in the **Federal Register** under § 661.23, close the commercial or recreational fishery, or both, for all salmon species in the portions of the fishery management area to which the quota applies as of the date the quota is projected to be reached."

Management measures for 1986 were published on May 5, 1986 (51 FR 16520). The 1986 non-Indian commercial fishery for all salmon species except coho from Sisters Rocks to Chetco Point was established as May 1 through the earliest of June 7 or attainment of a 7,500 chinook salmon quota. Based on the best available information, the non-Indian commercial fishery catch in the area is projected to reach the 7,500 chinook salmon quota by midnight June 6, 1986. The Secretary therefore issues this notice to close the non-Indian commercial fishery in the FCZ from Sisters Rocks to Chetco Point effective midnight June 6, 1986. This notice does not apply to other salmon fisheries which may be operating in other areas or to other fisheries in the same area.

The Regional Director consulted with the Director of ODFW regarding this closure. The Director of ODFW has confirmed that Oregon will close the non-Indian commercial fishery in State waters adjacent to this area of the FCZ effective midnight June 6, 1986.

Other Matters

This action is taken under § 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: June 6, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–13160 Filed 6–6–86; 3:38 pm]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 41276–4176]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the share of the sablefish optimum yield (OY) allocated to pot gear in the Western Regulatory Area of the Gulf of Alaska has been achieved. A closure of the fishery for sablefish by pot gear on June 9, 1986, is necessary to limit the harvest of sablefish by pot gear to the 25 percent of the OY that is permissible by Federal law in this district. This closure is a management measure intended to allocate the sablefish resource between hook-and-line, trawl; and pot gear in the Western Regulatory Area as required by current regulations implementing the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

DATES: This notice is effective at noon, Alaska Daylight Time, June 9, 1986, until midnight, Alaska Standard Time, December 31, 1986. Public comments are invited on this closure until June 24, 1986.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the NMFS Alaska Regional Office, Federal Building, Room, 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS) 907–586–7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act), provides for inseason adjustments of fishing seasons and areas. Regulations at § 672.22(a) specify that these adjustments will be made by the Secretary of Commerce (Secretary) under procedures set out in that section.

Section 672.2 defines three regulatory areas of the Gulf of Alaska. One of these is the Western Regulatory Area. The OY for sablefish in this area is 2,850 metric tons (mt). Section 672.24(b)(1) restricts the take of sablefish in this area by pot gear to 25 percent of the OY, or 712 mt.

Two pot-fishing vessels have fished for sablefish during the fishing season, which began on January 1, 1986. Landings through the first week of June 1986 are equal to the 712-mt quota. Further retention of sablefish by vessels fishing with pot gear after noon on June 9, 1986 is prohibited. This closure is a management measure intended to implement the allocation of the sablefish resource as provided for by Amendment 14 to the FMP.

This closure will be effective when this notice is filed for public inspection with the Office of the Federal Register and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game. Public comments on this notice of closure may be submitted to the Regional Director at the address above for 15 days following its effective date. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this closure's continued effect, modifying it, or rescinding it.

Other Matters

Allocation of the sablefish resource between hook-and-line, pot, and trawl gear in the Western Regulatory Area of the Gulf of Alaska, as required by Amendment 14 to the FMP, and the continued health of that resource will be jeopardized unless this closure takes effect promptly. NOAA, therefore, finds for good cause that advance opportunity for public comment on this notice is contrary to the public interest and that its effective date should not be delayed.

This action is taken under §§ 672.22 and 672.24 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: June 6, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–13159 Filed 6–6–86; 3:37 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 112
Wednesday, June 11, 1986

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

Reduction in Force

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing new transfer of function regulations that would revise certain procedures agencies use to identify employees with a transferring function in situations when, after the function is transferred from one competitive area to another, the remaining functions in the losing competitive area are abolished. These changes would assist agencies in properly implementing the tranfer of function provisions during "sunset" or comparable shutdown situations.

COMMENT DATE: Written comments will be considered if received no later than August 11, 1986.

ADDRESS: Send or deliver written comments to Richard B. Post, Associate Director for Staffing, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Donald L. Holum, (202) 632-6817.

SUPPLEMENTARY INFORMATION:

Background

The transfer of function provisions found in Subpart C of Part 351 of this Title are derived from section 12 of the Veterans' Preference Act of 1944, as presently codified in title 5 U.S.C. 3503. Chapter 351 of the Federal Personnel Manual (FPM) contains additional instructions on the transfer of function provisions.

Discussion of Proposed Changes

The proposed regulation would—

(1) Add § 351.302 (d) and (e) to explain longstanding OPM policy concerning employees who decline to transfer with their function. The new § 351.302(d) explains that the losing competitive area must use adverse action procedures in separating employees who choose not to tranfer with their function unless the losing competitive area, at its discretion under § 351.302(e), permits these employees to compete in a concurrent reduction in force.

(2) Revise § 351.303(d) to change certain provisions applicable to employees who spend less than half their work time on a function that is transferring and whose grade is not controlled by the duties of the transferred function. At present these employees are identified with the function in the inverse order of their retention standing so that employees with higher retention standing may remain in the present competitive area. However, if the remaining functions in the losing competitive area are abolished after the function is transferred (as in a "sunset" situation), the present procedures would identify employees with the lowest rather than the highest standing for continuing positions in the gaining competitive area. The revised § 351.303(d) adds that if the inverse retention standing procedures would result in the separation or demotion by reduction in force at the losing competitive area of an employee with higher retention standing who is also identified with the function under this identification method, the losing competitive area identifies competing employees for transfer in the order of their retention standing. The new procedure is consistent with variations to the present § 351.303(d) that OPM granted to the Civil Aerononautics Board and the Office of Surface Mining of the Department of Interior. (For reference, see FPM Bulletins 351-29 dated July 29, 1981, and 351-31 dated November 17, 1981.) Finally, the revised § 351.303(d) clarifies longstanding OPM policy that under this general procedure of identifying employees with a transferring function the losing competitive area only identifies the actual number of employees it needed to perform the function.

(3) Revise § 351.303(e) to clarify that the losing competitive area may permit employees in other competitive areas to volunteer for transfer with the function as long as no competing employee who would otherwise have the right to transfer would be separated or demoted solely because the volunteer transferred in place of him or her.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation applies only to Federal agencies.

List of Subjects in 5 CFR Part 351

Administrative practice and procedures, Government employees.

U.S. Office of Personnel Management
Constance Horner,
Director

Accordingly, OPM proposes to amend 5 CFR Part 351 as follows:

PART 351—REDUCTION IN FORCE

1. The authority citation for Part 351 is revised to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503; § 351.1005 also issued under 5 U.S.C. 3315.

2. Subpart C of Part 351 is revised to read as follows:

Subpart C—Transfer of Function

Sec.
351.301 Applicability.
351.302 Transfer of employees.
351.303 Identification of positions with a transferring function.

Subpart C—Transfer of Function

§ 351.301 Applicability.

This subpart is applicable when the work of one or more employees is moved from one competitive area to another as a transfer of function regardless of whether or not the movement is made under authority of a statute, Executive order, reorganization plan, or other authority.

§ 351.302 Transfer of employees.

(a) Before a reduction in force is made in connection with the transfer of any or all of the functions of a competitive area to another continuing competitive area, each competing employee in a position identified with the transferring function or functions shall be transferred to the continuing competitive area without any

change in the tenure of his or her employment.

(b) An employee whose position is transferred under this subpart solely for liquidation, and who is not identified with an operating function specifically authorized at the time of transfer to continue in operation more than 60 days, is not a competing employee for other positions in the competitive area gaining the function.

(c) Regardless of an employee's personal preference, an employee has no right to transfer with his or her function, unless the alternative in the competitive area losing the function is separation or demotion.

(d) Except as permitted in paragraph (e) of this section, the losing competitive area must use the adverse action procedures found in 5 CFR Part 752 in separating an employee who declines to transfer with his or her function.

(e) The losing competitive area may, at its discretion, include employees who decline to transfer with their function as part of a concurrent reduction in force.

§ 351.303 Identification of positions with a transferring function.

(a) The competitive area losing the function is responsible for identifying the positions of competing employees with the transferring function. Two methods are provided to identify employees with the transferring function:

(1) Identification Method One; and

(2) Identification Method Two.

(b) Identification Method One must be used to identify each position to which it is applicable. Identification Method Two is used only to identify positions to which Identification Method One is not applicable.

(c) Under Identification Method One, a competing employee is identified with a transferring function if—

(1) The employee performs the function during all or a major part of his or her work time; or

(2) Regardless of the amount of time the employee performs the function during his or her work time, the function performed by the employee includes the duties controlling his or her grade or rate of pay.

(d) Identification Method Two is applicable to employees who perform the function during less than half of their work time and are not otherwise covered by Identification Method One. Under Identification Method Two, the losing competitive area must identify the number of positions it needed to perform the transferring function. To determine which employees are identified for transfer, the losing competitive area must establish a retention register in accordance with this part that includes the name of each competing employee who performed the function. Competing employees listed on the retention register are identified for transfer in the inverse order of their retention standing. If for any retention register this procedure would result in the separation or demotion by reduction in force at the losing competitive area of any employee with higher retention standing, the losing competitive area must identify competing employees on that register for transfer in the order of their retention standing.

(e)(1) The competitive area losing the function may permit other employees to volunteer for transfer with the function in place of employees identified under Identification Method One or Identification Method Two. However, the competitive area may permit these other employees to volunteer for transfer only if no competing employee who is identified for transfer under Identification Method One or Identification Method Two is separated or demoted solely because a volunteer transferred in place of him or her to the competitive area that is gaining the function.

(2) If the total number of employees who volunteer for transfer exceeds the total number of employees required to perform the function in the competitive area that is gaining the function, the losing competitive area may give preference to the volunteers with the highest retention standing.

[FR Doc. 86-13164 Filed 6-10-86; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWA-31]

Proposed Alteration of VOR Federal Airways—Expanded East Coast Plan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter Federal Airway V-308 located between Nottingham, MD, and Hedge intersection, NJ. This proposal is part of the Expanded East Coast Plan (EECP) that is designed to make optimum use of limited airspace along the east coast corridor. This proposed airway would be used as a primary arrival route to Washington National Airport from the east and northeast. This action would reduce enroute and terminal delays, save fuel and reduce controller workload. The EECP proposal will be implemented in several segments until complete.

DATE: Comments must be received on or before July 28, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWA-31, Federal Aviation Administration, JFK International Airport, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested partries are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-31." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date

for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRW's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V–308 in the vicinity of Nottingham, MD, and Hedge intersection, NJ. Currently, east coast traffic flows are so saturated and compressed in the New York, NY, metropolitan area that substantial delays are experienced daily. To alleviate this congestion, the EECP would provide optimum use of airspace along the heavily traveled coastal corridors between New York and Florida and reduce departure/arrival delays in the New York area. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airway.

The Proposed Amendment

PART 71—[AMENDED]

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

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10845; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V–308—[Amended]

By removing the words "From INT Kenton, DE 217° and Sea Isle, NJ, 256° radials, via Sea Islae;" and substituting the works "From INT Patuxent, MD, 002°T(012°M) and Nottingham, MD, 075°T(085°M) radials; Sea Isle, NJ;"

Issued in Washington DC, on June 4, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–13086 Filed 6–10–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 73

[Airspace Docket No. ASD 85–AWA–42]

Proposed Alteration of Prohibited Area P–66 Rancho del Cielo, Goleta, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description, altitudes, and times of designation of Prohibited Area P–66 located near Goleta, CA. This action will provide additional prohibited area airspace over the President's residence for security purposes as requested by the U.S. Secret Service. This action will prohibit aircraft flight within the designated prohibited area.

DATE: Comments must be received on or before July 28, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 85–AWA–42, Federal Aviation Administration, P. O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–3128.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AWA–42." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of

Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to alter the description, altitudes, and times of designation of Prohibited Area P–66 located near Goleta, CA. The U.S. Secret Service has determined there is a need to raise the ceiling of the prohibited area from 4,000 feet MSL to but not including 5,000 feet MSL, and expand the lateral boundaries of the area, to enhance the level of security provided the President while he is in residence at Rancho del Cielo. In order to minimize the impact of the increase in prohibited airspace, the FAA proposes to subdivide the prohibited area into P–66A and P–66B. P–66A would be active on a continuous basis from the surface to 4,000 feet MSL. P–66B, which would have the same lateral dimensions as P–66A, would be activated from 4,000 feet MSL to but not including 5,000 feet MSL by Notice to Airmen (NOTAM) only when the President is in residence. It is estimated by the U.S. Secret Service that the President will be in residence at Rancho del Cielo approximately 48 days a year.

When P–66B is activated by NOTAM the following aeronautical procedures will be amended:

1. Lompoc departure would require a 5,000 feet mean sea level (MSL) minimum crossing altitude (MCA) at the Gaviota, CA, (GVO) very high frequency omni-directional radio range and tactical air navigational aid (VORTAC).

2. Lompoc nondirectional radio beacon (NDB) NDB–B approach procedure—route from GVO VORTAC to Perts Intersection would be increased from 3,900 feet MSL to 5,000 feet MSL.

3. Lompoc very high frequency omni-directional radio range/distance measuring equipment (VOR/DME) VOR/DME—A approach procedure—route from GVO VORTAC via the GVO 278° radial/5 DME would be increased from 4,000 feet MSL to 5,000 feet MSL.

4. Santa Maria localizer (LOC) LOC/DME BC–A approach procedure—route from GVO VORTAC to I–SMX localizer would be increased from 4,600 feet MSL to 5,000 feet MSL.

The FAA believes that all of the procedures listed above can be amended without significantly impacting aircraft operations in the vicinity of the GVO VORTAC. Section 73.93 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Prohibited areas.

The Proposed Amendment

PART 73—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 73.93 [Amended]

2. Section 73.93 is amended as follows:

P–66 Rancho del Cielo, Goleta, CA—[Removed]

P–66A Rancho del Cielo, Goleta, CA—[New]

Boundaries

Beginning at lat. 34°34'00" N., long. 120°06'00" W.; to lat. 34°34'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°06'00" W.; to the point of beginning.

Designated altitudes. Surface to 4,000 feet MSL.

Time of designation. Continuous.

Using agency. Administrator, FAA, Washington, DC.

P–66B Rancho del Cielo, Goleta, CA—[New]

Boundaries

Beginning at lat. 34°34'00" N., long. 120°06'00" W.; to lat. 34°34'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°02'00" W.; to lat. 34°31'00" N., long. 120°06'00" W.; to the point of beginning.

Designated altitudes. 4,000 feet MSL to but not including 5,000 feet MSL.

Time of designation. By NOTAM.

Using agency. Administrator, FAA, Washington, DC.

Issued in Washington, DC, on June 5, 1986.

Daniel J. Peterson

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–13088 Filed 6–10–86; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

23 CFR Part 655

[FHWA Docket No. 86–11]

National Standards for Traffic Control Devices; Revision of Manual on Uniform Traffic Control Devices; Passing and No-Passing Zone Standards

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Advance notice of proposed amendments to the Manual on Uniform Traffic Control Devices; request for comments.

SUMMARY: The FHWA is inviting comments on a petition from the Center for Auto Safety (CAS) to initiate rulemaking to revise no-passing zone standards. If adopted, these standards could be incorporated into the Manual on Uniform Traffic Control Devices (MUTCD). The MUTCD is incorporated by reference in 23 CFR Part 655, Subpart F and recognized as the national standard for traffic control devices on all public roads.

DATE: Comments must be received on or before July 20, 1987.

ADDRESS: Submit written comments, preferable in triplicate, to FHWA Docket No. 86–11, Federal Highway Administration, Room 4205, HCC–10, 400 Seventh Street SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 3:30 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard. The MUTCD is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D. It may be purchased for $30.00 from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock No. 050–001–81001–8.

FOR FURTHER INFORMATION CONTACT: Mr. Philip O. Russell, Office of Traffic Operations, (202) 426–0411, or Mr. Michael J. Laska, Office of Chief Counsel, (202) 426–0762, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA both receives and initiates requests for amendments to the MUTCD. The MUTCD presents traffic control device (TCD) standards for all streets and highways open to public travel regardless of type or class or the governmental agency having jurisdiction.

The MUTCD fulfills a statutory responsibility imposed on the Secretary of Transportation in sections 109(b), 109(d), and 402(a) of Title 23 of the U.S.C. and delegated to the Federal Highway Administrator in 49 CFR 1.48 (b), (c), and (n). Generally, 23 U.S.C. 109 authorizes the Secretary to develop, approve, and apply standards for the construction of highways in which Federal funds participate. Section 109(b) calls for standards for the Interstate System to be applied "uniformly throughout the States." Section 109(d) directs the Secretary to approve only such standards for "the location, form, and character" of signs, signals, and marking on Federal-aid highways "as will promote the safe and efficient utilization of the highways." Section 402(a) authorizes the Secretary to promulgate uniform national standards relating to "highway design and maintenance (including lighting, markings, and surface teatment), traffic control, vehicle codes and laws, surveillance of traffic," etc., for use on all public roads.

This advance notice is being issued so that interested persons and/or organizations may have the opportunity to participate in the consideration of this request for amendments to the MUTCD. Based upon comments received in response to this advance notice and upon its own experience, the FHWA may prepare a notice of proposed amendments. Any final amendments which result from that action will be published in the **Federal Register** and incorporated by reference in the Code of Federal Regulations.

The CAS petition acknowledges that the MUTCD sets forth standards for marking passing zones on existing highways. However, the petition contends that these standards and the policy for designing new or redesigning existing highways found in the American Association of State Highway and Transportation Officials (AASHTO) "Green Book" *(A Policy on Geometric Design of Highways and Streets,* c1984), do not provide enough passing sight distance and length of passing zone to provide safe completion or abortion of a passing maneuver by all passenger vehicles and trucks. The CAS describes the difference between the MUTCD standards and the AASHTO "Green Book" in general as an inherent operating safety discontinuity and not a rational interdependence.

Copies of the CAS petition will be distributed to everyone currently appearing on the FHWA Mailing list for MUTCD Matters. Those wishing to be added to the mailing list or receive a copy of the petition should write to the FHWA, Office of Traffic Operations, HTO–21, 400 Seventh Street SW., Washington, DC 20590.

Discussion of Problem

The basic requirements for a highway passing zone are that its physical length and its passing sight distance exceed the minimum necessary for safe passing at a range of traffic speeds which is customary and reasonable for that class of roadway. Section 3B–3, No-Passing Zone Markings, of the MUTCD provides that: Where center lines are installed, no-passing zone shall be established at vertical and horizontal curves and elsewhere on two- and three-lane highways where an engineering study indicates passing must be prohibited because of inadequate sight distances or other special conditions. Section 3B–5, Warrants for No-Passing zones at Curves, provides that: A no-passing zone at a horizontal or vertical curve is warranted where the sight distance, as defined below, is less than the minimum necessary for safe passing at the prevailing speed of traffic. Passing sight distance on a vertical curve is the distance at which an object 3.50 feet above the pavement surface can just be seen from a point 3.50 feet above the pavement. The passing sight distance on a horizontal curve is the distance measured along the highway centerline (or right hand lane line of a three-lane highway) between two points 3.50 feet above the pavement on a line tangent to the embankment, cut slope, wall or other obstruction that blocks the view on the inside of the curve. Where center lines are installed and a curve warrants a no-passing zone, it should be so marked where the sight distance is equal to or less than that listed below for the prevailing off-peak 85 percentile speed:

85 percentile speed (mph)	Minimum passing sight distance (feet)
30	500
40	600
50	800
60	1,000
70	1,200

The mimimum length of a passing zone is the minimum distance between adjacent no-passing zones in which a passing maneuver can be completed. Section 3B–4 of the MUTCD states that where the distance between successive no-passing zones is less than 400 feet, the appropriate no-passing (one direction or two direction) should connect the zones. While not labeled as such in the MUTCD, for all practical purposes this represents a recommended minimum length passing zone.

The minimum passing sight distance used in placing pavement markings is a compromise without severely impairing the usefulness (capacity) of the highway. The development of the MUTCD minimum passing sight distances on which to base pavement markings is shown in the following table.

85-percentile speed	30	40	50	60	70
m	10	12.5	15	20	25
V_o	25	32.5	40	47.5	55
Sight Distance—Undelayed Pass	440	550	660	660	660
Sight Distance—Delayed Pass	510	760	1,090	1,380	1,780
MUTCD Minimum Passing Sight Distance	500	600	800	1,000	1,200

Where

m = Difference in speed between the assumed design speed and the assumed speed of the impeding vehicle.

V_o = The assumed speed of an opposing vehicle which comes into view just when the passing maneuver is begun.

An undelayed pass is also known as a flying start or a flying pass.

As the standard for the design of two-lane, two-way roadways the FHWA has adopted the AASHTO "Green Book". Table III–5 *Minimum passing sight distance for design of two-lane highways* from the AASHTO "Green Book" is reproduced below. The assumed speeds of the passing vehicle and of the impeding vehicles are also listed in Table III–5 as follows:

Design speed (mph)	Assumed speeds		Minimum passing sight distance (ft)	
	Passed vehicle (mph)	Passing vehicle (mph)	Figure III–2	Rounded
20	20	30	810	800
30	26	36	1,090	1,100
40	34	44	1,480	1,500
50	41	51	1,840	1,800

Design speed (mph)	Passed vehicle (mph)	Passing vehicle (mph)	Minimum passing sight distance (ft)	
			Figure III-2	Rounded
60	47	57	2,140	2,100
65	50	60	2,310	2,300
70	54	65	2,490	2,500

In addition to the vehicle speeds listed in Table III–5 other assumptions were made concerning driver behavior and vehicle performance characteristics. They are:

1. The impeding vehicle travels at uniform speed.

2. The passing vehicle has reduced speed and trails the impeding vehicle as it enters a passing section.

3. When the passing section is reached, the driver of the passing vehicle requires a short period of time to perceive the clear passing section and to react to start his/her passing maneuver.

4. Passing is accomplished under what may be termed a delayed start and a hurried return in the face of opposing traffic. The passing vehicle accelerates during the maneuver, and its average speed during the occupancy of the left lane is 10 mph higher than that of the impeding vehicle.

5. When the passing vehicle returns to its lane, there is a suitable clearance length between it and opposing vehicle in the left lane.

6. The average vehicle acceleration varies from 1.40 mph/sec for average passing speeds of 30 mph, to 1.50 mph/sec for average passing speeds of 60 mph.

The warrant for placing no-passing zones on a completed highway as provided in the MUTCD, and the design criteria for passing sight distance in the AASHTO "Green Book" are established on two different assumptions. They do, however, share a common basis of development. They are both based on observed vehicle operation.

The MUTCD warrant is derived for traffic operating-control needs and is essentially the distance needed to safely *complete* a passing maneuver. Passing can frequently be accomplished under one or more of the three following conditions: (1) The passing vehicle may not be delayed or slowed down to the speed of the impeding vehicle. If the opposing lane is clear the passing vehicle may pass at a higher speed, reducing the time and distance of passing: (2) The impeding vehicle may be traveling at a speed lower than the average running speed. Impeding vehicles are likely to be traveling at speeds less than the average running speed; (3) The opposing vehicle may be traveling slower than the passing vehicle. However, it is more likely to be traveling at the average running speed. In addition the distance traveled during perception time, while included in the calculation of design passing sight distance, is not included in the minimum length passing zone. Drivers can often see the pavement markings at the beginning of a passing zone for some distance before they reach that point. That gives the driver time to assess the situation and allow him to start the pass immediately if there is no opposing traffic.

The AASHTO criterion is the sight distance needed to *start* and *complete* a passing maneuver, when both the passing and the impeding vehicles are automobiles. The criterion is not used to establish no-passing zones, rather is primarily used to make economic and capacity comparisons of candidate alignments.

The average accelerations used to develop Table III–5 allow safe passing by many vehicles. However, the following examples show the range of acceleration which would have to be considered in order to provide safe passing by slower accelerating passenger vehicles. Approximately 62 percent of the faster 1976 vehicle models, under ideal vehicle operating conditions, have an average acceleration capability of 1.4 mph/sec or faster. An average acceleration capability of 1.0 mph/sec will accommodate only 90 percent of the passenger automobiles in the traffic stream and an average acceleration capability of somewhat less than 0.70 mph/sec would be needed to accommodate 100 percent of 1976 passenger automobiles. These results were summarized and interpreted by Weaver and Woods.[1]

The 400 foot minimum distance between successive no-passing zones from section 3B–4 of the MUTCD has been characterized as both dangerous and not very useful. Technically the merit of this figure has been demonstrated by tests such as those conducted by the National Highway Safety Bureau (now the National Highway Traffic Safety Administration) and reported on in its Consumer Information Series. These results were summarized and interpreted by Weaver and Woods.[2] The Consumer Information Series contain vehicle acceleration and passing ability characteristics of passenger automobiles as measured in the following manner. The low speed tests assume an initial speed of 20 mph and a limiting speed of 35 mph for the passing vehicle. The test involves passing a 55-foot long truck traveling at 20 mph. In this low speed test the passing vehicle starts in the left lane 40 feet behind the truck and completes the maneuver when it is 40 feet ahead of the truck. All of the 1977 passenger vehicles tested were able to complete this maneuver in 500 feet or less. Distances for undelayed passes and higher limiting speeds under these same conditions would have produced far shorter distances. Distances to pass longer trucks would of course be longer.

The above discussion has concentrated on a maneuver which results in the passing vehicle successfully passing the impeding vehicle. The discussion will be shifted to the problem which results when the passing vehicle cannot safely complete the pass. The driver of the passing vehicle must abort the passing maneuver and must return to the right lane.

There have been several technological advancements in the automotive and highway fields which have improved the performance of the aborting vehicle during this maneuver. There include: Better braking systems; better suspension systems; better tires; and improved pavement friction during both wet and dry conditions. The lower speeds which have resulted from 55 mph speed limits have also had a very positive effect on the ability of drivers to abort passing maneuvers. On the other hand, longer trucks, significantly increase the length of roadway and time necessary to abort a passing maneuver.

In recent years, studies by Graeme D. Weaver and Donald L. Woods [3] Edward Lieberman,[4] Ogilvie F. Gericke and C. Michael Walton,[5] Mitsuru Saito,[6] W.G.

[1] Graeme D. Weaver and Donald L. Woods, "Passing and No-Passing Zones: Signs, Markings, and Warrants" September 1978, Report No. FHWA-RD-79-5. This report is available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, DC 20590. This report is available for purchase from the National Technical Information Service, Springfield, VA 22161.

[2] Ibid. pp. 35, 37.

[3] Ibid., pp. 104–106.

[4] Edward Lieberman, "A Model of the Passing Maneuver on Two Lane Rural Roads, "Transportation Research Board 61st Annual Meeting, January 1982. This report is available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, DC 20590.

[5] Ogilvie F. Gericke and C. Michael Walton, "Influence on Rural Highway Geometric Design (and Redesign) Principles and Practices of Increased Truck Size and Weights," Transporatation Research Board 60th Annual Meeting, January 1981. This report is available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, DC 20590.

[6] Mitsuru Saito, "Evaluation of the Adequacy of the MUTCD Minimum Passing Sight Distance

Continued

Weber,[7] and Nicholas Garber and Mitsuru Saito[8] have each reported deficiencies in the minimum passing sight distances and minimum passing distances contained in the AASHTQ "Green Book" and the MUTCD. These deficiencies are especially critical when one or more of the following conditions exist: (1) The passing vehicle is a low powered vehicle: (2) aborting the passing maneuver when the impeding vehicle is a long truck: and (3) passing a long truck. The following table from the research of Gericke and Walton [5] is offered as an example of these results:

Design speed (miles/h)	Assumed speeds (miles/h)		Avg a (miles/h/s)	Passing sight distance (ft)			AASHTO (4)	MUTCD (10)
				Calculated				
	Passed vehicle	Passing vehicle		t(s)	L=65 ft	L=105 ft		
30	26	36	1.40	3.6	1700	1900	1100	500
40	34	44	1.41	3.8	2100	2400	1500	600
50	41	51	1.45	4.1	2500	2800	1800	800
60	47	57	1.48	4.4	2800	3200	2100	1000
65	50	60	1.50	4.5	3000	3400	2300	.....
70	54	64	1.50	4.5	3200	3600	2500	1200
75	56	66	1.50	4.5	3300	3700	2600	.....
85	59	69	1.50	4.5	3400	3900	2700	.....

During any passing maneuver, the driver must exercise good judgment and a system of adequate passing sight distances and minimum length passing zones must be provided to reduce the possibility of head-on collisions. Based on research it conducted, the Franklin Instutute Research Laboratories and Systems Technology Incorporated reported that, in passing situations where opposing traffic is the limiting factor, 5 percent of the drivers accepted hazardous opportunities and at least 25 percent rejected safe passing opportunities[9]. This means that judgment errors made by drivers waiting to pass, can significantly reduce the capacity of two-way highways. It also shows that the majority of drivers are aware of the accleration capabilities of their vehicles and are able to accurately judge when it is completely safe to pass and when the drivers make judgment errors, they usually error in favor of safety.

Increasing the minimum passing sight distance and the minimum length of passing zone on existing highways cannot be counted on to reduce the risk some driver will take, reduce the required level of enforcement or elimate passing accidents. This is true because, regardless of how long these minimum distances are, there are an infinite number of shorter length passing possibilities available, within a passing zone, for a driver to attempt to pass before the passing vehicle reaches its performance limits and the opposing traffic. Furthermore, many motorists may violate non-passing zone markings where they perceive sufficient sight distance and when conditions such as slow passing vehicles or opposing traffic have prevented passing within marked passing zones. Rankin and Sonsteby[10] reported the following, regarding possible consequences of no-passing zones (NPZs) and sight distance which are too long: "Enforcement personnel are concerned that NPZs are established on a resonable basis. For example, a zone with too long an initial buffer distance, or one that was carried into the area of adequate sight distance down road, would be considered unreasonable and would create

Requirement for Aborting the Passing Maneuver," Institute of Transportation Engineers Journal, January 1984, pp. 18–22. This report is available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, DC 20590.

[7] W.G. Weber, "Passing Sight Distance and No-Passing Zones: Present Practice in the Light of Needs for Revision," Institute of Transportation Engineers Journal, September 1978, pp. 14–18. This report is available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, DC 20590.

[8] Nicholas Garber and Mitsuru Saito, "Passing Requirements for Two-Lane Highways in Mountainous Areas," Transportation Research Board 63rd Annual Meeting, January 1984. This report is available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, DC 20590.

[9] Eugene Farber, Carol A. Silver, David H. Weir and Duane T. McRuer "Conceptualization of Overtaking and Passing and Two-Lane Rural Roads", Technical Report 1–193, December 1969, The Franklin Institue Research Laboratories and Systems Technology, Incorporated for the Federal Highway Administration. This report is available for inspection and copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street SW., Washington, DC 20590.

[10] Woodrow W. Ranking and Ornuly Sonsteby, "No Passing Zone Enforcement Practices and Problems," Highway Users Federation For Safety and Mobility, May 1977. Available for inspection and Copying at the Federal Highway Administration, Office of Traffic Operations, Room 3419, 400 Seventh Street, SW., Washington, DC 20590.

enforcement problems. Police felt that such zones would 'breed contempt' for the control devices." Increasing the minimum passing sight distance and the minimum length of passing zones, while not adequate substitutes for good judgment by drivers, would assure that a greater cross section of the vehicle fleet would be capable of successfully passing within marked zones.

The FHWA has formulated the following questions and invites responses concerning the minimum passing sight distance and minimum length of passing zones:

1. Are revisions to the passing zone criteria set out in the MUTCD needed?

2. Are current practices causing accidents and creating hazardous locations?

3. Is there existing accident data, recent research results or experience to identify specific elements of the passing task that would warrant specific changes in either the ASSHTO or MUTCD criteria?

4. Are there highway agencies that use different criteria for design or operations from those in the AASHTO "Green Book" or the MUTCD? If so, what are they and how are they used?

5. Are trucks causing unusual operational problems? Do any highway agencies have data that documents specific problems relating to trucks? Have the oversized trucks caused or created new or different problems?

6. Are there practices or procedures such as adding passing lanes that should be considered in the location and design of highways?

7. Is there research or expericne to propose special traffic control or design for mountainous low volume highways?

8. Is research warranted and justified for reviewing the requirements for minimum passing sight distance and minimum length of passing zones? If so, what?

9. Does any highway agency have data on the impacts to highway agencies and road users that will result from the application of the significantly longer no-passing zone as envisioned in the CAS petition? How many additional miles of no-passing would be added to the highway system? How will the capacity of two land roads be affected? How much additional will it cost to provide passing lengths compatible with the revised criteria? How much increase in the length of passing zones will the traveling public tolerate before there is widespread abuse of no-passing zones?

This advance notice of proposed rulemaking to the MUTCD is issued under the authority of 23 U.S.C. 109(d), 315, and 402(a), and the delegation of authority in 49 CFR 1.48(b).

It is anticipated that any proposed changes to the MUTCD resulting from the comments received would be included in a subsequent notice of proposed rulemaking.

The FHWA has determined, at this time, that this document contains neither a major rule under Executive Order 12291 nor a significant proposal under the regulatory policies and procedures of the Department of Transportation. This determination will be reevaluated and a draft regulatory evaluation will be prepared, if necessary, based upon the data received in response to this advance notice. Based upon the information available to the FHWA at this time, the action proposed in this advance notice will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 23 CFR Part 655

Design standards, Grant programs-transportation, Highways and roads, Signs, Traffic regulations, Incorporation by reference.

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

Issued on: June 4, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86-13194 Filed 6-10-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 917

Public Comment and Opportunity for Public Hearing on a Modification to the Kentucky Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of certain program amendments submitted by the Commonwealth of Kentucky as a modification to the Kentucky permanent program (hereinafter referred to as the Kentucky program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments submitted consist of seven bills passed by the Kentucky legislature which may impact Kentucky's permanent regulatory program. The amendments pertain to (1) establishing a Bond Pool Program for Kentucky coal operators, (2) directing the Natural Resources and Environmental Protection Cabinet (NREPC) to develop special permitting and regulatory requirements for secondary recovery operations by August 1, 1986, (3) establishing a two-year moratorium on issuance of regulations by the Kentucky Department for Surface Mining Reclamation and Enforcement (DSMRE) and Kentucky Department of Mines and Minerals with certain exceptions, (4) broadening the description of land surveyors so that the profession becomes eligible for certain work related to coal permitting, (5) deleting portions of KRS 350.060(22), due to the Flannery decision on crushers and loaders, (6) allowing in-kind reclamation work in lieu of payment of penalties for violations of the Surface Mining Act, and (7) making orders of the Secretary of the NREPC appealable to Circuit Courts in the county where the violation occurred rather than Franklin County.

This notice sets forth the times and locations that the Kentucky program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before July 11, 1986 will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on July 7, 1986 begining at 10:00 a.m. at the location shown below under **"ADDRESSES."**

ADDRESSES: Written comments should be mailed or hand delivered to: W.H. Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

If a public hearing is held, its location will be: The Harley Hotel, 2143 North Broadway, Lexington, Kentucky 40505.

FOR FURTHER INFORMATION CONTACT: W.H. Tipton, Director, Lexington Field Office, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504. Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Kentucky program, the proposed modifications to the program, a listing of any scheduled public meetings and all written comments received in response to this notice will be available for review at the OSMRE Offices and the Office of State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504.

Office of Surface Mining Reclamation and Enforcement, Room 5315 A, 1100 "L" Street, NW., Washington, DC 20240.

Bureau of Surface Mining Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in the support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Lexington, Kentucky Field Office, will not necessarily be considered and included in the Administrative Record for the final rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the close of business ten working days before the date of the hearing. If no one requests to comment at the public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Submission of written statements at the time of the hearing is requested and will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSMRE representatives to discuss the proposed amendment may request a meeting at the OSMRE office listed under **"ADDRESSES"** by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Kentucky State Program

On December 30, 1981, Kentucky resubmittred its proposed regulatory program to OSMRE. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 **Federal Register** (47 FR 21404–21435).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Kentucky program can be found in the May 18, 1982 **Federal Register** notice. Subsequent action concerning the conditions of approval and program amendments are identified in 30 CFR 917.11, 30 CFR 917.15, 30 CFR 917.16 and 30 CFR 917.17.

III. Submission of Program Amendments

By a letter date April 29, 1986, Kentucky submitted to OSMRE, pursuant to 30 CFR 732.17, certain revisions to the Kentucky regulatory program. The bills were passed by the 1986 General Assembly and will become effective on July 15, 1986. The amendments are discussed below separately.

1. Senate Bill 130

Seńate Bill 130 creates new sections in KRS Chapter 350 which estabilshes a special fund to be known as the "bond pool fund", and addresses other aspects such as its membership and administration procedures. Additionally, section 13 of Senate Bill 130 amends KRS 350.990 to provide for allocation of monies from the abandoned mine land enhancement fund to the bond pool fund.

2. Senate Bill 374

A new section of DRS Chapter 350 is created pertaining to issuing special permits for the remaining of previously affected areas, including but not limited to, secondary coal recovery operations. The bill authorizes the NRECP to promulgate administrative regulations as necessary to implement provisions of the bill.

3. House Bill 285

A new section of KRS 350.470 to 350.550 is created, effective the date of the bill, to establish a two-year moratorium on promulgation of regulations pursuant to KRS Chapter 350. The following exceptions were made: (1) Issuing regulations that only affect safety of miners (2) issuing regulations to retain primacy for the surface mining program (3) issuing regulations as a result of an emergency declared by the Governor (4) issuing regulations necessary to take advantage of lessened regulatory requirements allowed by Federal regulations (5) allowing remining of previously affected coal mining areas.

Further, in section 2, a new section of KRS Chapter 351 is created to establish a two-year moratorium on issuing regulations which relate to the conduct of deep mining. The exceptions are similar to those listed above.

In addition, section 3 creates a new section of KRS Chapter 352 to establish a two-year moratorium on the promulgation of regulations pursuant to KRS Chapter 352 which relate to the conduct of deep mining. Exceptions are similar to those listed above for section 1.

4. Senate Bill 329

House Bill 329 broadens the description of land surveyors so that the profession becomes eligible for certain work related to coal permitting.

5. House bill 757

House Bill 757 amends KRS 350.060 by deleting "crushing, screening, or" from paragraphs (22) a result of the Flannery decision on crushers and loaders, so that crushing and screening operations which do not separatge coal from its impurities or are not located at or near the mine site, are no longer exempted from regulations.

6. House Bill 839

House Bill 839 amends KRS 350.990 by adding provisions which would allow the NREPC, upon written request by the operator, to allow performance of in-kind reclamation work in lieu of

payment of penalties for violations of the Surface Mining Act.

7. House Bill 869

House Bill 869 amends KRS 350.032 to provide that final orders of the Secretary of the NREPC would be appealable to Circuit Courts of the county where the violation occurred rather than Franklin County.

Therefore, the Director is seeking public comment on the adequacy of the proposed program amendments. Comments should specifically address the issues of whether the proposed amendments are in accordance with SMCRA and no less effective than its implementing regulations.

IV. Additional Determinations

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(c) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7 and 8 of Excutive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this Action is exempt from preparation of a Regulatory Impact Analysis and Regulatory review by OMB.

The Department of the Interior has determined that this rule would not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 917

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: June 6, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

[FR Doc. 86-13162 Filed 6-10-86; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300147; FRL-3027-8]

Technical Amendments; Definition and Interpretation of the Crop "Endive"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that 40 CFR 180.1(h) be amended by adding and defining the crop term "endive" to include both endive and escarole. This proposed amendment, which will define endive, was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [OPP-300147], should be received on or before July 11, 1986.

ADDRESSES: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By Mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted a request to EPA on behalf of Dr. Robert H. Kupelian, National Director and the IR-4 Technical Committee, requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.1(h) be amended by adding the general crop category "endive" to column A and by adding the corresponding specific raw agricultural commodities "endive, escarole" to column B.

The IR-4 requested this amendment in order to clarify and update the relationship between the general category definition of "endive" in column A and the specific raw agricultural commodities listed in column B.

The IR-4 supports this request by pointing out that endive and escarole are of the same species, *Cichorium endivia*. Both are listed in the crop group "leafy vegetables (except *Brassica* vegetables)" in 40 CFR 180.34(f)(9)(iv) as "endive (escarole)". The growth habits and cultural practices for endive and escarole are similar.

The Agency concurs with IR-4 on the proposed revision of 40 CFR 180.1(h) to add to the general category "endive" to column A and the corresponding specific raw agricultural commodities "endive, escarole" to column B. This revision will expand the tolerances and exemptions established for residues of pesticide chemicals in or on the general category "endive" to include escarole.

Based on the information considered, the Agency concludes that the proposed amendment will protect the public health. Therefore, it is proposed that 40 CFR 180.1(h) be amended as set forth below.

Interested persons are invited to submit written comments on the proposed amendment. Comments must bear a notation indicating the document control number, [OPP-300147]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances

or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commoditities, Pesticides and pests.

Dated: May 30, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1(h) is amended by alphabetically inserting "endive" in column A and adding the specific raw agricultural commodities "endive, escarole" in the corresponding column B, to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
Endive	Endive, escarole

[FR Doc. 86-12889 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP 300148; FRL-3027-9]

Technical Amendments; Definition and Interpretation of the Crop "Peas"

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that 40 CFR 180.1(h) be amended by adding and defining the crop terms "peas, peas (dry) and peas (succulent)." This proposed amendment, which will define peas, was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [OPP-300148], should be received on or before July 11, 1986.

ADDRESSES: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted this request to EPA on behalf of Dr. Robert H. Kupelian, National Director and the IR-4 Technical Committee requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose that 40 CFR 180.1(h) be ameded by adding the general categories, "peas, peas (dry) and peas (succulent)" to column A and by adding the corresponding specific raw agricultural commodities as defined to column B.

The IR-4 requested this amendment in order to clarify and update the relationship between the general category definition of "peas" in column A and the specific raw agricultural commodities listed in column B.

The IR-4 supports this request by pointing out that "peas" should be precisely defined, as follows: "*Pisum* spp (includes dwarf peas, garden peas, green peas, English peas, field peas and edible pod peas); *Cajanus cajan* (includes pigeon peas); *Cicer* spp (includes chick peas and garbanzo beans)." This definition means that chick peas and garbanzo beans would be classified in both the bean and proposed pea categories and would receive dual, i.e., pea and bean classification and that pigeon peas would be classified as peas for pesticide purposes. For garbanzo beans/chick peas, only the highest established pea or bean tolerance will apply to pesticide residues found on this commodity. These plants are similar in growth habits, and their cultural practices are similar.

The Administrator concurs with IR-4 on the proposed revision of 40 CFR 180.1(h) to add to the general category "peas" to column A and the corresponding specific raw agricultural commodities to column B. This revision will expand the tolerances and exemptions established for residues of pesticide chemicals in or on the general category "peas" to include the specified raw agricultural commodities.

Based on the information considered, the Agency concludes that the amendment will protect the public health. Therefore, it is proposed that 40 CFR 180.1(h) be amended as set forth below.

Interested persons are invited to submit written comments on the proposed amendment. Comments must bear a notation indicating the document control number, [OPP-300148]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administration practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 30, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.1(h) is amended by alphabetically inserting "pea, peas (dry) and pea (succulent)" in column A and adding the specific raw agricultural commodity definitions in the corresponding column B to read as follows:

§ 180.1 Definitions and interpretations.

* * * * *

(h) * * *

A	B
* * * * * *	
Peas	*Cajanus cajan* (includes pigeon peas); *Cicer* spp (includes chick pea and garbanzo beans); *Pisum* spp (includes dwarf peas, garden peas, green peas, English peas, field peas, and edible pod peas). [Note: A variety of pesticide tolerances have been previously established for peas and/or beans. Chick peas/garbanzo beans are now classified in both the bean and the pea categories. For garbanzo beans/chick peas, ONLY the highest established pea or bean tolerance will apply to pesticide residues found on this commodity.]
Peas (dry)	All peas in dry form only.
Peas (succulent).	All peas in succulent form only.
* * * * * *	

[FR Doc. 86-12887 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5E3262/P392; FRL-3027-6]

Pesticide Tolerance for 4-(2,4-Dichlorophenoxy) Butyric Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the herbicide 4-(2,4-dichlorophenoxy) butyric acid (referred to in the preamble of this document as 2,4-DB) and its metabolite in or on the raw agricultural commodity crop group non-grass animal feeds. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 5E3262/P392], must be received on or before July 11, 1986.

ADDRESSES: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 5E3262 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of Colorado and the U.S. Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the herbicide 2,4-DB and its metabolite 2,4-dichlorophenoxyacetic acid (2,4-D) in or on the raw agricultural commodity crop group non-grass animal feeds (forage, fodder, straw and hay) at 0.2 part per million (ppm). Tolerances have already been established on the representative commodities of the crop group (i.e., alfalfa and clover) and on birdsfoot trefoil at 0.2 ppm. The crop group tolerance will additionally establish tolerances on velvet bean, kudzu, lespedeza, lupine, sainfoin, vetch, crown vetch and milk vetch for forage, fodder, straw and hay of these commodities.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include a 90-day dog feeding study with a no-observed-effect level (NOEL) of 316 ppm (7.9 milligrams (mg)/kilogram (kg)/day); a 90-day rat feeding study with a NOEL of 316 ppm (15.8 mg/kg/day); and a teratology study on mice at a dosage level of 400 ppm (60 mg/kg/day) which showed no potential to induce teratogenic effects but fetotoxic effects were observed at the highest level fed of 2,000 ppm (300 mg/kg/day). Although chronic and reproduction studies on 2,4-DB are lacking, they are not considered necessary to support the tolerance since the Agency has concluded that the amount of 2,4-DB and its metabolite 2,4-D added to the diet from the proposed use will not significantly increase dietary exposure in humans. There is no reasonable expectation of finite residues in meat, milk, poultry or eggs resulting from the use of non-grass animal feed commodities containing the combined residues of 2,4-DB and 2,4-D at the proposed tolerance lvel of 0.2 ppm. Thus, the tolerance that will be established by this proposed rule is considered to pose a negligible increment in risk. Data considered desirable but lacking include: a chronic feeding study, oncogenic studies in two species, and a reproduction study. The studies are due to be submitted to the Agency in 1987.

The provisional acceptable daily intake (PADI), based on the 90-day dog feeding study (NOEL of 7.9 mg/kg/day) and using a 2,000-fold safety factor, is calculated to be 0.004 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 0.2370 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 0.0039 mg/day; the current action will not increase the

TMRC. Published tolerances utilize 1.65 percent of the PADI; the current action will not utilize any additional percent of the PADI.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of this chemical.

Based on the above information and data considered, and the fact that there is no reasonable expectation of residues in meat and milk resulting from use of these commodities as animal feeds, the Agency concludes that the tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3262/P392]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291. Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 30, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.331 is amended, by removing the commodities alfalfa, clover and birdsfoot trefoil and by adding, and alphabetically inserting, the raw agricultural commodity crop group non-grass animal feeds, to read as follows:

§ 180.331 4-(2,4-Dichlorophenoxy) butyric acid; tolerances for residues.

* * * * *

Commodities	Parts per million
Alfalfa [Removed]	0.2N [Removed]
Clover [Removed]	0.2N [Removed]
* * * * *	
Non-grass animal feeds (fodder, forage, straw and hay)	0.2
* * * * *	
Trefoil, Birdsfoot	0.2N [Removed]

[FR Doc. 86-12891 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5E3264/P393; FRL-3027-7]

Pesticide Tolerance for Hexakis [2-Methyl-2-Phenylpropyl] Distannoxane

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the insecticide hexakis [2-methyl-2-phenylpropyl] distannoxane in or on the raw agricultural commodity raspberries. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the document control number [PP 5E3264/P393], must be received on or before July 11, 1986.

ADDRESSES: By mail, submit written comments to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC

In person, bring comments to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 5E3264 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of New York, Oregon and Washington.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the insecticide hexakis [2-methyl-2-phenylpropyl] distannoxane and its organotin metabolites calculated as hexakis [2-methyl-2-phenylpropyl] distannoxane in or on the raw agricultural commodity raspberries at 10.0 parts per million (ppm). The petitioner proposed that use on raspberries be limited to Oregon and Washington based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's

Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include a 2-year dog feeding study with a no-observed-effect level (NOEL) of 5 milligrams (mg/kilogram (kg) for systemic effects; a 2-year rat feeding/oncogenicity study with a NOEL of 100 ppm (equivalent to 5 mg/kg) for systemic effects and negative for oncogenic effects under the conditions of the study at all levels tested (50, 100, 300, and 600 ppm, equivalent to 2.5, 5, 15 and 30 mg/kg of body weight (bw) respectively); an 18-month mouse oncogenicity study which was negative for oncogenic effects under the conditions of the study at all levels tested (50, 100, 300, and 600 ppm, equivalent to 7.5, 15, 45, and 90 mg/kg of bw, respectively); a multigeneration reproduction study in the rat with a NOEL of 100 ppm for reproductive effects (equivalent to 5 mg/kg bw); mutagenicity assays which were negative for mutagenic effects; and rat and rabbit teratology studies which were nagative for teratogenic effects at 60 and 5 mg/kg, respectively.

The acceptable daily intake (ADI), based on the 2-year rat feeding study (NOEL of 5.0 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.05 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 3.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 2.1632 mg/day; the current action will increase the TMRC by 0.0045 mg/day (0.21 percent). Published tolerances utilize 72.11 percent of the ADI; the current action will utilize an additional 0.15 percent.

The nature of the residues is adequately understood and an adequate analytical method, gas-liquid chromatography using an electron capture detector, is available for enforcement purposes. Since no significant feed items are involved, there should be no resulting secondary residues in meat, milk, poultry, and eggs resulting from this use. There are presently no actions pending against the continued registration of this chemical.

Based on the above information and data considered, the Agency concludes that the tolerance will protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3264/P393]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statesment to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and Pests.

Dated: May 29, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.362 is amended by redesignating the current paragraph and list of tolerances as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 180.362 Hexakis (2-methyl-2-phenylpropyl) distannoxane; tolerances for residues.

* * * * *

(b) Tolerances with regional registration are established for residues of the insecticide hexakis [2-methyl-2-phenylpropyl] distannoxane and its organotin metabolites calculated as hexakis [2-methyl-2-phenylpropyl] distannoxane in or on the raw agricultural commodities:

Commodities	Parts per million
Raspberries	10.0

[FR Doc. 86-12890 Filed 6-10-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 721

[OPTS-50538; FRL-3008-7]

Certain Alkylsulfonic Acids, Ammonium Salt Proposed Determination of Significant New Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substances which were the subject of premanufacture notices (PMNs) P-84-1054 and P-84-1056. The Agency believes that these substances may be hazardous to aquatic organisms and that any use of these substances or the manufacture, import, processing, distribution in commerce, or disposal associated with any use of these substances may result in significant releases to the aquatic environment.

DATE: Written comments should be submitted by August 11, 1986.

ADDRESS: Since some comments are expected to contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-790), Office of Toxic Substances, Environmental Protection Agency, Room E-209, 401 M Street SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50538. Nonconfidential versions of comments received on this proposal will be available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, in Room. E-107, at the address given above. For further information regarding the submission of comments containing confidential business information, see Unit X of this preamble.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-543, 401 M Street, SW., Washington, DC 20460. Toll free: (800-424-9065). In Washington, DC: (544-1404), Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B) of TSCA, submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject generally to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720 published in the **Federal Register** of May 13, 1983 (48 FR 21722). In particular, these include the information submission requirements of section 5(b) and (d)(1) of TSCA. In addition, such notices are subject to the regulatory authorities of section 5 (e) and (f) of TSCA. If EPA does not take regulatory action under section 5, 6, or 7 to control activities on which it has received a SNUR notice, section 5(g) of TSCA requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export reporting requirements of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who intend to import a substance identified in a final SNUR are subject to TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

In the **Federal Register** of September 5, 1984 (49 FR 35011), EPA promulgated general regulatory provisions applicable to SNURs (40 CFR Part 721, Subpart A). The general provisions are discussed there in detail and interested persons should refer to that document for further information. EPA is proposing that these general provisions apply to this SNUR except as discussed in this preamble and as set forth in § 721.900. On April 22, 1986, EPA proposed revisions to the general provisions (51 FR 15104), some of which would apply to this proposed SNUR.

III. Summary of This Proposed Rule

The chemical substances which are the subject of this proposed rule were the subject of PMNs P-84-1054 and P-84-1056. The substances are identified generically as alkylsulfonic acids, ammonium salt. EPA is proposing to designate the following as a significant new use of the substances: Any release to waters of the United States from any use of the substances or from manufacture, import, processing, distribution in commerce, or disposal associated with any use of the substances.

IV. Background

On August 9, 1984, EPA received two PMNs for substances identified generically as alkylsulfonic acid, ammonium salt, which the Agency designated as P-84-1054 and P-84-1056. EPA announced receipt of the PMNs in the **Federal Register** of August 24, 1984 (49 FR 33718). The notice submitter for P-84-1054 and P-84-1056 claimed the following as confidential business information (CBI): submitter identity, chemical identity, production volume, use, and process information. Under section 14(a)(4) of TSCA, the Agency may disclose CBI relevant in any proceeding. "[D]isclosure in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA is not convinced that this rulemaking will be so impaired by these claims as to justify disclosure of CBI. Therefore, EPA has decided not to disclose any of the CBI at this time. The Agency specifically requests comment on this approach for this SNUR rulemaking. For convenience EPA will refer to the substances by their PMN numbers.

The Agency is concerned that P-84-1054 and P-84-1056 may cause acute and chronic effects in aquatic organisms. This conclusioin is based primarily on structural analogy of these substances to certain alkyl ethoxylate sulfates. Specifically, EPA believes that certain substances closely related to the tested alkyl ethoxylate sulfates are among the more toxic substances reviewed by the Agency for aquatic toxicity. The Agency believes that a SNUR is required for these substances, because a number of activities are expected with the substances and releases to water from the intended and projected activities are expected to occur at a large number of sites. Specific information about these activities has been claimed as CBI.

Regulatory action was not taken on P-84-1054 or P-84-1056 during PMN review because EPA believed, based on data available at that time, that there was a low potential for aquatic toxicity effects. However, due to the availability of new data on this group of substances, the Agency has reevaluated its assessment of these substances. Based on its reevaluation, the Agency has identified significant risk concerns for effects to aquatic organisms from releases specified in the PMNs for P-84-1054 and P-84-1056 as well as releases anticipated from related activities.

When the notice submitter commences commercial manufacture of the substances and submits Notices of Commencement of Manufacture to EPA, the Agency will add the substances to the TSCA Chemical Substance Inventory. When a substance is listed on the Inventory, the notice submitter and other persons may undertake activities which result in releases of these substances to the aquatic environment. Therefore, EPA is proposing to designate the activities set forth in paragraph (a)(2) of the proposed § 721.900 as a significant new use so the Agency can review them before they occur.

Through a SNUR, the Agency would ensure that all manufacturers, importers, and processors are subject to similar reporting requirements. In addition, a SNUR would afford EPA the opportunity to review exposure and toxicity information on the substances before a significant new use occurs, and, if necessary, take action to ensure that the aquatic organisms will not be exposed to levels of the substances that are potentially hazardous.

V. Determination of Proposed Significant New Uses

To determine what would constitute a significant new use of these chemcial substances, EPA considered relevant information about the toxicity of the substances, potential releases associated with possible uses and related manufacturing, processing, distribution in commerce, and disposal and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA proposes to define the significant new uses of the substances as set forth in paragraph (a)(2) of the proposed § 721.900.

The Agency considered proposing that it would be a significant new use to distribute these chemical substances in commerce for any use without specified labeling in addition to the significant

new uses (any release of waters of the United States . . .) proposed in paragraph (a)(2) of § 721.900. Such a label provision would require manufacturers, importers, and processors to establish a program whereby a label is affixed to each container of the substances or of a formulation containing the substances which is intended for distribution in commerce, which includes at a minimum the following information:

Warning: Chemicals similar to this material have been reported to cause acute and chronic toxicity effects to aquatic organisms. According to the provisions of 40 CFR Chapter I, it is a violation to release this material under certain circumstances to the waters of the United States without notification to the U.S. Environmental Protection Agency.

EPA solicits public comment on such a labeling approach and in particular solicits comment on the effectiveness, language, and cost of a labeling provision.

VI. Exemptions to Reporting Requirements

EPA has codified, in § 721.19, general exemption provisions covering SNUR reporting. On a case-by-case basis the Agency may modify these provisions. However, in this case, the Agency is proposing that § 721.19 apply in its entirety.

On April 22, 1986, EPA issued amendments to 40 CFR Part 720, the premanufacture notification rule (51 FR 15096), including revisions of §§ 720.36 and 720.78(b) which contain detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in small quantities solely for research and development. Because §§ 720.36 and 720.78(b) were not in effect when EPA codified § 721.19, the Agency has relied on the definition of "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities by manufacturers, importers, and processors of substances identified in SNURs qualify under this exemption. On April 22, 1986, EPA proposed amendments to 40 CFR Part 721 which would redesignate § 721.19 as § 721.18 and which would contain a new § 721.19 establishing detailed rules for the section 5(h)(3) exemption for SNURs and which would ultiamtely apply to this SNUR. The proposed new § 721.19 is similar to the revised §§ 720.36 and 720.78(b). Until the SNUR amendments are promulgated, manufacturers, importers, and processors of chemical substances identified in SNURs may look to §§ 720.36 and 720.78(b) and the proposed new § 721.19 for guidance in complying with the section 5(h)(3) exemption.

Section 721.19(g) fo the general SNUR provisions exempts persons from SNUR reporting when they manufacture (the term manufacture includes import) or process the substances solely for export and label the substances in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about environmental release during manufacture and processing of the substances, section 12(a) of TSCA prohibits EPA from requiring reporting of such manufacture of processing for a significant new use. However, such persons would be required to notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting.

The term "manufacture solely for export" is defined in § 720.3(s) of the PMN rule; an amendment clarifying this definition was issued on April 22, 1986 (51 FR 15096). The term "process solely for export" is defiend in § 721.3 of the general SNUR provisions in a similar fashion. Thus persons would be exempt from reporting under this SNUR if they manufacture or process the substances solely for export from the U.S. under the following restrictions: (1) There is no use of the substances in the U.S. except in small quantities solely for research and development; (2) processing is restricted to sites under the control of the manufacturer of processor; and (3) distribution in commerce is limited to purposes of export or processing solely for export. If a person manufactured or processed the substance both for export and for use in the U.S., the manufacturing or processing activity would not be "solely for export" because the manufacture and processing would be for use in the U.S.

VII. Applicability of Proposal To Uses Occurring Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substances in question have undergone premanufacture review. When the notice submitter begins manufacture of the substances the submitter will send EPA a Notice of Commencement of Manufacture, and the substances will be added to the Inventory. The notice submitter has not to date submitted Notices of Commencement to Manufacture. Therefore, at this time, the Agency has concluded that these uses are not ongoing. However, EPA recognizes that once the chemical substances subject to this SNUR have been added to the Inventory, they may be manufactured, imported, or processed for a significant new use as defined in this proposal before promulgation of the rule.

If, after publication of this proposal, someone were to undertake the designated significant new use, he or she could argue that the us is not "new" at the time the rule is promulgated, and therefore not a significant new use. EPA finds that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If a use begun during the proposal period were not considered to be a significant new use, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating the proposed significant new use before the rule became final. This is contrary to the general intent of section 5(A)(1)(B).

Thus, if the substances are manufactured, imported, or processed between proposal and promulgation for a proposed significant new use, the Agency will consider such use to be a significant new use if it is retained in the final rule. EPA recognizes that this interpretation may disrupt commercial activities of persons who began to manufacture, import, or process the substances for a significant new use during the proposal period. However, this proposal constitutes notice of that potential disruption, and persons who commence a proposed significant new use do so at their own risk.

The Agency, not wishing to unnecessarily disrupt the commercial activities of persons who engage in proposed significant new use prior to promulgation of a final SNUR, is considering amending Subpart A of 40 CFR Part 721 to allow for advance SNUR compliance, i.e., compliance prior to the date of promulgation. EPA will solicit public comment on an advance compliance exemption when such and exemption is proposed in the **Federal Register.**

The chemical identities of P–84–1054 and P–84–1056 are confidential and, therefore, will appear on the TSCA Inventory by generic chemical name. Therefore, any person who proposes to manufacture or import P–84–1054 or P–84–1056 is unlikely to know whether the substances are on the Inventory and, therefore, is likely to submit a *bona fide* request under either 40 CFR 710.7(e) or 720.25(b) to determine whether the substances are on the Inventory. If EPA determines that the person has a *bona*

fide intent to manufacture or import one of the substances and that the substance the person proposes to manufacture or import is P–84–1054 or P–84–1056, or the person submits a PMN for the substance, EPA will inform the person that the substance is subject to this proposal. This will give the person notice of this proposal.

VIII. Test Data and other Information

EPA recognizes that, under TSCA section 5, persons are not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential environmental risks that may be posed by a significant new use of these substances, a more reasoned evaluation of the risks posed by these substances would require additional data on acute and chronic aquatic toxicity. These data might be generated by conducting an algal toxicity test, a daphnid acute test, and a fish acute toxicity test. Depending on the results of th acute studies, chronic testing may also be needed. These studies may not be the only means of addressing the potential risks. For example, environmental fate information such as rate and degree of adsorption and biodegradation; monitoring studies of the substances' fate in biological treatment systems; etc.; may be sufficient to demonstrate on a case-by-case basis that a particular release, identified by site, rate, volume, etc., will not approach a level which is sufficient to cause concern for these substances.

EPA encourages potential SNUR notice submitters to test the substances for these concerns. SNUR notices submitted for a significant new use without such test data may increase the likelihood that EPA will take action under section 5(e). As part of an optional prenotice consultation, EPA will discuss the test data it believes necessary to evaluate a significant new use of the substances.

Test data should be developed according to TSCA good laboratory practices regulations at 40 CFR Part 792. Failure to do so may lead the Agency to find such data to be insufficient to reasonably evaluate the environmental effects of the substance. EPA encourages persons to consult with the Agency before selecting a protocol for testing the substances. EPA urges SNUR notice submitters to provide detailed information on environmental releases that will result from the significant new use. In addition, EPA urges persons to submit information on potential benefits of the substances and information on risks posed by the substances compared to risks posed by substitutes.

IX. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for these substances. This evaluation is summarized below. The Agency's economic analysis, from which CBI has been omitted, is available in the public file.

As a result of promulgation of this SNUR, EPA would incur direct costs of $11,300–$20,500. Enforcement costs will also be incurred, but they cannot be quantified at this time.

Subsequent to promulgation of the SNUR, there are three possible outcomes for firms that wish to manufacture, import, or process P–84–1054 and P84–1056: (1) Conduct their activities without release to water; (2) submit a SNUR notice describing the manufacture, processing, distribution in commerce, and disposal activities anticipated for the substances, or (3) choose not to manufacture, import, or process the substances owing to the existence of the SNUR. The costs of these outcomes are summarized below.

A. Outcome 1

If a firm's activities will not result in release of the substances to water, it will not have to submit a SNUR notice; however, it will incur costs to avoid triggering the SNUR notice. A discussion of these costs follows:

Specific costs of alternative waste management methods are unknown, but could be significant. Certain end use markets may be effectively prohibited because manufacture, processing, or disposal practices associated with such uses of these substances may unavoidably result in release to water. these costs cannot be estimated.

The firm must keep records of the name and address of each person to whom the substances are sold or transferred and the date of such sale or transfer. The present value of the cost of maintaining recordkeeping requirements over a 10-year period is estimated to be $1,520, or $225 on an annualized basis.

B. Outcome 2

One alternative under this outcome would be for a firm to submit a SNUR notice with the results of a battery of acute aquatic toxicity tests (algae toxicity test, daphnid acute test, and fish acute toxicity test). The acute test battery is expected to cost $3,860. However, depending on the results of the acute studies, chronic testing (daphnid chronic toxicity, fish early life stage toxicity) may be warranted. The chronic tests are expected to cost $26,400.

A second alternative is for a firm to file a SNUR notice with data which demonstrate that releases to water are minimal, thus possibly mitigating the Agency's aquatic toxicity concern. The cost of filing a SNUR notice is estimated at $1,400–$8,000. In addition, the submitter might incur the cost of some release controls, a reduction in profits (up to 3.2 percent) due to delays in manufacture, import, or processing, and the cost of regulatory followup.

EPA costs following promulgation of the SNUR would include the cost of reviewing the SNUR notice, an estimated $7,100, and possible modification of the terms of the SNUR ($8,700).

C. Outcome 3

If a company found the cost of controlling release to water too expensive to justify manufacture, import, or processing of the substances, the company would not incur any direct costs as a result of the SNUR. The company, as well as society, could lose benefits associated with the manufacture of the substances.

The Agency has not attempted to quantity the benefits of the proposed SNUR. In general, benefits will accrue if the proposed action leads to identification and control of unreasonable risks before significant aquatic toxicity effects can occur. Proposal and promulgation of the SNUR provides benefits of reduced environmental risks.

X. Confidential Business Information

Any person who submits comments which the person claims as CBI must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any person submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

XI. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50538). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional

information as it is received. The record now includes the following:

1. The PMNs for the substances.
2. The **Federal Register** notice of receipt of the PMNs.
3. The economic analysis of the proposed rule.
4. The toxicity support document.
5. The engineering support document.
6. The environmental exposure document.
7. The chemistry support document.

The Agency will accept additional materials for inclusion in the record at any time between publication of this proposal and designation of the complete record.

EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing sanitized copies from which CBI has been deleted is available to the public from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OTS Public Information Office, Room E-107, 401 M Street SW., Washington, DC.

XII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule is not a "major rule" because it will not have an effect on the economy of $100 million or more, and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this proposed rule, for the reasons discussed in Unit IX of this preamble, EPA believes that the cost will be low. In addition, because of the nature of the proposed rule and the substances identified in it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice, the suggested testing, and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage innovation of high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexiblity Act 5 U.S.C. 605(b), EPA certifies that this proposed rule will not, if promulgated, have a significant impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this proposed rule are likely to be small businesses. However, EPA believes that few manufacturers, importers, or processors will submit SNUR notices. Therefore, although the costs of preparing a notice under this regulation might be significant for some businesses, the number of such businesses affected is not expected to be substantial.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070-0012. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Recordkeeping and reporting requirements, Significant new uses.

Dated: May 23, 1986.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that 40 CFR Part 721 be amended as follows:

1. The authority citation for Part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. In Subpart A by adding the definition for "waters of the United States" in alphabetical sequence, to § 721.3 to read as follows:

§ 721.3 Definitions.

* * * * *

"Waters of the United States" has the meaning set forth in 40 CFR 122.2.

3. By adding a new § 721.900 to read as follows:

§ 721.900 Certain alkylsulfonic acids, ammonium salt.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The following chemical substances referred to by their premanufacture notice numbers and generic chemical names are subject to reporting under this section for the significant new uses identified in paragraph (a)(2) of this section: P-84-1054, Alkylsulfonic acid, ammonium salt.

(2) The significant new uses are:

(i) Any release to the waters of the United States from any use of the substances or from manufacture, import, processing, distribution in commerce, or disposal associated with any use of the substances.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* In addition to the requirements of § 721.17, manufacturers, importers, and processors of the chemical substances identified in paragraph (a)(1) of this section must maintain the following records for 5 years after their creation:

(i) The name and address of each person to whom the substances are sold or transferred and the date of such sale or transfer.

(ii) [Reserved].

(2) [Reserved].

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 86-13149 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-209, RM-5308]

Radio Broadcasting Services; Augusta, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Francis L. Hollon, which seeks the allotment of Channel 250A to Augusta, Illinois, as a first FM service.

DATES: Comments must be filed on or before July 28, 1986, and reply comments on or before August 12, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows:

Francis L. Hollon, Route 1, Box 72, Plymouth, Illinois 62367.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-209, adopted May 27, 1986, and released June 5, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-13133 Filed 6-10-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-210, RM-5317]

Radio Broadcasting Services; Roseau, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: This document requests comments on a petition filed by Marlan T. Obie, proposing the allotment of FM Channel 271C2 to Roseau, Minnesota, as that community's first broadcast service.

DATE: Comments must be filed on or before July 28, 1986, and reply comments on or before August 12, 1986.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: A.L. Stein, Colorado Building, Suite 915, 1341 G Street NW., Washington, DC 20005 (counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 86-210, adopted May 27, 1986, and released June 5, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible ex parte contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-13138 Filed 6-10-86; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 528 and 552

[GSAR Notice No. 5-126]

General Services Administration Acquisition Regulation

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) which would revise Part 528 to delete the reference to the waiver by the Small Business Administration of bonding requirements pursuant to the Small Business Act; to require submission of a certificate of insurance instead of a copy of the insurance policy; and to require the use of the clause at 552.228-76, Insurance, when the contract amount is expected to exceed the small purchase limitation and the contract work will be performed under special environmental conditions or unusual or hazardous circumstances. The change would also revise Part 552 to delete material in the prescriptive language that repeats material in Parts 528 and 529. The intended effect is to improve the regulatory coverage and provide uniform procedures for contracting under the regulatory system.

DATE: Comments are due in writing on or before July 11, 1986.

ADDRESS: Requests for a copy of the proposal and comments should be addressed to Ms Marjorie Ashby, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW., Room 4026, Washington, DC 20405, (202) 523-3822.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of GSA Acquisition Policy and Regulations, 18th and F Streets, NW., 4029, Washington, DC 20405, (202) 523-4765.

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. The exemption applies to this proposed rule. The GSA certifies that this document 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 proposed regulation will reduce the burden on small businesses by permitting contractors to submit certificates of insurance as evidence of compliance with the insurance clause instead of submitting a copy of the insurance policy. In addition, the number of contracts that will require the contractor's general liability insurance policy name GSA as an additional insured, with respect to operations performed under the contract, will be reduced. Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Parts 528 and 552

Government procurement.

Dated: May 23, 1986.

Ida M. Ustad,

Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 86-13178 Filed 6-10-86; 8:45 am]

BILLING CODE 6820-61-M

Notices

Federal Register
Vol. 51, No. 112
Wednesday, June 11, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

[Docket No. 86-022N]

National Advisory Committee on Meat and Poultry Inspection; Meeting

Notice is hereby given that a meeting of the National Advisory Committee on Meat and Poultry Inspection will be held from 9:00 a.m. to 5:00 p.m. on Thursday, June 26, 1986, and Friday, June 27, 1986, in the Departmental Auditorium, Conference Room B, Constitution Avenue N.W., Washington, DC. The purpose of the Committee is to permit consultation on various matters pertaining to the meat and poultry inspection program, pursuant to sections 7(c), 24, 205, and 301(a) of the Federal Meat Inspection Act (21 U.S.C. 607(c), 624, 645, and 661(a)) and sections 5(a), 8(b), and 11(e) of the Poultry Products Inspection Act (21 U.S.C. 454(a), 457(b), and 460(e)).

The June 1986 meeting will include a discussion of the following topics:

1. Modernization of Inspection Procedures
2. National Academy of Sciences' Recommendations and Strategic Plan
3. An Evaluation of the Role of Microbiological Criteria for Foods and Food Ingredients
4. International Programs
5. "LITE" and "LEAN" Labeling
6. Oversight of Custom-Exempt Activities
7. FSIS Oversight and Certification of State Meat Inspection Programs

The meeting is open to the public on a space available basis. Comments of interested persons may be filed with the Committee before or after the meeting, and should be sent to Catherine DeRoever, Director, Executive Secretariat, Room 335-E, Administration Building, U.S. Department of Agriculture, 14th Street and Independence Avenue, SW., Washington, DC 20250, (202) 447-3002.

Done at Washington, DC on: June 5, 1986.

Donald L. Houston,

Vice Chairman.

[FR Doc. 86-13084 Filed 6-10-86; 8:45 am]

BILLING CODE 3410-DM-M

Forms Under Review by Office of Management and Budget

June 6, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Forest Service
Supplemental Qualifications Statement—Forestry Aid/Technician Positions, GS-2/7
FS 6100-7
On occasion
Individuals or households; 6,000 responses; 6,000 hours; not applicable under 3504(h)
Maryann Van Sickle (703) 235-2046.

New

• Economic Research Service
Natural Resource and Manufactured Input Use Survey Annually
Farms; 4,600 responses; 2,300 hours; not applicable under 3504(h)
Dr. John Schaub (202) 786-1469.
• Farmers Home Administration
7 CFR 1956-B, Debt Settlement
On occasion
Individuals or households; State or local governments; Farms; Businesses or other for-profit; Small businesses or organizations; 4,300 responses; 1,525 hours; not applicable under 3504(h)
Galen Van Vleet (202) 475-4003.

Revision

• Farmers Home Administration
Application for Settlement of Indebtedness
FmHA 456-1
On occasion
Individuals or households; Farms; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 3,000 responses; 1,500 hours; not applicable under 3504(h)
Galen Van Vleet (202) 475-4003.

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 86-13166 Filed 6-10-86; 8:45 am]

BILLING CODE 3410-10-M

Soil Conservation Service

Perilla Mountain Watershed, AZ

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Perilla Mountain Watershed project, Cochise County, Arizona, effective on March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Verne M. Bathurst, State Conservationist, Soil Conservation Service, 201 East Indianola Avenue,

Suite 200, Phoenix, Arizona 85012, 602–241–2247.

Dated: May 19, 1986.

Verne M. Bathurst,

State Conservationist.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials.)

[FR Doc. 86–13170 Filed 6–10–86; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Large Power Transformers From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On June 22, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on large power transformers from Japan. The review covered two of the three known manufacturers of this merchandise and consecutive periods from July 1, 1980 through May 31, 1983.

We gave interested parties an opportunity to comment on the preliminary results. At the request of the respondents we held a public hearing on July 27, 1984. After considering the comments received, we have changed the margins from those presented in the preliminary results of review.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Hudak or Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On June 8, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 26498) the final results of its last administrative review of the antidumping finding on large power transformers from Japan (37 FR 11773, June 14, 1972). We began this review of the finding under our old regulations and published in the **Federal Register** the preliminary results of our review on June 22, 1984 (49 FR 25649). After the promulgation of our new regulations, the respondents requested that we complete the administrative review in accordance with § 353.53a(a) of the Commerce Regulations. We have now completed that administrative review with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of large power transformers ("transformers"), that is, all types of transformers rated 10,000 KVA (kilovolt-amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination rectifier-transformer units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. Transformers covered by this finding are currently classifiable under items 682.0755, 682.0765, and 682.0775 of the Tariff Schedules of the United States Annotated.

The review covers two of the three known manufacturers of this merchandise to the United States, Hitachi, Ltd. and Tokyo Shibaura Electric Co., Ltd. ("Toshiba"), and consecutive periods from July 1, 1980 through May 31, 1983. We will cover the third firm, Fuji Electric Co., Ltd., in another review.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. At the request of the respondents we held a public hearing on July 27, 1984.

In addition, we held a conference on April 6, 1984, with all interested parties in all of the outstanding transformer cases, solely for the presentation of views on the appropriate method for adjustment for differences in the efficiency of transformers. We received comments in that conference from Westinghouse, Toshiba, Hitachi, Fuji Electric, Alsthom Atlantique, Industrie Elettriche di Legnano, Ansaldo Componenti, S.p.A., and General Electric Co. We are deferring our decision on any revision of the method we use to calculate efficiency differences.

Comment 1: Hitachi submits that the Department should abandon its "best information" preliminary results and proceed with selection of the most comparable home market transformer units, the next step in the review process. Hitachi claims that its responses to the Department's requests for information were adequate by fair and reasonable standards of interpretation and that information missing at the time of publication of the preliminary results either did not exist or was *de minimis* in amount and immaterial in importance. Hitachi claims that, as of the date of publication, it has supplied nearly everything the Department had requested and everything needed by the Department in order to select the most comparable home market units. Hitachi adds that it is unfair for the Department to use best information in circumstances where the vagueness of the Department's requests for information made it impossible for Hitachi to comply in a timely manner.

Department's position: We disagee with Hitachi that it was in substantial compliance with our requests for timely and complete responses. Although Hitachi submitted a substantial amount of information during the review, as of the date of publication of our preliminary results, despite our numerous requests, Hitachi had not supplied certain home market sales information which we deemed necessary to select the most comparable home market units. Specifically, we made repeated clear requests for the identifiable price or value for the transformer portion of any package or system sale.

A package sale is a single sale of several transformers with spare parts or accessories, all at a single price. A system sale is an integrated unit consisting of one or more transformers plus related electrical and other equipment (*see* the final results of the administrative review on certain electric motors from Japan (49 FR 32627, August 15, 1984)). Where price information on such sales was not available, we requested a value for the transformer portion of the package or system and an explanation of how Hitachi derived that value. When we finally received information, it was clearly inadequate.

In *Timken Co.* v. *United States*, Slip Op. 86–17 (February 20, 1986) ("Timken"), the Court of International Trade found that the Department has abused its discretion when it failed to collect the data necessary to ascertain the appropriateness of the respondent's model selection. The Court noted: "The issue of what constitutes proper model comparisons and the related issue of home market data selection go to the heart of the ITA's determination,

concerning as they do the identity of the merchandise the ITA compared for the purpose of determining dumping margins." Hitachi's conduct, which impeded the investigation, and its failure to provide useable package or system sale price or value information, warrant our using the best information available.

Comment 2: Toshiba contends that the Department should reconsider using the best information otherwise available. Toshiba claims that it initially supplied all information necessary for a proper selection of a transformer comparable to its U.S. unit and subsequently provided large quantities of additional data. Specifically, Toshiba argues that a former Department case analyst, in a handwritten note to Toshiba, indicated that he had selected a certain unit (the Customer E unit) for comparison with the one U.S. sale. Toshiba claims it provided the Department with a full questionnaire response regarding the Customer E unit. Toshiba argues that Westinghouse subsequently urged the Department to use either of two home market sales, one of which was the Customer E unit, in the comparison. Toshiba therefore claims that, by March 1982, all parties had agreed to comparison using the Customer E unit. However, the Department later informed Toshiba that the Customer E selection was tentative (because the Department could not locate the home market listing upon which the departed analyst based that selection), implied that there was no agreement between the parties, and requested additional data. Toshiba then supplied the additional information. Toshiba urges that it should not suffer because of a mistake by the Department, especially since all parties had already agreed on the selection of a suitable home market unit.

Department's position: The record is unclear about who agreed to what and when in the review process. What is clear is that, when we learned of certain home market package or system sales and requested more information about them, Toshiba refused to provide it. This fact alone warrants our use of the best information available. *See generally, Timken*, supra.

Comment 3: The respondents contend that the Department's request for price information prior to final selection of a comparable home market unit was unnecessary and inappropriate. The respondents argue that the antidumping law requires the Department to select such or similar merchandise for comparison with the U.S. sale, that "such or similar" means merchandise that is most alike in physical characteristics to the U.S. merchandise, and that the purpose of an antidumping investigation is to determine whether there are any price differences between the U.S. merchandise and the comparison of such or similar merchandise. It would be totally improper for the Department to consider price factors in the process of selecting such or similar merchandise because to do so would beg the ultimate question for resolution.

Toshiba, indicating that its refusal to supply such price information was entirely reasonable, further claims that the Department's detailed specification sheets ask for a great deal of information about physical characteristics of transformers. Moreover, the Department specifically asked Toshiba to identify any unusual circumstances of sale associated with the transformers in question. Toshiba argues that the Department's specification sheet requests for information, if answered correctly, were ample to alert the Department to any unusual physical characteristics or circumstances of sale. The Department should properly use best information otherwise available only if it subsequently discovers during verification that Toshiba had not adequately answered the detailed specification sheets (resulting in an incorrect selection). The Department should not require, prior to final selection of the most similar home market unit, the submission of highly sensitive price data on many units, most of which will not be used in the Department's final analysis.

Hitachi also argues that the Department should not require respondents to submit home market price information prior to final selection. Hitachi contends that the use of such information raises serious doubts about the Department's ability to render an impartial decision, since both Westinghouse and the Department, possessing such price information, are in a position to "margin-shop".

Department's position: During the last administrative review we developed a 6-step procedure for selection of the most similar home market unit for comparison with each U.S. unit. In the final results of that review we stated that the fourth step of the selection procedure would require each respondent to submit detailed specifications for each home market unit the Department initially selected as potentially suitable for comparison. During the first review there was ample opportunity to comment on the procedures, as well as on the content of the Department's detailed specification sheets (including the price data in contention here).

In the current review, with a few minor exceptions, we followed the 6-step procedure and, after isolating a number of possible comparison units for each U.S. sale, required the submission of the detailed specification sheets in order to make our final selections. In selecting the most similar home market transformer, we consider every element requested on the specification sheets. Our technical experts consider certain items on the detailed specification sheets *essential* in selecting the most similar home market unit. The items include, but are not limited to, price and power rating (kVA) information. Price and kVA data allow us to arrive at a dollar price per kVA ratio, which we use as a major element in determining the most similar home market unit for comparison with a U.S. unit.

Our experience in this and other reviews involving large power transformers has been that complete price information remains essential to the selection process. Due to the technical complexity and customized design requirements of the merchandise and the varying adequacy and accuracy of information supplied in response to the detailed specification sheets, we need such price information to enable us to identify unusual features of particular units. Information submitted in prior reviews has not necessarily been accurate, has sometimes been unintentionally ambiguous and/or misleading, or has been incomplete. Since all units differ somewhat, price information is a key factor in the selection process. Complete detailed specifications, including price information, give the clearest possible picture of a unit and provide the necessary basis for an accurate determination as to which of the initially selected potential comparison units is, in fact, most suitable for the comparison.

The Department, in addition to considering price information critical in this case, regularly uses price information in the selection process in antidumping reviews. In every antidumping review, we analyze home market (or third-country) sales information, including price, to ensure that we do not choose for comparison sales which are outside the ordinary course of trade (e.g., samples or "seconds"). Further, we require price information to ensure that a respondent is reporting actual sales rather than pretended sales or offers for sale. We also use price data to identify sales which are related party transactions. We require such price information prior

to our final selection of the appropriate sales to use for foreign market value. We note that section 771(16)(B) of the Tariff Act includes a price test as one of the criteria to determine whether home market merchandise is similar to the exported product.

Further, we cannot permit a respondent to decide unilaterally not to supply data because it believes the information to be irrelevant. In *Timken* the Court noted: "It is of particular importance that the administering agency itself make the required determination of what constitutes most similar merchandise, rather than delegating that responsibility to an interested party."

Finally, we only requested price information on four of Toshiba's many home market units, those four which we initially selected as potentially the most comparable units. We do not agree with Toshiba's argument that the submission of price information is so highly sensitive that it should not be submitted on these units. Our regulations prohibit the release of proprietary information to anyone except under the strict constraints of an administrative protective order.

As for Hitachi's comment, we do not "margin-shop". In our response to Toshiba's comment above we have explained our need for home market price information prior to final selection of the most similar home market unit.

Comment 4: Toshiba argues that the Department improperly used a package sale as the basis for its best information foregin market value in the preliminary results. Toshiba contends that it is impossible to separate the price of an individual transformer within the package from the single package price. Further, the merchandise involved in the package sale is quite distinct and dissimilar from the transformer sold by Toshiba in the United States. Therefore, the Department should have selected another home market transformer for comparison with Toshiba's U.S. unit.

Hitachi argues that the Department cannot legally use allocations of package or system sale prices in determining foreign market value, because the statute does not authorize the use of "constructed value-type" information with regard to home market sales. Hitachi's JAERI home market sale was a system sale for which no separate price existed for the two transformers in the system. In Hitachi's view, we cannot use a price, such as that derived from Westinghouse's best information submission, which we know is fictitious. Hitachi adds that Westinghouse merely named the source of its price submission but did not submit the source document itself.

Westinghouse notes that the Department previously rejected the argument that package sales are *per se* exempt from consideration as comparison units, citing the final results of review on certain Japanese electric motors (see our position on Comment 1). The Department determined there that motors included as part of a system or package sale are of the same general class or kind of merchandise, are used for the same purposes, and that a price can be developed for the individual motors on the basis of cost plus an allocated portion of the profit on the package.

Department's position: We agree with Westinghouse. We believe we have the legal authority and ability to develop meaningful prices for individual transformers in package or system sales on the basis of cost plus an allocated portion of the profit, but to do so we need complete price information on such sales. Given the substantial cost of each transformer unit, we do not accept Hitachi's claim that it was unable to identify a price or value for the transformer portion of its package and system sales. Finally, Westinghouse's listing of sources was adequate substantiation for our purposes.

Since Toshiba declined to furnish this information, and Hitachi's belated attempt was inadequate, we had to resort to using the best information otherwise available.

Comment 5: Hitachi contends that one of the practical problems arising from the Department's preliminary decision to use best information is that respondents normally submit much detailed information on the most comparable home market unit after the Department selects that unit. The Department decided to use the best information otherwise available before Hitachi had the opportunitly to submit such "post-selection information". Hitachi did provide much of the information with its hearing exhibits, for example, transportation charges and dollar adders for certain of the best information home market units. Hitachi submits that its exhibits are the best information for the relevant adjustments.

Since the Department normally does not request such information, nor is it normally provided to the Department, until after the Department's final selection, Hitachi argues that the Department should not ignore the information based upon the arbitrary rule that the Department will only consider information submitted before signature of the preliminary results in reaching the final results of a review.

Hitachi further argues that the point at which the Department could cut off consideration of submitted information in reaching final results occurs at some point after submission of post-hearing briefs. Otherwise, Hitachi concludes, the Department would be disregarding that part of the Tariff Act which authorizes the use of best information and ignoring §§ 353.46 and 353.47 of the Commerce Regulations.

Westinghouse, in making its argument for certain modifications to the "best information" preliminary results, also supplied new information to the Department subsequent to publication of the preliminary results.

Department's position: We must use the best information otherwise available whenever a party or any person refuses or is unable to provide requested information in a timely manner and in the form required, or otherwise significantly impedes an investigation. We need all factual information before the preliminary results so that all parties may fully comment on those results. Since Hitachi did not provide the data needed for the preliminary results, we had to rely on the best information otherwise available. Our actions in this review conform with §§ 353.46 and 353.47 of the Commerce Regulations, since we allowed the opportunity for comments, a hearing, and both pre- and post-hearing briefs.

The best information otherwise available in this review includes the respondents' information which had been independently corroborated, the petitioner's information, and information provided by the Customs Service. We did not use new information submitted by a respondent or the petitioner which we received after publication of the preliminary results. Our refusal to use Hitachi's information, including its submission in its post-hearing brief, is based on Hitachi's impeding the investigation, its submission of inadequate information, and its failure to submit information in a timely manner.

Comment 6: Hitachi charges that the Department abdicated its responsibility to conduct the review by turning over to Westinghouse approval of the "carve-out" proposal. Hitachi's proposal would have required Hitachi only to report on home market sales during a shortened period of time. Hitachi contends that Westinghouse totally mischaracterizes the "carve-out" exercise as designed to delay the review.

Department's position: We followed the 6-step procedure for selection of the

most similar home market unit for comparison with each U.S. unit. We first developed the procedure during the prior section 751 review. The first step of this selection procedure consists of our request from each respondent for a complete listing of home market sales along with the general specifications of each unit sold. As in the prior review, we requested that the information be supplied on abbreviated specification sheets. There was ample opportunity during the prior review to comment on the proposed procedure and the use of the abbreviated specification sheets. During the course of this review we indicated that we were willing to review any proposal by Hitachi regarding a "carve-out." Hitachi could have made a proposal directly to us or after reaching an agreement with Westinghouse. Hitachi chose to try for an agreement with Westinghouse. The effort resulted in significant delay and ultimately failed. We adhered to the selection procedure and did not abdicate our responsibility. Any substitute for a complete home market listing, whether offered by Hitachi alone or by Hitachi and Westinghouse jointly, would have been subject to our approval or disapproval.

Comment 7: Westinghouse and Hitachi both maintain that the Department's generally applicable step-by-step procedure for comparing large power transformers requires some basic corrections. Westinghouse argues that the Department's procedure improperly applied the Westinghouse Pricing Rule ("WPR") ratio to items not included within that ratio and failed to apply the ratio to items properly included.

Westinghouse recommends that the Department adopt the following procedure:

1. Develop a theoretical WPR price for the selected home market transformer.
2. Develop a theoretical WPR price for the U.S. transformer.
3. Use the theoretical prices developed in steps 1 and 2 to arrive at a ratio of theoretical WPR prices (U.S./home market.)
4. Adjust the actual sales price of the home market transformer to an ex-factory, packed price.
5. Adjust the actual sales price of the U.S. transformer to an ex-factory, packed price.
6. Adjust the actual ex-factory sales price of the home market transformer, including all value received, to account for differences between the home market unit and the theoretical price of the home market unit, including:
   a. The value of credit extended/advance payments received on the home market sale;
   b. Those circumstances of sale increasing or decreasing the price received for the home market unit;
   c. Cost-based adjustments for physical characteristics of the home market unit not covered by the WPR;
   d. Packing of the home market unit.
7. Adjust for differences in efficiency between the U.S. and home market units.
8. Adjust the price of the home market unit for inflation between home market and U.S. shipment dates.
9. Apply the theoretical WPR ratio derived in step 3 to the home market price derived in step 6.
10. Convert the ratio-adjusted home market price derived in step 8 to U.S. dollars.
11. Adjust the home market price derived in step 10 for differences between the U.S. sale and the adjusted home market sale, including:
   a. The value of credit extended/advance payments received on the U.S. sale;
   b. Those circumstances of sale increasing or decreasing the price received for the U.S. unit;
   c. Cost-based adjustments for physical characteristics of the U.S. unit not covered by the WPR;
12. Subtract the U.S. price (step 5) from the adjusted home market price (step 11) to arrive at a margin stated in U.S. dollars.
13. Divide the dollar margin obtained in step 12 by the price derived in step 5 to determine the percent margin.

Hitachi is in substantial agreement with Westinghouse's comments and only disagrees with the manner in which Westinghouse would implement its proposed procedure with regard to packing costs and inflation.

Department's position: As noted in the final results of the administrative review on larger power transformers from France (49 FR 36888, September 20, 1984), we generally agree that the proposed procedure would result in a more accurate comparison. However, we do not agree that a separate adjustment in steps 6a and 11a for the value of credit extended/advance payments received on the home market sale and U.S. sale is needed, because the Department considers adjustments for differences in credit terms to be circumstance-of-sale adjustments already accounted for in steps 6b and 11b. Similarly, we do not agree that a separate inflation adjustment in step 8 is necessary for differences between home market and U.S. shipment dates because the Department will consider an inflation adjustment in steps 6c or 11c, as appropriate.

Comment 8: Hitachi, Toshiba, and Westinghouse agreed that there were 12 errors in the best information otherwise available that we used to calculate the preliminary results margins. They also agreed on the necessary corrections.

Department's position: We have changed the preliminary calculations to correct the 12 agreed-upon errors, as follows:

1. Changed the percent adder for impedance on the Toshiba Customer C unit to 8 percent;
2. Changed the percent adder for sound level on the Toshiba Customer C unit to 9 percent;
3. Included a dollar adder of $2,353 for the 112 kv arrester on the Toshiba Customer C unit;
4. Included a $1,200 adder for six low voltage bushing current transformers on the Toshiba Customer C unit;
5. Changed the pricing kVA on the Toshiba Customer C unit to 110,259;
6. Used a $1,400 adder on the Toshiba SMUD unit because the customer specification lists only a single DHS relay;
7. Used a 22 percent adder for the LTC application charge on the Hitachi Chubu unit;
8. Included a 5 percent adder for auxiliary cooling on the Hitachi JAERI unit;
9. Deleted the percent adder for tap range on the Hitachi JAERI unit;
10. Changed the dollar adder on the 4 Hitachi units sold to TVA from $5,332 to $1,333 each;
11. Changed the dollar adder on the Hitachi Seattle 50 MVA unit for the six C–800 accuracy, 2000/5 bushing current transformers to a total of $3,954; and
12. Changed the dollar adder on the Hitachi Seattle 75 MVA units for temperature tests from $2,666 to $888 each.

We did not consider a number of other comments because they were either untimely, unsupported by substantial evidence, or the supporting information was unverifiable and/or inadequate.

Final Results of the Review

Based on our analysis of the comments received, we have determined that the following margins exist:

Manufacturer	Period	Margin (percent)
Hitachi	07/01/80–07/23/83	9.80
Toshiba	07/01/80–10/17/81	
	10/18/81–05/31/83	[1] 8.65 9.39

[1] No shipments during the period.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service. Further, as provided for in section 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based upon the most recent of the above margins shall be required for these firms. For any shipment from a new exporter not covered by this or prior administrative reviews, whose first shipments of large power transformers occurred after May 31, 1983, and who is unrelated to any covered firm, a cash deposit of 9.80 percent shall be required. For the third known manufacturer, Fuji Electric Co., Ltd., the cash deposit requirement remains unchanged. These deposit requirements are effective for all shipments of Japanese large power transformers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: June 4, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-13184 Filed 6-10-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-508-601]

Preliminary Affirmative Countervailing Duty Determination: Oil Country Tubular Goods From Israel

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Israel of oil country tubular goods (OCTG). The estimated net subsidy is 2.69 percent *ad valorem* during the review period. However, consistent with our stated policy of taking into account program-wide changes that occur before our preliminary determination, we are adjusting the duty deposit rate to reflect changes in the Bank of Israel Export Production Fund Program. We also preliminarily determine that critical circumstances do not exist.

We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of OCTG from Israel that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in an amount equal to the duty deposit rate.

If this investigation proceeds normally, we will make our final determination on or before August 19, 1986.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Laura Winfrey, Jessica Wasserman, or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1784, 377-1442 or 377-0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Israel of OCTG. For purposes of this investigation, the following programs are found to confer subsidies:

1. The Encouragement of Capital Investments Law 5719-1959 (ECIL):
—Preferential Accelerated Depreciation
—Other ECIL Tax Benefits

2. Bank of Israel Export Loans:
—Export Production Fund
—Export Shipments Fund
—Imports-for-Exports Fund

3. Exchange Rate Risk Insurance Scheme.

We preliminarily determine the estimated net subsidy to be 2.69 percent *ad valorem*, and the duty deposit rate to be 2.12 percent *ad valorem*, for all manufacturers, producers, or exporters in Israel of OCTG.

Case History

On March 12, 1986, we received a petition in proper form from Lone Star Steel Company and CF&I Steel Corporation. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Israel of OCTG, directly or indirectly, receive subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on April 8, 1986, we initiated an investigation (51 FR 11965). We stated that we expected to issue a preliminary determination on or before June 5, 1986.

Since Israel is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Israel materially injure, or threaten material injury to, a U.S. industry. Therefore, we notified the ITC of our initiation. On May 7, 1986, the ITC determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Israel of OCTG.

We presented questionnaires concerning the petitioners' allegations to the Government of Israel and Middle East Tube Co., Ltd. ("METCO"), the only manufacturer, producer, or exporter in Israel of OCTG, in Washington, DC on April 11, 1986. Responses to our questionnaires were received on May 16 and 21, 1986.

Scope of Investigation

The products covered by this investigation are "oil country tubular goods," which are hollow steel products of circular cross-section intended for use in drilling for oil or gas. These products include oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specification as currently provided for in the *Tariff Schedules of the United States, Annotated* (TSUSA) under item numbers:

610.3216	610.3935	610.4955
610.3219	610.4025	610.4956
610.3233	610.4035	610.4957
610.3234	610.4210	610.4966
610.3242	610.4220	610.4967
610.3243	610.4225	610.4968
610.3249	610.4230	610.4969
610.3252	610.4235	610.4970
610.3254	610.4240	610.5221
610.3256	610.4310	610.5222
610.3258	610.4320	610.5226
610.3262	610.4325	610.5234
610.3264	610.4335	610.5240
610.3721	610.4942	610.5242
610.3722	610.4944	610.5243
610.3751	610.4946	610.5244
610.3925	610.4954	

This investigation includes OCTG in both finished and unfinished condition.

For purposes of its preliminary determination, the ITC ruled that drill

pipe is a separate "like product" from other types of OCTG. Since neither of the petitioners manufactures, produces, or wholesale drill pipe, they are not "interested parties" with respect to drill pipe, within the meaning of section 771(9)(C) of the Act. Therefore, we will not investigate sales of drill pipe in this investigation.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984 issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidies ("the review period") is calendar year 1985. Based upon our analysis of the petition and the responses to our questionnaires, submitted by the Government of Israel and METCO, we preliminarily determine the following:

I. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies, are being provided to manufacturers, producers, or exporters in Israel of OCTG under the following programs:

A. The Encouragement of Capital Investments Law 5719–1959 (ECIL)

The purpose of the ECIL is to attract capital to Israel with a view toward developing the productive capacity of the national economy, improving the balance of payments, absorbing immigration, and offsetting the economic disadvantages in Israel's development areas. Petitioners allege that the Government of Israel provides various benefits to manufacturers, producers, or exporters in Israel of OCTG under the following sections of the ECIL.

1. ECIL Preferential Accelerated Depreciation. Section 42 of the ECIL provides that approved enterprises may depreciate: 1) machinery and equipment at double the normal rate for five years and 2) buildings at four times the normal rate. The law states that the accelerated depreciation is available only to approved enterprises.

The responses gave no indication as to which enterprises are eligible for this program or how the approval process works. Because government approval is required, there is the possibility that the government limits this program to specific enterprises. Thus, we preliminarily determine that it confers countervailable benefits to manufacturers, producers, or exporters in Israel of OCTG.

For tax programs, we generally determine the value of the subsidy by calculating the amount of the benefit based on the tax return filed during the review period. According to the responses of the Government of Israel and METCO, METCO's tax liability was not affected by the application of these benefits on the tax return filed during the review period. Although we preliminarily determine that the preferential accelerated depreciation program confers a countervailable benefit to manufacturers, producers, or exporters in Israel of OCTG, the estimated net countervaliable benefit is zero.

2. Other ECIL Tax Benefits. Under the ECIL, approved enterprises are liable for payment of a 30 percent corporate tax on approved fixed assets, while the regular corporate tax rate is 40 percent. In addition, under section 47 of the ECIL, the maximum tax liability of an approved enterprise may vary according to the date on which the enterprise was established. Petitioners also allege that various other tax benefits are available under the ECIL, including a maximum tax rate of 25 percent on income from approved investments. According to the law, the tax benefits are available to only approved enterprises.

The response gave no indication as to which enterprises are eligible for this program or how the approval process works. Because government approval is required, there is the possiblity that the government limits this program to specific enterprises. Thus, we preliminarily determine that it confers countervailable benefits to manufacturers, producers, or exporters in Israel of OCTG.

As stated in section I.A.1 above, for tax programs we generally determine the value of the subsidy by calculating the amount of the benefit based on the tax return filed during the review period. According to the responses of the Government of Israel and METCO, METCO's tax liability was not affected by the application of these benefits on the return filed during the review period. Therefore, although we preliminarily determine that these tax benefits confer countervailable benefits to manufacturers, producers, or exporters in Israel of OCTG, the estimated net countervailable benefit is zero.

B. Bank of Israel Loans

Petitioners allege that the Government of Israel provides preferential export financing to manufacturers, producers, or exporters in Israel of OCTG through three export credit funds administered by the Bank of Israel:

1. Export Production Fund (EPF). Under the EPF, loans are provided to exporters to enable them to finance export production. Eligibility for EPF loans is contingent upon exportation. During the review period, EPF financing was available both in foreign currencies and in new Israeli shekels (N.I.S.). According to the reponse, in July 1985, the Bank of Israel discontinued EPF financing in N.I.S. As of that date, EPF financing became available only in foreign currencies at interest rates not to exceed LIBOR plus two percent.

Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates. With respect to the foreign-currency denominated loans, the company reponse states that dollar financing is not available from private sources in Israel.

Nor were we able to obtain benchmark interest rates for these loans from independent sources. Therefore, we have relied on our earlier determination regarding *Potassium Chloride from Israel: Final Affirmative Countervailing Duty Determination* (FR 36122) in deriving our benchmark.

In that case, we found that the appropriate benchmark for foreign-currency denominated loans was a so-called "Euro rate" plus two percent. We have continued to apply the two percent premium and have added it to the nominal London Interbank Offer Rate on U.S. dollar deposits in effect during the review period.

With respect to N.I.S.-denominated loans, we used as our benchmark the effective rate on Israeli shekel overdraft accounts during 1985 provided in the Government of Israel reponse.

Comparing these benchmarks to the interest rates charged on the EPF loans, we also preliminarily determine that the EPF loans were provided at preferential interest rates, and are, hence, countervailable.

To determine the benefit provided under this program, we based our calculations on the total value of the export loans because METCO did not segregate specific loans to OCTG. For the N.I.S. financing, we calculated the total amount of interest METCO would have paid under the benchmark and subtracted from that amount, interest METCO actually paid. We then allocated the difference over total export sales. For the foreign currency financing, we followed the same procedure by taking the total amount of interest METCO would have paid and subtracted from that amount, the amount of interest METCO actually paid. We allocated the difference over total export sales. Adding the benefits from the N.I.S.—and foreign currency-denominated loans, we calculated an estimated net subsidy rate of 0.58 percent *ad valorem*.

In cases in which program-wide changes have occurred prior to a preliminary determination, and where the changes are verifiable, the Department's practice is to adjust the duty deposit rate to correspond to the eventual duty liability. Because the response states that short-term N.I.S.-denominated export financing is no longer available, and since METCO had no outstanding N.I.S.-denominated loans at the end of the review period, we have adjusted the duty deposit rate to reflect this change. Therefore, the duty deposit rate for this program is 0.01 percent *ad valorem*.

2. Export Shipments Fund (ESF). Under the ESF, loans are provided to exporters to enable them to extend credit in foreign currency to their overseas customers. The financing of the shipment is granted after the shipment of the goods and the credit is granted for not more than six months.

Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates. We used as our benchmark for this fund the foreign currency benchmark described in the "Export Production Fund" section of this notice. Comparing the benchmark interest rate to the actual rate charged on these loans, we also preliminarily determine that the loans were provided at preferential rates and are, hence, countervailable. Applying the methodology described in section I.B.1 above, we calculate an estimated net subsidy rate of 0.001 percent *ad valorem*.

3. Imports-for-Exports Fund (IEF). Under the IEF, exporters receive loans denominated in foreign currency in order to finance imported materials used for export production. Because only exporters are eligible for these loans, we preliminarily determine that they are countervailable to the extent that they are provided at preferential rates. We used as our benchmark for this fund the foreign currency benchmark described in the "Export Production Fund" section of the notice. Comparing the benchmark interest rate to the actual rate charged on these loans, we also preliminarily determine that the loans were provided at preferential rates and are, hence, countervailable. Applying the methodology described in section I.B.1 above, we compared the benchmark to the preferential interest rate obtained by METCO on the IEF loans. The benefit was then allocated over METCO's total exports of OCTG during the review period. On this basis, we calculate an estimated net subsidy rate of 0.01 percent *ad valorem*.

C. Exchange Rate Risk Insurance Scheme

Petitioners allege that manufacturers, producers, or exporters in Israel of OCTG benefit from the Exchange Rate Risk Insurance Scheme (EIS) operated by the Israel Foreign Trade Risks Insurance Corporation Ltd. (IFTRIC). The scheme insures exporters against decreased payments in foreign-currency receivables resulting from delays in the devaluation of the shekel. According to petitioners, the premiums charged under this program may be manifestly inadequate to cover the long-term operating costs and losses of the program.

According to the response of the Government of Israel, the EIS is a mixture of exchange rate risk insurance and cost escalation schemes. The main purpose of the EIS is to insure the exporter's revenue (in domestic currency) when it lags behind increases in local costs due to unexpected fluctuations between exchange rates and domestic price increases. During the past six years, Israel has had very high inflation rates. The rate of inflation has dropped since August 1985, but, according to the response, the rate of devaluation of the shekel still lags behind the rate of inflation. Because of the problems encountered by the exporter when devaluation lags behind inflation, the EIS aims to cover the exporter during this period.

The EIS is based on a weighted average of the U.S. dollar, French franc, German mark, Dutch guilder and British pound. The program also insures the exporter against fluctuations between those currencies. The scheme is optional and open to any exporter willing to pay a premium to IFTRIC. Compensation to the exporters is calculated by the change in the rate of devaluation of the shekel against the other foreign currencies and the change in the consumer price index. If changes in domestic prices are higher than changes in the rate of the shekel, the exporter is compensated by an amount equal to the difference of the changes multiplied by the value-added of his exports. But, if the rate of devaluation is higher than the change in the domestic price index, the exporter must compensate IFTRIC. Since the premium is paid on the basis of the value-added of the exports, the rate is the same for all industries.

IFTRIC functions under the assumption that fluctuations between the changes in domestic prices and the changes in the devaluation of the shekel will be in balance. In 1984, inflation was much higher than expected and devaluation of the shekel lagged behind the rate of inflation; consequently, IFTRIC registered a loss in 1984. The government response indicates that IFTRIC will probably operate at a loss in 1985, but complete data for that year are not yet available.

In determining whether an export insurance program provides a countervailable benefit, we look to see if the premium rates charged are adequate to cover the program's long-term operating costs and losses. We examined this program once before, in the countervailing duty investigation regarding *Potassium Chloride from Israel: Final Affirmative Countervailing Duty Determination* (49 FR 36122). At that time, September 14, 1984, there was insufficient data to determine that the premiums charged were manifestly inadequate to cover long-term operating costs. We indicated, however, that EIS was in a loss situation and that we were not making a conclusive determination on the program's countervailability at that time.

In this case, the response indicates that the program was in a loss position throughout 1984 and probably will be in a loss in 1985. This, combined with the fact that no data were provided on the program's premium collections, indemnity payments, or operating costs, lead us preliminarily to determine that the premiums charged are manifestly inadequate to cover the long-term operating costs of this program and that this program confers a countervailable benefit on manufacturers, producers, or

exporters in Israel of OCTG. We calculated the benefit from this program on the basis of the best information available by allocating the amount of compensation METCO received from IFTRIC, after deducting its premium paid, over METCO's total exports during the review period. This resulted in an estimated net subsidy of 2.10 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs have not been used by manufacturers, producers, or exporters in Israel of OCTG during the review period.

A. Investment Grants

Petitioners allege that under section 40B of the ECIL, approved enterprises may receive investment grants for the purpose of purchasing assets on industrial buildings, land development, and building repairs. The amount of the grant varies according to the development zone in which the project is located, the type of investment and the corporate structure of the enterprise.

According to the responses of the Government of Israel and METCO, METCO did not receive any ECIL investment grants with respect to the manufacture, production, or sale of OCTG during the review period. The response indicates that METCO received and ECIL investment grant on other merchandise not subject to this investigation. We will carefully examine the utilization of these benefits at verification.

B ECIL Loans

Petitioners allege that manufacturers, producers, or exporters in Israel of OCTG may receive loans on terms inconsistent with commercial considerations under section 24 of the ECIL for the enlargement of facilities. According to the responses of the Government of Israel and METCO, METCO did not receive any ECIL loans with respect to the manufacture, production, or sale of OCTG during the review period.

C Property Tax Exemptions on Buildings and Equipment

Petitioners allege that manufactuers; producers, or exporters in Israel of OCTG may benefit from tax benefits under the ECIL that allow eligible enterprises a five-year exemption from payment of two-thirds of property taxes on buildings and a ten-year exemption from payment of one-sixth of property taxes on equipment. According to the responses of the Government of Israel and METCO, property taxes were abolished for all taxpayers in Israel as of April 1, 1981. METO did pay a special tax on its building and equipment under the Capital Levy on Property Law (Ad Hoc Provisions), 5745–1985, applicable only during 1985. The same rate was applicable to all companies in Israel and according to the response, METCO did not receive an exemption from this tax.

D. ECIL Interest Subsidy Payments

Petitioners allege that manufacturers, producers, or exporters in Israel of OCTG receive grants provided by the Government of Israel for the rebate of interest on loans provided by commercial banks. The amount of the grant varies according to the development zone in which the enterprise is located.

In its response, the Government of Israel states that certain investment programs in Israel approved after July 1, 1985 were provided with a supplementary temporary capital grant. According to the responses of the Government of Israel and METCO, METCO did not apply for the use of this investment program during the review period.

E. Partial Non-Payment of Employer's Tax

Although not specifically alleged by petitioners, we stated in our Notice of Initiation that this program may provide benefits to manufacturers, producers, or exporters in Israel of OCTG. Under section 55B of the ECIL, employers in approved industrial enterprises located in Development Zone A or B may be exempt from either one half or all of the employer's tax. According to the responses of the Government of Israel and METCO, since April 1, 1980, the employer's tax has not been levied on the productive sectors to the economy. Therefore, METCO did not receive a benefit under this program during the review period.

F. Drawback Grants

Although not specifically alleged by petitioners, we included in our Notice of Initiation a reference to ECIL drawback grants. Section 40E of the ECIL provides that the owner of an approved enterprise is entitled to a drawback grant with respect to taxes on investments and investment expenditures. According to the responses of the Government of Israel and METCO, METCO did not receive a drawback grant in connection with investment for the production of OCTG during the review period, and, as of April 1, 1986, ECIL drawback grants were abolished.

G. Encouragement of Industrial Research and Development Law 5744–1984 (EIRD)

Petitioners allege that manufacturers, producers, or exporters in Israel of OCTG may benefit from research and development grants equal to 50 percent of approved project costs where such activity is directed at export expansion. According to the responses of the Government of Israel and METCO, METCO did not use EIRD with respect to the manufacture, production, or sale of OCTG during the review period.

H. Other Benefits

Petitioners allege that manufacturers, producers, or exporters in Israel of OCTG may receive benefits in the form of low-cost development loans, labor training funded by the Ministry of Labor and working capital to finance export operations. These programs are referenced in the foreword to the ECIL. According to the responses of the Government of Israel and METCO, METCO did not receive any of the other ECIL benefits listed above during the review period.

I. Bank of Israel Special Export Financing Loans

Petitioners allege that manufacturers, producers, and exporters in Israel of OCTG received benefits from special export financing loans administered by the Bank of Israel. According to a memorandum from the Israel Export Institute, special loans to finance penetration of new markets, introduction of new products, special marketing drives, establishment of foreign sales offices, market research and special foreign marketing expenditures are available to exporters.

According to the responses of the Government of Israel and METCO, METCO did not receive any benefits under the Bank of Israel Special Export Financing Loans during the review period.

III. Programs for Which Additional Information Is Needed

For the following programs, the information submitted by respondents is insufficient to determine if a subsidy has been provided to manufacturers, producers, or exporters in Israel of OCTG. Therefore, we determine that additional information is needed on the following programs.

A. The Encouragement of Industry (Taxes) Law 5729–1969 (EIL)

Petitioners allege that manufacturers, producers, or exporters in Israel of OCTG receive benefits under the

following sections of the EIL. However, the information contained in the response is insufficient to determine if a subsidy has been provided to manufacturers, producers, or exporters in Israel of OCTG.

1. Preferential Accelerated Depreciation. Under section 4A, industrial companies that acquired new business assets subsequent to tax year 1974 are entitled to an annual depreciation allowance equal to fifty percent of the depreciable base of the asset.

2. Reduction in Income Tax Rates. Under section 19(a), industrial companies investing in further development of their production activities are entitled to a reduced tax rate on income chargeable to the investment.

3. Tax Deductible Inventory Adjustment. Under section 5A, an industrial company may be entitled to special deductions based on the value of its end-of-year inventory.

B. Shlom-Hagalil Special Levy

In its response, METCO provided information on the Shlom-Hagalil Special Levy. The duty is paid on all imported raw material and imported goods incorporated into the exported product at a rate of 2 percent. According to the response, the drawback is at a rate of 1.25 percent of the f.o.b. export value and it is calculated as a percentage of the special levy paid on the imported raw materials included in the exported goods. The response indicates that the drawback is not excessive, but the information submitted is insufficient to determine if a subsidy has been provided to manufacturers, producers, or exporters in Israel of OCTG.

Preliminary Negative Determination of Critical Circumstances

The petitioners allege that "critical circumstances" exist within the meaning of section 703(e)(1) of the Act, with respect to imports of OCTG from Israel. In determining whether critical circumstances exist, we must examine whether there is a reasonable basis to believe or suspect that:

(a) The alleged subsidy is inconsistent with the Agreement and

(b) There have been massive imports of the subject merchandise over a relatively short period.

In determining whether imports have been massive over a relatively short period of time, we have considered the following factors:

1. Whether recent imports have increased significantly;

2. Whether recent import penetration ratios have increased significantly; and

3. Whether recent imports are significantly above average import levels calculated over the last three years.

3. Whether recent imports are significantly above average import levels calculated over the last three years.

A review of this information indicates that imports from Israel have not been massive over a relatively short period of time.

Since we have not found massive imports over a relatively short period of time, we will not determine whether the alleged subsidies are inconsistent with the agreement. Therefore, we preliminarily determine that critical circumstances do not exist.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of OCTG from Israel which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** and to require a cash deposit or bond for each entry of this merchandise equal to 2.12 percent *ad valorem*. This suspension will remain in effect until further notice.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will 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 written consent of the Deputy Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will determine whether these imports materially injure, or threaten material injury, to a U.S. industry within 45 days after the Department makes its final determination.

Public Comment

In accordance with section 355.35 of the Commerce Regulations, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on July 11, 1986 at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days after publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs with at least 10 copies of the confidential version and seven copies of the non-confidential version must be submitted to the Deputy Assistant Secretary by July 1, 1986. Oral presentation will be limited to issues raised in the briefs. In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: June 5, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-13185 Filed 6-10-86; 8:45 am]

BILLING CODE 3510-05-M

[C-122-602]

Initiation of Countervailing Duty Investigation: Certain Softwood Lumber Products From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers and exporters in Canada of certain softwood lumber products, as described in the "Scope of Investigation" section below, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S.

International Trade Commission (ITC) of this action so that it may determine whether imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry. If our investigation proceeds normally, we will make our preliminary determination on or before August 12, 1986.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Barbara Tillman or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Telephone: (202) 377–2438 or 377–0161.

SUPPLEMENTARY INFORMATION: .

Petition

On May 19, 1986, we received a petition in proper form from the Coalition for Fair Lumber Imports on behalf of the U.S. industry producing certain softwood lumber products (CSLP). The Coalition for Fair Lumber Imports is a group of U.S. softwood lumber manufacturers and associations representing U.S manufacturers of CSLP. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers and exporters in Canada of CSLP receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry.

On May 31, 1983, we issued the *Final Negative Countervailing Duty Determinations: Certain Softwood Products from Canada* (48 FR 24159). That investigation was initiated in response to a petition filed on October 7, 1982, by the United States Coalition for Fair Canadian Lumber Imports. It alleged that the governments of Canada administered a number of programs which bestowed benefits, directly or indirectly, on the manufacture, production and exportation or certain softwood products from Canada, constituting subsidies within the meaning of section 701 of the Act. The softwood products under investigation in that case included softwood lumber, softwood shakes and shingles, and softwood fence, while the instant case pertains only to certain softwood lumber products (not including shakes, shingles, of fence). The basis for our decision to re-investigate particular programs is described in the "Allegations of Subsidies" section of this notice.

On June 4, 1986, the government of Canada exercised its right to consultation pursuant to Article 3:1 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement of Tariffs and Trade.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined this petition and we have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether manufacturers, producers and exporters in Canada of CSLP, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before August 12, 1986.

Scope of Investigation

The products covered by this investigation are certain softwood lumber products. These products are softwood lumber, rough, dressed, or worked (including softwood flooring classified as lumber), provided for in items 202.03 through 202.30, inclusive; softwood siding, not drilled or treated, provided for in items 202.47 through 202.50, inclusive; other softwood lumber and siding, provided for in item 202.52; and softwood flooring provided for in item 202.60 of the Tariff Schedules of the United States.

Allegations of Subsidies

The petition alleges that manufacturers, producers and exporters in Canada of CSLP receive benefits which constitute subsidies. We are initiating on the following programs alleged in the petition:

A. Stumpage Programs

Petitioner alleges that the provincial governments of Alberta, British Columbia, Ontario and Quebec are selling their right to harvest softwood timber ("stumpage") to the lumber industry at preferential rates. In our *Final Negative Countervailing Duty Determinations: Certain Softwood Products from Canada (Softwood Products)* (48 FR 24159), we determined that stumpage programs were not provided to a "specific enterprise or industry, or group of enterprises or industries" and did not entail the provision of goods at preferential rates. We determined in *Softwood Products* that stumpage programs were not limited to a "group of enterprises or industries" because (1) any limitations on use were not due to activities of the Canadian governments and, (2) the actual users of stumpage spanned a wide range of industries. We also determined in *Softwood Products* that stumpage programs did not entail the provision of goods at preferential rates because there was no evidence of price discrimination within the relevant jurisdictions.

Absent a change in the law, in order for the Department to re-initiate on a program which previously has been found not to be countervailable the petitioner must present new evidence, must show that there has been a evolution in the Department's interpretation of the countervailing duty law, or both.

Petitioner in the instant case alleges that there is new evidence which may indicate that the use of stumpage programs is currently being limited by certain government policies. This new evidence raises possible questions as to the *de jure* availability of stumpage programs and collaterally invites a re-examination of the *de facto* availability issue.

Petitioner also contends that the Department's interpretation of the countervailing duty laws has evolved since *Softwood Products*. Petitioner cites the preliminary results in the administrative review of *Carbon Black from Mexico (Carbon Black)* (51 FR 13269) and the preliminary determination in *Certain Carbon Steel Products from Brazil (Certain Steel)* 49 Fed. Reg. 5157). In referring to *Carbon Black*, petitioner alleges that the Department has reduced its reliance on the inherent nature of the product in determining whether a good is generally available.

In citing *Certain Steel*, petitioner maintains that the Department's current analytical approach to a determination of specificity in cases where the government provides a natural resource focuses primarily on the *de facto* beneficiaries. Petitioner notes that in *Certain Steel*, despite the nominal availability of iron ore at government-controlled prices to all industries, the Department preliminarily determined that the steel industry was the

"dominant user" of iron ore. Thus, the provision of iron ore at a controlled price provided a benefit to a "specific enterprise or industry."

Petitioner argues that the analysis in *Certain Steel*, is applicable to the alleged stumpage programs. Asserting that the Canadian softwood lumber, and perhaps plywood, industry is the "dominant user" of stumpage programs, petitioner alleges certain facts supporting its position.

First, new evidence may indicate that certain provincial governments now limit the beneficiaries of stumpage programs to particular industries, principally the lumber industry. Second, the use of stumpage by the pulp and paper industry appears to be steadily declining, partly due to policies which encourage the utilization of chips—a by-product of lumber production—rather than whole logs for the production of pulp, and partly due to technological innovations allowing the lumber industry to use smaller diameter trees. Third, the furniture industry, found to be a stumpage license holder in *Softwood Products*, chiefly uses hardwood rather than softwood in the manufacturing of furniture, and uses lumber rather than timber as an input.

Although petitioner's analysis is not determinative, the petitioner has presented new evidence and has alleged that there has been an evolution in the Department's interpretation of the countervailing duty law such that a re-examination of the *de jure* and *de facto* general availability of the alledged stumpage programs is warranted.

In *Softwood Products*, we also determined that stumpage was not being provided at preferential prices. Petitioner argues that the Department should reconsider its preferentiality determination. Our decision on preferentiality rested on our finding that stumpage programs were generally available and that stumpage was not being provided to some at prices more favorable than to others within the same jurisdiction. As noted above, petitioner has given the Department reason to re-examine whether the alleged stumpage programs might not be generally available.

Petitioner contends that due to the absence of a generally available price to compare to the price of stumpage under the various alleged stumpage programs, the Department must apply one of the alternative tests found in the *Preferentiality Appendix* attached to *Carbon Black*. Applying each of the tests with reference to the Canadian stumpage situation, petitioner concludes that the price of cross-border U.S. timber should be used to measure the degree of preferentiality of Canadian stumpage and that such a test shows a significant subsidy. While taking no position on the propriety of applying any of the alternative tests in the *Preferentiality Appendix* or even the applicability of the tests in the *Preferentiality Appendix*, the Department determines that petitioner has presented allegations sufficient to warrant investigation as to whether stumpage is provided at preferential prices.

In summary, the petitioner has presented new evidence and has alleged that there has been an evolution in the Department's interpretation of the countervailing duty law, both in terms of the general availability of stumpage programs and the measure of preferentiality, such that a re-examination of the provincial stumpage programs in Alberta, British Columbia, Ontario and Quebec is warranted.

Although we intend to re-examine only the stumpage programs of these four provinces, we will request information regarding the federal stumpage programs and the stumpage programs in the remaining provinces. Such information may be needed in our analysis of whether the alleged stumpage programs confer subsidies.

B. Federal Program

- Certain Types of Investment Tax Credits;
- Program for Export Market Development;
- Regional Development Incentive Program;
- Industrial and Regional Development Program; and
- Community-Based Industrial Adjustment Program.

C. Joint Federal-Provincial Programs

- General Development Agreements and Subsidiary Agreements;
- Economic and Regional Development Agreements and Subsidiary Agreements; and
- Rail Transportation Facilities for the Lumber Industry.

D. Provincial Programs

- Alberta Timber Salvage Incentive Program.

In *Softwood Products* we found that this program to be not countervailable because it was not limited to a specific enterprise or industry, or group of enterprises or industries. Petitioner now alleges that benefits are being and have been provided under this program only to lumber producers, and pulp and paper producers. In light of our decision to initiate on the alleged stumpage programs, we are initiating on this program.

- British Columbia Assistance to Small Business;
- British Columbia Low Interest Loans;
- British Columbia Market Development Assistance;
- Quebec APEX Program;
- Quebec Assistance to REXFOR;
- Quebec SDI Export Assistance Programs: Export Expansion Program, Consortium Program, New Market Development Program, and Export Financing Program; and
- Quebec Laws Concerning Forest Credit.

There are also programs which were not alleged in the petition, but which we have investigated in previous countervailing duty investigations involving Canadian products, and which we believe may provide countervailable benefits to Canadian CSLP manufacturers, producers, and exporters. Therefore, in addition to initiating on the programs alleged in the petition, we are also initiating on the following programs:

A. Federal Programs

- Forest Industry Renewable Energy Programs; and
- Special Areas Act.

B. Joint Federal-Provincial Programs

- Agricultural and Rural Development Agreements; and
- Prince Edward Island Comprehensive Development Plan.

C. Provincial Programs

- Quebec Tax Abatement Program.

We are not initiating on the following programs alleged in the petititon:

- Equity Infusion from REXFOR into Forex, Inc.

Petitioner alleges that REXFOR, the Province of Quebec's forest products company, purchased an equity share in Forex. Petitioner has provided no information that this equity purchase was made on terms inconsistent with commercial consideration, therefore, we are not investigating this allegation. As a further note, we found REXFOR equity purchases in other companies not to be countervailable in *Softwood Products*.

- Quebec SDI Equity Infusions.

Petitioner alleges that the Quebec Industrial Development Corporation, which is a part of the SDI program, may have provided equity to manufacturers, producers, and exporters of CSLP. Petitioner has provided no information that any such equity purchases were made, or, if made, that they were on terms inconsistent with commercial consideration.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information reltating to this investigation. We will 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 administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by July 3, 1986, whether there is a reasonable indication that imports of CSLP from Canada materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise, this investigation will continue according to the statutory procedures.

This notice is published pursuant to section 702(c)(2) of the Act.

Dated: June 5, 1986.

Gilbert B. Kaplan, .

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-13186 Filed 6-10-86; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Announcement of Solicitation of Applications; Buffalo, NY

AGENCY: Minority Business Development Agency.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first twelve month is estimated at $154,545 for the project performance of October 1, 1986 to Sept. 30, 1987. The MBDC will operate in the Buffalo, NY Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $154,545 in Federal funds and a minimum of $27,273 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to perform the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATES: Closing date: The closing date for applications is July 18, 1986. Applications must be postmarked on or before July 18, 1986.

ADDRESS: New York Regionl Office, Minority Business Development Agency, 26 Federal Plaza, Room 3720, New York, New York 10278, Area Code/Telephone Number (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Gina Sanchez, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address:

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Dated: June 4, 1986.

Gina Sanchez,

Regional Director, New York Regional Office.

[FR Doc. 86-13141 Filed 6-10-86; 8:45 am]

BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Implementation and Enforcement of the Special Access Program Under the Caribbean Basin Initiative

June 6, 1986.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Notice of requirements for participation in the Special Access Program under the Carribean Basin Initiative.

SUMMARY: This notice identified how the Committee for the Implementation of Textile Agreements (CITA) will implement the bilateral agreements negotiated with Carribean countries under the Caribbean Basin Initiative Special Access Program and the requirements for participation in the Program. To participate in the Program, the U.S. shipper/exporter of fabric parts to the Caribbean must be the same firm that imports the assembled products from the Caribbean. The firm also must certify that the fabric used in U.S. formed and cut. Completion of a CBI Export Declaration is required. The U.S. Customs Service is directed to verify that the CBI Export Declaration is filed prior to the shipment of qualifying parts, to retain a copy of the verified form, to require the presentation of a completed CBI Export Declaration as part of the entry package when the assembled products are imported into the United States, and to determine whether the merchandise is eligible for entry under the Program.

Authority: Section 204 of the Agricultural Act of 1956 grants authority to the President to negotiate agreements with foreign countries limiting exports of textiles and textile products from such countries to the U.S. and to issue regulations governing the entry or withdrawal from warehouse of such textiles or textile products. Executive Order 11651 (March 3, 1975) delegates to CITA responsibility for implementing textile agreements.

DATE: This notice is effective June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Brenda A. Jacobs, Attorney-Advisor to the Office of Textiles and Apparel, U.S Department of Commerce, Washington D.C. 20230 (202-377-3587).

SUPPLEMENTARY INFORMATION:

Background

On February 20, 1986, the President announced a special program to guarantee access to the U.S. market for Caribbean-produced textile products assembled from fabric formed and cut in the United States. Caribbean countries have been invited to enter bilateral agreements with the United States under which guaranteed levels of access will be permitted for their exports of qualifying assembled textile products. These guaranteed access levels will be separate from the quotas or designated consultation levels applicable to textile products not assembled solely from U.S. formed and cut fabric. Bilateral negotiations with interested governments are now in progress.

Under the authority of section 204 of the Agricultural Act of 1956 and Executive Order 11651, the Committee for the Implementation of Textile Agreements (CITA) is charged with the responsibility of administering and enforcing the Special Program (Program). To accomplish its task, CITA has determined that it is necessary (1) to require that the same firm act as both exporter of fabric parts to the Caribbean and importer into the United States of assembled products made from those parts, and (2) to obtain certifications from the exporter/importer and assembler that U.S. formed and cut fabric is being used. Any port may be used for the exportation of parts or the importation of the assembled products. The U.S. Customs Service is directed to determine whether the requirements set forth in this notice are met and to allow treatment under the Program only to merchandise that qualifies for the Program.

Requirements for Participation

A "Special Access Program CBI Export Declaration" from has been prepared for use in administering and enforcing the Program and is printed below. The Declaration will be accepted from firms participating in the Program in lieu of the standard from for 807 imports (Form 3317, Foreign Assembler's Declaration and Certification). The U.S. Customs Service is directed use the Declaration and the information to be collected on that Declaration (1) to determine whether the merchandise imported from a Caribbean nation is entitled to treatment under the Special Access Program; and (2) to conduct audits where warranted to determine whether U.S. formed and cut fabric was used to produce the final product. Customs will use the information provided on the CBI Export Declaration to compare the descriptions and data for the exported fabric parts with the descriptions and data for the imported assembled products.

The Special Access Program CBI Export Declaration has three parts: A "Shipper's Declaration," an Assembler's Declaration," and an "Importer's Declaration." Each declaration is in the form of a certification which must be completed and signed by an officer of the participating firm, falsification of which will subject the certifying officer and the firm on whose behalf the officer was acting to criminal and civil penalties. Such penalties are authorized under 18 U.S.C. 1001 and 19 U.S.C. 1592. 18 U.S.C. 1001 provides for fine or imprisonment, or both to any person who:

> Whenever, in any matter within the powers of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain false, fictitious or fraudulent statement or entry . . . .

19 U.S.C. 1592 provides for penalties, including forfeiture of merchandise:

> Without regard to whether the United States is or may be deprived of all or a portion of any lawful duty thereby, no person, by fraud, gross negligence, or negligence—
>
> (A) May enter, introduce, or attempt to enter or introduce any merchandise into the commerce of the United States by means of—
>
> (i) Any document, written or oral statement, or act which is material and false, or
>
> (ii) Any omission which is material, or
>
> (B) May aid or abet any other person to violate subpart (A).

See also § 162.70, *et seq.*, Customs Regulations (19 CFR 162.70 *et seq.*)

Under the Program announced by the President, each participating Caribbean government will enter into a bilateral trade agreement with the United States. Each agreement will include a certification process under which only imports of qualifying textile products accompanied by a completed Special Access Program CBI Export Declaration (among other specified documents) will be permitted entry under the guaranteed access levels of the Special Access Program.

Participation in the Program and treatment of merchandise under the Program is strictly subject to fulfillment of the requirements of the Program. The Declaration therefore states that firms found to have filed a falsified certification may be precluded from future participation in the Program. Merchandise which does not meet the requirements of the Program and merchandise from firms precluded from future participation in the Program may be charged to the applicable quotas or designated consultation levels instead of the guaranteed access levels.

Specifically, the procedures will be as follows:

(1) At the time of exportation to the Caribbean of fabric parts from the United States, firms intending these goods to be treated under the Special Access Program must present to the U.S. Customs Service a CBI Export Declaration with a completed Shipper's Declaration. Customs may inspect shipments of parts accompaning a CBI Export Declaration at that time to verify that the information provided by the shipper is correct.

Customs may ask the firm exporting the fabric parts to produce the invoices and cutting documents retained in its files as proof that the fabric is entirely U.S. formed and cut. Vertically integrated firms, i.e., firms which both form and cut fabric, should retain an internal transfer document or other documentary proof that they formed the fabric in the Untied States. These invoices or internal transfer documents must comply with the requirements of the Textile Fiber Products Identification Act, 15 U.S.C. 70 *et seq.* and the Federal Trade Commission Rules and Regulations thereunder, 16 CFR Part 303, and identify the fabric as entirely formed in the United States. See Rule 31 of the Federal Trade Commission regulations (16 CFR 303.31) which provides:

> Where a textile fiber product is not in the form intended for sale, delivery to, or for use by the ultimate consumer, an invoice or other paper may be used in lieu of a label, and such invoice or other paper shall show, in addition to the name and address of the person issuing the invoice or other paper, the fiber content of such product as provided in the Act and Regulations as well as any other required information.

Fabric which, under Rule 33 of the Federal Trade Commission regulations (16 CFR 303.33), would have to be labeled "Imported cloth, finished in the USA" or "Made in (foreign country), finished in USA" does not qualify as U.S. formed and cut fabric and does not qualify for treatment under the Program.

Findings and trimmings incorporated into the assembled products need not be of United States origin. Products assembled in participating Caribbean countries and made of U.S. formed and cut fabric plus findings and trimmings of foreign origin may enter the United States under the Special Access Program, provided that such findings

and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, "bow buds," decorative lace trim, elastic strips, zippers, including zipper tapes, and labels.

The Customs officer at the port of export will verify that the Declaration has been filed prior to the loading of the merchandise aboard an exporting carrier by assigning a four digit number (the certification number) to the Declaration and by signing and dating the appropriate line of the form. No two Declarations from the same port will be assigned the same number on a single date. The original verified form will be forwarded by the Customs officer at the port of export to the New Orleans (Louisiana) Customs Office, the central office responsible for reviewing all Special Access Program CBI Export Declarations. One copy of the verified Declaration will be retained by the Customs port of export. The second copy of the verified Declaration will be returned to the shipper to accompany the shipment.

(2) Once the parts have been assembled in the Caribbean and are ready to be exported to the United States, the assembler will complete the Assembler's Declaration on a copy of the Special Access Program CBI Export Declaration. The completed Declaraton will then accompany the shipment to be exported as part of the "entry package" to be presented when the assembled products are imported into the United States. The entry package also must include a valid visa or certification, if required under the terms of the applicable bilateral agreement, and a country of origin textile declaration, in accordance with § 12.130, Customs, Regulations (19 CFR 12.130).

(3) At the time of entry into the United States of the assembled parts, the U.S. importer must have completed the Importer's Declaration of the Special Access Program CBI Export Declaration, certifying the quantity and products assembled from the U.S. formed and cut fabric described by that CBI Export Declaration. The copy of the completed Declaration must be presented as part of the "entry package." The merchandise will be eligible for entry under the Program only if the shipper and importer are the same firm, the port determines that an original verified Declaration is on file at the central office as required, and all other entry requirements are met.

(4) The copy of the completed Declaration will be forwarded by the Customs port of import to the New Orleans Customs Office, the central office responsible for reviewing all Special Access Program CBI Export Declarations. That central office will review the Declarations to evaluate the certifications contained therein, to determine whether the quantities of assembled products imported into the United States correspond with the quantity of parts originally exported, and to determine whether an audit is appropriate.

Printed below is a copy of the Special Access Program CBI Export Declaration which will be available after July 15, 1986 as a triplicate copy single page form from the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

U.S. Department of Commerce

International Trade Administration

Form No. ITA–370 OMB No. 0625–0179

Special Access Program CBI Export Declaration

No assembled textile products may be entered into the U.S. under TSUS No. 807.0010 unless this form has been completed and is presented upon entry.

Port of Certification #

Shipper's Declaration:

(To be completed by shipper prior to export of parts to the Caribbean)

I _____ (name of officer) of _____ (company or corporation) certify that fabric parts for the assembly of _____ (quantity) dozen _____ (assembled product/category number) in this exportation to _____ (Caribbean country) were cut in the United States of fabric formed in the United States. Retained in my company's files are the invoice (s) for the fabric from which the parts were cut and my firm's cutting document. Such invoices comply with the Textile Fiber Products Identification Act, 15 U.S.C. 70 et seq. and the Federal Trade Commission regulations thereunder (16 CFR part 303) and will be retained for three years from the date of this exportation.

Identify the parts, including the weight and quantity of parts, the fabric, including fabric weight, yarn size, thread count, fiber content, pattern, and color, the U.S. manufacturer(s) of the fabric, and the U.S. firm cutting the fabric:

I certify that all statements made and all information contained herein are true and correct. I understand the civil and criminal penalties, including forfeiture and sale, and prohibition from future participation in this Program, may be imposed for making false or fraudulent statements herein, failing to provide the requested information or for violation of U.S. laws on exportation.

Signature _____

Title _____

Address _____

Date _____

Signature of receiving Customs Officer

Title _____

Date _____

Original to be retained by Customs. Copy to be attached to shipment.

Assembler's Declaration:

I, _____, (officer's name) of _____ (name of assembler) declare that the articles described below and covered by this declaration were subject to assembling, manufacturing or processing operations by this firm in _____ (Caribbean country) from the parts described above.

Describe the assembled product, including U.S. textile category number, fabric, quantity being shipped and the total weight:

I declare that the information set forth in this declaration is correct and true to the best of my information, knowledge and belief.

Signature _____

Title _____

Address _____

Date _____

Importer's Declaration:

(To be completed and presented by importer for importation into the United States)

I, _____, (name of officer) of _____ (importer of record) certify that this shipment of _____ (quantity) dozen of _____ (product or category number) assembled in _____ (country of assembly) is of parts cut in the United States from fabric formed in the United States and exported to _____ (Caribbean country) under this CBI Export Declaration.

I certify that all statements made and all information contained herein are true and correct. I understand that civil and criminal penalties, including denial of entry or forfeiture and sale and prohibition from future participation in this Program, may be imposed for making false or fraudulent statements herein, failing to provide the requested information or for violation of U.S. laws on importation.

Signature _____

Title _____

Date _____

Address _____

Names of U.S. shipper of parts and U.S. importer of assembled products must match. Completed form to be retained by Customs. This document may be copied as necessary, but an original signature by the importer must accompany each shipment imported into the United States.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs

exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-13167 Filed 6-6-86; 4:05 pm]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Office of the Secretary of Defense (OSD) Performance Review Board

AGENCY: Office of the Secretary, Defense.

ACTION: Notice of Membership of the Office of the Secretary of Defense Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board (PRB) of the Office of the Secretary of Defense. The OSD PRB's jurisdiction includes: OSD, DoD field activities, the Organization of the Joint Chiefs of Staff (OJCS), the Defense Investigative Service (DIS), the U.S. Court of Military Appeals (USCMA), and the U.S. Mission to NATO. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Secretary of Defense.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon Bobb, Chief, Senior Executive Service & Classification Division, Directorate for Personnel & Security, WHS, Office of the Secretary of Defense, Department of Defense, The Pentagon (202) 697-3305 or 697-8304.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names of the executives who have been appointed to serve as members of the Performance Review Board. They will serve a one-year renewable term, effective on July 1, 1986.

Patricia Means,

OSD Federal Register Liaison Office Department of Defense.

June 6, 1986.

OSD Performance Review Board Membership

Adams, Benson D.
Agnew, Ann C.
Alderman, Craig
Alderman, Karen A.
Alewine, Ralph W., III
Amlin, Gary W.
Anderson, David L.
Anderson, Maynard C.
Armor, David J.
Atkins, Allen R.
Austin, Charles L.
Bader, George W.
Bahnsen, Peter F.
Bain, James D.
Barber, John
Barringer, Philip E.
Batjer, Marybel
Beach, John W.
Berg, Roland E.
Bergmann, Walter B., II
Bernard, Charles W.
Bertapelle, Arthur H.
Berteau, David J.
Bialick, Irving
Blackstead, Joseph H.
Blair, Erving
Bolino, John V.
Brand, Rupert
Brandenstein, Albert E.
Briskin, Manuel (NMN)
Bryen, Stephen D.
Buck, Kathleen A.
Buckley, Shelia R.
Buzalski, Ernest A.
Campbell, Leonard G.
Campbell, Thomas P.
Carabello, John M.
Cavallini, Nathaniel
Cavaney, William T.
Cevasco, Francis M., Jr.
Chaker, Lucien
Charles, Sandra L.
Christie, Deborah
Christie, Thomas P.
Christle, Gaylord E.
Chu, David S. C.
Cipolla, Frank P.
Cittadino, John C.
Coakley, William F.
Colocotronis, Gregory L.
Compton, James M.
Conroy, Matthew J.
Conte, Albert V.
Cooke, David O.
Coonce, William C.
Cratch, Geoffrey A.
Crossman, George R.
Croteau, Robert J.
Crouch, Horace J.
Dashiell, Thomas R.
Davidson, Ronald A.
Dawson, Rhett B.
Deck, Robin A.
Delaney, Robert P.
Denning, Daniel B.
Dexter, John E.
Dix, Donald M.
Dominguez, Raymond
Donnelly, John F.
Donnelly, Richard E.
Duncan, Robert C.
Earich, Douglas R.
Early, William.
Eaton, Nelson W.
Ehlers, Arthur H., Jr.
Ellison, Bobby
Ello, John V.
Ely, Gerald L.
Engel, Roger K.
Entzminger, John N., Jr.
Epstein, David F.
Facey, Albert G., Jr.
Fair, Harry D.
Farbrother, Douglas D.
Feith, Douglas J.
Fields, Craig I.
Finsterle, James C.
Fischer, Andrea L.
Fisher, Herbert L.
Fites, Jeanne B.
Flinn, John A.
Flinn, John A.
Foley, Donald H.
Fountaine, D. Diane
Frederick, William G. D.
Fredericksen, Donald N.
Freeman, Clair E.
Freeman, Linus Walter, Jr.
Funk, Kennerly W.
Gaffney, Frank J., Jr.
Gaffney, Henry H., Jr.
Garnett, Thomas F.
Genalis, Paris
Gentzel, Charles R.
Gilliat, Robert L.
Gissendanner, Dean A.
Glaister, Clyde O.
Goldberg, Alfred (NMN)
Gontareq, Stanley J.
Goodwyn, James C.
Graham, Robert W.
Granahan, Thomas F.
Granato, Dennis J.
Gray, Anthony W., Jr.
Greenlee, Donald R.
Greinke, Everett D.
Hammond, John H.
Hammer, Stephen R., Jr.
Hansen, John W.
Harrison, Michael E.
Haughton, Claiborne D., Jr.
Hawkes, Teresa A.
Hawkins, Charles A., Jr.
Heaston, Robert J.
Herbert, Kraft H., Jr.
Hinds, Jim E.
Hinman, Kenneth R.
Hoffman, Fred
Hoffman, George
Holaday, Duncan A.
Horn, Sally K.
Horton, Cyril F.
Howe, Richard G.
Infosino, Charles J.
Ioffredo, Michael L.
Ionson, James A.
Jajko, Walter
Jefferson, Ralph H.
Johnson, Darel S.
Jones, Jeffrey
Joseph, Robert G.
Kauvar, Gerald B.
Kelly, Clinton W., III
Kelly, James A.
Kendall, Cynthia
Kendig, John L.
Kerber, Ronald L.
Kerber, Ronald L.
Kimmel, H. Steven
Kloske, Dennis E.
Kloske, Dennis E.
Kniaz, Leon
Koch, Noel C.
Kopscak, George C.
Kupelian, Vahey S.
Lanoue, Robert J.
Laughlin, John L.
Lawrence, Dube P.

Leary, Willaim H., III
Lebo, Jerry A.
Ledesma, Richard R.
Lee, David A.
Leftwich, Norma B.
Legere, Laurence J.
Leonard, Michael (NMN)
Lese, William G., Jr.
Leyden, Donovan K.
Lieblein, Edward
Lindstrom, Talbot S.
Lipton, Maurice
Lomacky, Oles.
Lose, Graydon L.
Loveland, Trafton J.
Lubarsky, Albert R.
Lynch, John E.
Maccallum, John M. Jr.
Major, Philip L.
Makris, Anthony S.
Margolis, Milton A.
Marquet, Louis C.
Marquitz, William T.
Marshall, Andrew W.
Martin, C. Joseph
Martin, John David
Maynard, Egbert
McCarty, Thomas F.
McDonald, William M.
McKalip, Homer D.
McNeill, John H.
McNicol, David L.
McQuality, James A.
Meehan, Patrick J.
Melburn, Michael J.
Mestrovich, Michael J.
Meth, Martin A.
Michael, Louis G.
Michel, Werner E.
Miller, Franklin
Miller, James H.
Minichiello, Lee P.
Minneman, Milton J.
Mintz, Jeanne S.
Mittino, John A.
Moody, Kevin C.
Moore, Robert H.
Moore, Robert J.
Morgan, John D., Jr.
Morris, Herbert K.
Morrison, James W.
Mullen, Robert L.
Murrell, Billy C.
Navarro, Joseph A.
Nelson, Ronald R.
Newhall, David III
Nicholas, George
Neiderlehner, Leonard (NMN)
Oakley, Bobby B.
Oplinger, Gerald
Osterholz, John L.
Pallas, Spiros G.
Pantuso, Francis P.
Pennington, Arthur W.
Persh, Jerome
Pflock, Karl T.
Philip, H. Kunsberg
Phillips, Gary R.
Quetsch, John R.
Quinn, Thomas P.
Rauner, Robert M.
Reay, James H.
Reynolds, Richard A.
Richardson, William A.
Rizer, Jordan E.
Roll, Charles R., Jr.
Rona, Thomas P.
Roosild, Sven A.
Rudd, Glenn A.
Ruffine, Richard S.
Russ, Jonn M.
Sanchez, Nestor D.
Schafer, Carl J., Jr.
Schmidt, Raymond E.
Schneider, Mark B.
Schneider, Robert L.
Schneiter, George R.
Sellman, Wayne S.
Sevin, Eugene
Sharkey, William J., Jr.
Shaw, Dennis R.
Sheils, Marylou
Shilling, David M.
Shorey, Russell R.
Shriber, Maurice N.
Shuck, Joanne
Siebert, George W.
Siewert, Raymond F., Jr.
Smith, Frederick J.
Smith, Gordon A.
Smith, John E.
Smith, T. Burton
Snider, Britt L.
Sommer, Peter R.
Spector, Eleanor Ruth
Springett, John P.
St. John, Adrian, III
Stephens, W. Beth
Stevens, Paul S.
Stimson, Richard A.
Stivers, Ronald H.
Stone, Robert A.
Sullivan, Gerald D.
Sungenis, Joseph R.
Tapparo, Frank A.
Tegnelia, James A.
Tether, Anthony J.
Thomas, Ronald D.
Tice, R. Dean
Tillson, John C.
Trosch, Dennis H.
Turley, Gerald H.
Tyler, John T.
Van Wagenen, James S.
Verhey, Carl T.
Verkoski, John E.
Welch, Thomas J.
Wilcox, Benjamin A.
Williams, Cindy L.
Wolthuis, Robert K.
Woodruff, Lawrence W.
Woods, James L.
Woodworth, John
Young, Leo (NMN)
Yurcisin, Peter
Zakheim, Dov S.
MacPherson, J. Randolph
Whealen, John T.
Reed, William H.
Newton, Fred J.
Quill, John J.
Maclin, James F.
Kabeiseman, Karl W.
Atkins, Marvin C.
O'Brien, Thomas J.
Schwalls, Robert G.
Ewald, Thomas E.
Obloy, Edward J.
Brittigan, Robert L.
Sherick, Joseph H.
Vander Schaaf, Derek J.

[FR Doc. 86-13182 Filed 6-10-86; 8:45 am]
BILLING CODE 3810-01-M

Department of the Air Force

Active Military Service and Discharge Determinations; Civil Service Crewmembers on U.S. Army Transports in Ocean Service or in Foreign Waters During World War II

Under the provisions of section 401, Pub. L. 95-202 and DOD Directive 1000.20, the Department of Defense Civilian/Military Service Review Board has accepted an application on behalf of the group known as: "Civil Service Crewmembers Who Served Satisfactorily Aboard U.S. Army Transports in Ocean Service or in Foreign Waters during World War II, December 7, 1941 to August 15, 1945." Persons with information or documentation pertinent to the determination of whether the service of this group is to be considered equivalent to active military service to the Armed Forces of the United States are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, DC 20330-1440. Copies of documents or other materials submitted cannot be returned. For further information, contact LtCol Dandar, (202) 692-4744 or LtCol Todd (202) 692-4746.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-13172 Filed 6-10-86; 8:45 am]
BILLING CODE 3910-01-M

Department of the Army

Board of Visitors, United States Military Academy; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following meeting.

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: June 29-July 2, 1986.

Place of Meeting: West Point, NY (Hotel Thayer).

Time of Meeting: 8:00 p.m.

Proposed Agenda

Discussion of the following items: Impact Aid, Long Range Planning, Attrition, Project Proteus, All Star Service Academy Football Bowl and observe R Day Activities.

All proceedings are open. For further information contact Colonel D. P. Tillar,

Jr., United States Military Academy, West Point, New York 10996.

For the Board of Visitors:

D. P. Tillar, Jr.,

Colonel, General Staff Executive Secretary, USMA Board of Visitors.

[FR Doc. 86-12964 Filed 6-10-86; 8:45 am]

BILLING CODE 3710-08-M

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program; and Veterans Administration

AGENCY: Defense Manpower Data Center (DMDC), Defense Logistics Agency (DLA), DOD.

ACTION: Notice of an ongoing Matching Program between the Department of Defense and the Veterans Administration.

SUMMARY: The Department of Defense proposes to match by computer Department of Defense records of active duty military and drilling reserve military personnel with VA records of individual receiving pension or compensation benefits. The purpose of this computer matching program is to identify those individuals receiving pension or compensation from the VA who have returned to military pay status and are no longer legally entitled to the VA benefit.

DATE: This proposed action will be effective without further notice July 11, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send any comments to Mr. Robert J. Brandewie, Deputy Director, Defense Manpower Data Center, 550 Camino El Estero, Suite 200, Monterey, California 93940-3231. Telephone (408) 375-4131, Autovon: 87-2951.

FOR FURTHER INFORMATION CONTACT: This computer matching program will be performed by DoD after the VA supplies records of individuals receiving pension and compensation. VA as the source agency will be responsible for reviewing the "Hits" information supplied by DoD, to determine if any individuals have returned to active duty status and are no longer eligible for the VA benefit. Set forth below is the information required by paragraph 5 f.1 of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656, May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget on June 4, 1986, pursuant to Appendix I to OMB Circular No. A-130—"Federal Agency Responsibilities for Maintaining Records About Individuals" dated December 12, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

June 6, 1986.

Report of an Ongoing Matching Program Department of Defense Veterans Administration

a. *Authority:* The legal authority under which the computer match is being conducted is 10 U.S.C. 136 and 38 U.S.C. 3104(C).

b. *Program Discription:* This ongoing matching program will identify those recipients of VA benefits who have returned to active duty or are drilling reserve military personnel and have therefore become ineligible for a VA benefit.

VA as the source agency, will submit to DoD an extract of their compensation and pension payment records containing identifying data such as social security number, name and date of birth. DoD will perform the match by computer at the Defense Manpower Data Center. The match will be performed using active duty personnel records as supplied by the military service personnel centers.

Records matching on all nine digits of social security numbers (hits) will be returned to VA and will contain data such as name, data of birth and date of latest enlistment. VA will research the data to assure accuracy of the match and that the data of enlistment follows the date of benefit award. If individuals do not fall within these criteria no further action will be taken if inidividuals are determined not to be eligible for the VA benefit, VA will so notify them and collect the overpaid benefits.

c. *Records to be matched:* The systems of records subject to the Privacy Act to be matched are as follows:

VA Record System

System Identification: 58 VA 21/22/28.

System Name: Compensation, Pension, Education and Rehabilitation Records-VA.

Federal Register Citation: 48 FR 52799, November 29, 1983.

DOD Record System

System Identification: S322.10 DLA-LZ.

System Name: Defense Manpower Data Center Data Base.

Federal Register Citation: 50 FR 51899, December 20, 1985.

d. *Period of the Match:* The matching will begin as soon as possible after this public notice becomes effective as set forth under "DATE" in the preamble of this notice and will be conducted quarterly thereafter as an ongoing matching program.

e. *Security:* Hard copy files will be clearly marked as Privacy Act controlled data and will be stored in areas restricted to employees. Access to the files will be for official use only on a need-to-know basis. Computer records will be stored either on tape or disk at computer centers with unescorted access generally limited to computer personnel, custodial personnel and security guards. Access to data by remote terminal requires entry of system security codes.

f. *Retention and Disposition of Records:* All computer tapes and documents received by DoD containing personal information provided by the source agency (VA) will be returned to the VA upon successful completion of each match. Hit records will be used by the VA to determine continued eligibility for the VA benefit. If eligibility is established, the record will be filed in the official file folder and no further action will be taken. If eligibility is to be denied, the record will be used for investigation and collection of any debt owed to the VA and will be filed in the official file folder after action is taken. Information on non hit records will not be used for any purpose.

[FR Doc. 86-13183 Filed 6-10-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: National Advisory Council on Women's Educational Programs.

ACTION: Amendment of notice.

SUMMARY: This document is intended to notify the general public of additions to the information set forth in the notice of the meetings of the National Advisory Council on Women's Educational Programs and its Executive, Civil Rights, Federal Policies, Practices and Programs and WEEA Program Committees to be held June 11, 12, and 13 as published in 20333 FR/Vol. 51, No 247, on Wednesday, June 4, 1986.

The public is being given less than fifteen days notice of this opened and closed session due to the difficulty in arranging the meeting.

Records will be kept of the proceedings and will be available for

public inspection at the office of the National Advisory Council on Women's Educational Programs. A summary of the activities of the closed session and related matters which would be informative to the public consistent with the policy of section 552b (c) of Title 5 U.S.C. will be available to the public within 14 days of the meeting at the Council's office, 2000 "L" Street, NW., Suite 568, Washington, DC 20036.

Signed at Washington, DC on June 6, 1986.

Sally A. Todd,

Executive Director.

[FR Doc. 86-13216 Filed 6-10-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TA86-3-1-000,001]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

June 5, 1986.

Take notice that on June 2, 1986, Alabama-Tennessee Natural Gas Company, (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Ninth Revised Sheet No. 4
Fourth Revised Sheet No. 5
First Revised Sheet No. 16
Second Revised Sheet No. 17
First Revised Sheet No. 18
First Revised Sheet No. 19
First Revised Sheet No. 20
Original Sheet No. 20-A
Original Sheet No. 20-B
Original Sheet No. 41-A
Original Sheet No. 41-B

These tariff sheets are proposed to become effective July 1, 1986. Alabama-Tennessee states that the purpose of this filing in part is to adjust its rates to conform to the rates of its suppliers, Tennessee Gas Pipeline Company (Tennessee), a Division of Tenneco, Inc., and Sun Exploration and Production Company. Alabama-Tennessee states that the changes in its rates have been made in conformity with the PGA and related provisions of its tariff

Ninth Revised Sheet No. 4 and Fourth Revised Sheet No. 5 submitted herewith provide for the following rates:

Rate schedule	Rate after current adjustment
G-1:	
Demand	1 $7.81 2 08.26¢
Commodity	$12.85¢
Gas	274.94¢
SG-1:	
Commodity	21.41¢
Gas	323.70¢
I-1:	
Commodity	16.71¢
Gas	297.03¢
T-1:	
Maximum	15.96¢
Minimum	6.63¢

Alabama-Tennessee is also proposing in this filing to revise its Rate Schedule T-1 to comply with the requirements of Order No. 436. Accordingly, Ninth Revised Sheet No. 4 shows both a maximum and minimum rate for transportation services. The revised Rate Schedule T-1 is contained in First Revised Sheet No. 16 to Original Sheet No. 20-B.

Finally, Alabama-Tennessee is proposing in Original Sheet Nos. 41-A and 41-B to implement a flexible PGA. Acceptance of these tariff sheets would permit Alabama-Tennessee to make interim adjustments to its gas rate by filing revised tariff sheets to reflect, within specified limits, known and measurable changes through the remainder of a current PGA period.

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheets to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13094 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-106-000]

Arkla Energy Resources, a Division of Arkla, Inc.; Rate Change

June 5, 1986.

Take notice that on May 30, 1986, Arkla Energy Resources (AER), a division of Arkla, Inc., tendered for filing Fourth Revised Sheet No. 1 and Original Sheet Nos. 3.1, 7-A and 7-B of its FERC Gas Tariff, First Revised Volume No. 1 and Original Sheet Nos. 1 through 116, or its FERC Gas Tariff, Original Volume No. 1-A. AER also submitted four alternative tariff sheets to be used in the event the commission sets the matter for hearing and conditions its approval of the tendered tariff. 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 June 2, 1986.

AER states that it is submitting these revised tariff sheets in order to comply with the requirements of § 284.7(a) and (b) of the Commission's regulations, which require that rates charged for transportation provided after July 1, 1986, pursuant to Part 284, Subpart B thereof, must be established under a rate schedule that is filed with the Commission and effective no later than such date. AER further states that the tendered tariff sheets establish a comprehensive tariff applicable to transportation services offered under the regulations promulgated in Order Nos. 436 and 436A. AER asserts that the proposed rates comply with the requirement of Order Nos. 436 and 436A that such rates be cost based and fully allocated and that the tendered tariff sheets contain separate charges for transportation services involving AER's transmission and gathering systems, both jointly and separately. Each of the proposed transportation rates is said to be based upon the overall settlement cost of service approved in AER's most recent Section 4 rate case in Docket No. RP84-107. AER asserts that, in order to conform more closely to Commission policy, it has designed the proposed rates using a modified, fixed-variable methodology, rather than using the volumetric method employed in the settlement. According to AER, this filing does not involve a proposed change in either the settlement cost of service or the resulting jurisdictional sales rates approved in Docket No. RP84-107.

AER requests that the tendered tariff sheets become effective July 1, 1986.

AER seeks a waiver of the Commission's requirements for the

submission of estimates regarding the service and revenue effects of AER's proposed rate schedules.

AER states that a copy of this filing is being served on all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 10426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13095 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-117-000]

Gas Research Institute; Annual Application

June 5, 1986.

Take notice that on June 2, 1986, Gas Research Institute (GRI), 8600 West Bryn Mawr Avenue, Chicago, Illinois 60631, filed herein an application requesting advance approval of its 1987-1991 Five-Year R&D Plan and 1987 R&D Program and the funding of its R&D activities for 1987 pursuant to the Natural Gas Act and the Commission's Regulations thereunder, particularly 18 CFR 154.38(d)(5).

GRI states that its application demonstrates compliance with the Commission's Regulations, the requirements of Opinion No. 243, Opinion and Order Amending and Approving Gas Research Institute's 1986 Research Development Program, Docket No. RP85-154-000, issued September 26, 1985, and the ongoing provisions of a Stipulation and Agreement reached by the parties to the proceedings in Docket No. RM77-14 and approved by the Commission in Opinion No. 11, Opinion and Order Approving the Initial Research Development and Demonstration Program of Gas Research Institute, Docket No. RM77-14, issued March 28, 1978. GRI's application seeks approval of its 1987 R&D Program and approval for its jurisdictional members to collect a R&D Funding Unit of 1.57 cents per Mcf during the twelve months ending December 31, 1987, to support GRI's 1987 R&D program.

GRI proposes a 1987 total GRI obligations budget of $187.3 million which represents a growth in real terms of almost 11 percent above the 1986 obligations budget. The 1987 total GRI obligations budget of $187.3 million includes R&D obligations of $158.4 million; and project management and general expenses and capital asset purchases of $28.8 million. GRI proposes to fund 243 projects in 1987. GRI states about 96 percent of the R&D obligations budget will fund continuing projects. GRI proposes to fund $6.3 million in new activities. GRI has reduced significantly the percentage of the GRI R&D budget allocated to Supply Options R&D from amount planned for 1987 in GRI's 1986-1990 Five-Year R&D Plan. The percentage of the GRI R&D budget allocated to End Use and Gas Operations objectives will increase slightly in 1987 from the 1986-1990 Five-Year R&D Plan. GRI projects its 1987 total obligations budget will increase from $187.3 million in 1987 to $214.9 million (in 1987 dollars) in 1991. GRI states the required funding unit would increase from 1.57 cents in 1987 to 2.00 cents (in 1987 dollars) in 1991.

GRI's filing was accompanied by workpapers providing detail about its application. These workpapers are available for inspection in the Commission's Division of Public Information.

An appendix to the application contains a list of GRI members and state regulatory commissions which were served with a copy of GRI's application on June 2, 1986. Such members and commissions are hereby permitted to participate in this proceeding as intervenors and need not file formal motions to intervene or notices of intervention.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 30, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a comment, protest, or motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All comments or protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein, other than those listed in the appendix to the application who are automatically entitled to participate, must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that a Commission staff report on GRI's filing will be served on all parties and filed with the Commission as a public document by July 31, 1986. Comments on the staff report by all parties except GRI should be filed with the Commission on or before August 15, 1986. GRI's reply comments should be filed on or before August 29, 1986. It should also be noted that the Commission's Regulations (18 CFR 381.206) provide that the fee for a petition seeking advance Commission approval of rate treatment of RD&D expenditures will be determined and billed according to the procedures for direct billing set forth under 18 CFR 318.107.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13096 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-21-000]

Gould Oil, Inc.; Petition for Adjustment

Issued: June 5, 1986.

On May 5, 1986, pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3412 (1982), Gould Oil, Inc. (Gould) filed a petition with the Federal Energy Regulatory Commission (Commission) for an adjustment from the 150-day filing requirement contained in 18 CFR 271.805(f) (1985). Thie regulation requires a petition for an enhanced recovery determination to be filed with the Commission within 150 days of the last day of a disqualifying period in order to receive the section 108 maximum lawful price for gas delivered during the interim period from the last day of the disqualifying period to the date the petition is filed. If the petition is granted, Gould would be authorized to collect the NGPA section 108 maximum lawful price retroactively for the period February 29, 1984 through December 3, 1984. The gas involved in Gould's petition is produced from the Farley MacGregor No. 1-5 Well located in Barber County, Kansas. According to Gould, Northwest Central Pipeline Company (Northwest), the purchaser, refuses to pay the increased NGPA section 108 maximum lawful price because Gould failed to comply with the Commission's 150-day filing requirement.

In its petition, Gould argues that if the adjustment is denied it will lose

revenues in spite of the fact that the company filed its petition for an enhanced recovery determination with the Commission as soon as reasonably possible and practical after a final determination by the state jurisdictional agency that the well qualified for the section 108 striper well classification. Pointing to the unusually long delay involved in getting the appropriate state jurisdictional agency determination granting the NGPA section 108 qualification, Gould argues that it will be inequitable for the Commission to deny the requested adjustment. Gould declared that, without relief, it will be penalized for failing to do the impossible Gould notes in its petition that it did not receive notification of the state's initial section 108 determination until 152 days following the last day of the disqualifying period, making compliance with the § 271.805(f) 150-day requirement impossible. Gould concludes that, if the Commission grants the relief requested, Northwest will be required to pay an additional $71,676.89 for gas it purchased from the well during the period at issue.

The procedures applicable to the conduct of this waiver proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. 18 CFR Part 385, Subpart K (1985). Any person desiring to participate in this waiver proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within fifteen (15) days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13097 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP73-17-012, et al.]

Granite State Gas Transmission, Inc., et al.; Filing of Pipeline Refund Reports and Refund Plans

June 4, 1986.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before June 18 1986. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
Apr. 28, 1986	Granite State Gas Transmission, Inc.	RP73-17-012	Btu Flow-Thru*
Apr. 30, 1986	East Tennesseee Natural Gas Co.	RP71-15-021	Report.
May 1, 1986	Texas Gas Transmission Corp.	RP85-141-008	Do.
May 5, 1986	Trunkline Gas Co.	RP83-93-016	Do.
May 12, 1986	Eastern Shore Natural Gas Co.	RP72-134-032	Do.

* Refunds resulting from Btu Measurement Adjustments. Each company will retain its basic docket number and future related filings will receive new sub-docket numbers.

[FR Doc. 86-13098 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-31-000]

Hewit & Dougherty v. United Gas Pipe Line Co.; Complaint

June 5, 1986.

On May 5, 1986, Hewit & Dougherty filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. Hewit & Dougherty requests that the Production-Related Costs Board (Board) find that United Gas Piple Line Company (United) is in violation of 18 CFR 271.1104 by refusing to reimburse Hewit & Dougherty for $28,004.89 in production-related costs.

Hewit & Dougherty is a group of small producers who produce and sell gas to United from the M. F. Lambert No. B-1 Well (Well) located in the Refugio Fox Field, Refugio County, Texas. The point of the sale and the delivery point for the gas is the connection between Hewit & Dougherty's gathering line and United's transmission line.

The Well is the only well on the gathering line and it was constructed on or after November 9, 1978. Hewit & Dougherty claim that the commingling rule has been satisfied because at the connection between the gathering line and transmission line, the transmission line is already carrying gas from other producers.

Hewit & Dougherty claim that their 900-foot gathering line is a recent delivery system which entitles them to collect a $0.07 per MMbtu gathering charge. They state that they have submitted to United a written description of the gathering charges claimed and that United's failure to pay the gathering charge is contrary to 18 CFR 271.1104.

Hewit & Dougherty request that the Board find that they are entitled to the $28,004.89 gathering charge plus interest, order United to pay the gathering charge plus interest, and grant any other further relief that the Board may deem just and reasonable.

Under the Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), United must file an answer to Hewit & Dougherty's complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. United shall file its answer with the Commission not later than 15 days after publication of this notice in the **Federal Register.**[1]

Any Person desiring to be heard or to protest said filing should file a protest or a motion to intervene with that Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than 15 days after publication of this notice in the **Federal Register.** 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. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13099 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[1] Complainant states that a copy of the Complaint was served on United.

[Docket No. RP86-98-000]

Michigan Gas Storage Co.; Filing

June 5, 1986.

Take notice that on May 30, 1986, Michigan Gas Storage Company (Storage Company) tendered for filing tariff sheets to be a part of its FERC Gas Tariff, Original Volume Nos. 1 and 2. Specifically, Storage Company requests that the Commission approve the rates that are to govern transportation in the event that Storage Company elects to offer open access transportation; the interruptible rate, in any event, is to govern "grandfathered" transportation under 18 CFR 284.105 or 18 CFR 284.223(g). The proposed rates are: a maximum commodity charge of .05¢ per dekatherm and a minimum commodity charge of .04¢ per dekatherm for firm transportation service, with a reservation charge of 41¢ per dekatherm per month of maximum daily quantity; and a maximum commodity charge of 1.37¢ per dekatherm and a minimum commodity charge of .04¢ per dekatherm for interruptible transportation service. These one-part volumetric rates are based on projected units of service. The proposed effective date is July 1, 1986.

The filing would also cancel Storage Company's existing T-2 and T-3 rates for transportation under Commission Order Nos. 234B, 319 and 319-A, and under Section 311 of the Natural Gas Policy Act.

Copies of the filing were served on Consumers Power Company, the Michigan Public Service Commission, and Panhandle Eastern Pipe Line Company (Storage Company's sole pipeline supplier).

Storage Company requests that the Commission grant any waivers that may be necessary for acceptance of this filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13100 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-20-000]

Northern Illinois Gas Co.; Petition for Exemption From Incremental Pricing and for Interim Relief

Issued: May 30, 1986.

Take notice that on May 2, 1986, Northern Illinois Gas Company (NI-Gas) filed with the Director, Office of Pipeline and Producer Regulation, pursuant to section 206(d) of the Natural Gas Policy Act of 1978 (NGPA) a petition for interim and permanent exemption from the Commission's incremental pricing regulations which impose a surcharge on its natural gas sales to 74 non-exempt industrial boiler fuel customers located in the State of Illinois.

In support of its petition, NI-Gas states that without exception relief, the incremental pricing surcharge will likely cause its industrial customer's gas costs to exceed the costs of available alternative fuels and non-incrementally priced natural gas and will discourage future location or expansion of industries in NI-Gas' service area. NI-Gas states that the loss of gas sales to industrial customers will result in high-priority customers paying an increased portion of NI-Gas' fixed costs and thereby paying increased gas prices. NI-Gas states that such results will subject it and its high-priority customers to special hardship, inequity, and unfair distribution of burdens. NI-Gas requests interim relief from the incremental pricing regulations pending Commission action on its petition for permanent exemption.

The procedures applicable to the conduct of this proceeding are set forth in Rules 1101-1117 (Subpart K) of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with Rule 1105. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13101 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-6-002]

Sea Robin Pipeline Co.; Filing of Revised Tariff Sheets

June 5, 1986.

Take notice that on May 30, 1986 Sea Robin Pipeline Company (Sea Robin) tendered for filing Forty-Fourth Revised Sheet No. 4 and Eighth Revised Sheet No. 4-B to its FERC Gas Tariff, Original Volume No. 1 and tendered for filing Twenty-Seventh Revised Sheet No. 127-D and Twenty-Seventh Revised Sheet No. 135-C to its FERC Gas Tariff, Original Volume No. 2. Sea Robin also tendered for filing First Revised Sheet No. 7-B and First Revised Sheet No. 7-C to its FERC Gas Tariff, Original Volume No. 1 and First Revised Sheet No. 18 and First Revised Sheet No. 19 to its FERC Gas Tariff, Original Volume No. 2 to reflect the industry concurrent exchange transaction methodology adopted by the Commission in *United Gas Pipe Line Company*, 34 FERC ¶ 61,052. This methodology removes the impacts of concurrent exchange transactions from Sea Robin's rates.

Sea Robin states that these revised tariff sheets and supporting data are being mailed to Sea Robin's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13102 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP80-97-056]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Tariff Revisions

June 5, 1986.

Take notice that on June 2, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee),

tendered for filing First Revised Volume No. 1A and Original Volume No. 2 to its FERC Gas Tariff. Tennessee states that these tariff sheets restate the rate, entitlement and quantity provisions and make other conforming language changes required to fully convert these volumes to a dekatherm basis, pursuant to Opinion No. 240, *Tennessee Gas Pipeline Co.*, 32 FERC ¶ 61,086, *order on reh'g*, 33 FERC ¶ 61,005 (1985), and implement certain recent certificate authorizations concerning new or amended transportation services. Tennessee proposes an effective date of November 1, 1985, in accord with Opinion No. 240, except for the tariff sheets relating to new or amended transportation services and certain tariff sheets corresponding to tariff sheets included in its PGA filing of May 30, 1986 in Docket No. TA86-3-9.

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 June 3, 1986.

Original Sheet No. 5417 incorporates two new delivery points authorized for the exchange of gas between Tennessee and Natural Gas Pipeline Company of America under Rate Schedule X-53 in Docket No. CP76-370-007, *Tennessee Gas Pipeline Co.*, 34 FERC ¶ 62,457 (1986). Tennessee proposes for this sheet an effective date of April 1, 1986.

Original Sheet Nos. 1719 through 1729 comprise a new Rate Schedule T-161 for transportation by Tennessee for Columbia Gas Transmission Corporation as authorized in Docket No. CP86-121-000, *Tennessee Gas Pipeline Co.*, 34 FERC ¶ 62,550 (1986). Tennessee proposes for these sheets an effective date of April 16, 1986.

Original Sheet Nos. 1730 through 1743 comprise a new Rate Schedule T-162 providing for transportation by Tennessee for Amoco Production Company pursuant to authorization granted by the Commission in Docket No. CP85-532-000, *Tennessee Gas Pipeline Co.*, 34 FERC ¶ 61,369 (1986). Tennessee proposes an effective date for these sheets of April 11, 1986.

Original Sheet Nos. 1703 and 1704 reflect an increase in the transportation quantity and an alternate delivery point for transportation rendered by Tennessee for Transcontinental Gas Pipe Line Corporation under Rate Schedule T-160. The Commission authorized these changes in Docket No. CP84-478-001, *Tennessee Gas Pipeline Co.*, 35 FERC ¶ 62,041 (1986). Tennessee proposes an effective date for these sheets of April 29, 1986.

Tennessee requests any waivers that the Commission deems necessary to permit the tariff sheets to become effective as proposed.

Tennessee states that, because of reproduction problems, it is unable to immediately serve copies of this filing on all of its customers, affected state Commissions and the parties in the captioned docket. Tennessee advises that it will serve them with copies of the filing no later than June 9, 1986. Tennessee indicates that a copy of this filing is available for inspection during regular business hours in a convenient form and place at Tennessee's offices in the Tenneco Building, Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 208 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before June 16, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 86-13103 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9832-000, et al.]

Hydroelectric Applications (James Stewart and Terry Gleed et al.); Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1. a. Type of Application: Preliminary Permit.

b. Project No: 9832-000.

c. Date Filed: December 31, 1985.

d. Applicant: James Stewart and Terry Gleed.

e. Name of Project: Fall Creek Falls.

f. Location: In Caribou National Forest, on Fall Creek, in Bonneville County, Idaho. Township 1N and Range 43E.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Rita Weaver, P.O. Box 604, Gooding, ID 83330, (208) 934-8401.

j. Comment Date: July 11, 1986.

j. Description of Project: The proposed project would consist of: (1) An 11-foot-high overflow spillway with a measuring weir at elevation 5,312 feet; (2) at 163-foot-long, 54-inch-diameter penstock; (3) a powerhouse containing 3 generators with a total capacity 468 kW and an average annual generation of 1,648,800 kWh; and (4) a 6,330-foot-long transmission line.

A preliminary permit does not authorize construction. Applicant seeks

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[Project No. 7890-001]

Matthew J. Bonaccorsi; Availability of Environmental Assessment and Finding of No Significant Impact

June 5, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

LICENSES

Project No.	Project name	State	Water body	Nearest town	Applicant
7890-001	Wendell Dam	NH	Sugar River	Sunapee	Matthew J. Bonaccorsi

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary

[FR Doc. 86-13089 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

issuance of a prelimnary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $35,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: Project would be sold to Utah Power and Light.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

2 a. Type of Application: License (5MW or Less).

b. Project No.: 8045–001.

c. Date Filed: December 19, 1985.

d. Applicant: James River Paper Company, Inc.

e. Name of Project: Brooklyn.

f. Location: Upper Ammonoosuc in Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. John H. Cameron, James River Paper Company, Inc., Groveton, NH 03582, (603) 636–1154.

i. Comment Date: July 7, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 4-foot-high, 263-foot-long flow control dam with 4-foot-high flashboards and a crest elevation of 882.6 feet msl; (2) an existing reservoir with a surface area of 66 acres and a storage capacity of 200 acre-feet; (3) an existing 16-foot-high, 107-foot-long second dam with 2.5-foot-high flashboards and a crest elevation of 877.8 feet msl; (4) an existing reservoir with a surface area of 26 acres and a storage capacity of 50 acre-feet; (5) an existing powerhouse at the second dam containing a proposed generating unit with a rated capacity of 500 kW; and (6) a proposed 150-foot-long transmission line tying into the existing Public Service Company of New Hampshire system. At the existing facility both dams are owned by the applicant. The applicant estimates a 2,190 MWh average annual energy production.

k. Purpose of Project: Power would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

3 a. Type of Application: Major License.

b. Project No.: 9093–001.

c. Date Filed: December 26, 1985.

d. Applicant: Northwest Power Company, Inc.

e. Name of Project: Downie.

f. Location: On Oregon Creek, near Camptonville, within the Tahoe National Forest, in Sierra and Yuba Counties, California (Sections 1, 11, and 12 of T18N, R8E and Section 6 of T18N, R9E, M.D.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. J. Ward MacDonald, President, Northwest Power Company, Inc., Four Embarcadero Center, Suite 1980, San Francisco, CA 94111, (415) 433–3505.

i. Comment Date: July 7, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 12-foot-high, 80-foot-long reinforced concrete diversion structure at elevation 3,100 feet msl; (2) a 72-inch-diameter, 11,300-foot-long low pressure conduit; (3) a 54-inch-diameter, 1,500-foot-long steel penstock; (4) a powerhouse containing a single turbine-generator unit with a rated capacity of 7,500 kW and operating under a head of 810 feet; and (5) a 60-kV, 1-mile-long transmission line interconnection the project to an existing Pacific Gas and Electric Company (PG&E) line. The project's estimated average annual generation of 17 GWh would be sold to PG&E.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

4 a. Type of Application: License (5MW or less).

b. Project No.: 9951–000.

c. Date Filed: March 24, 1986.

d. Applicant: The Charter Township of VAN Buren, Michigan and Adirondack Hydro Development Corporation.

e. Name of Project: French Landing Hydro Water Power Project.

f. Location: On the Huron River in Wayne County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. Donald W. Lystra, Ayers, Lewis, Norris & May, Inc., 2330 E. Stadium Blvd., Ann Arbor, MI 48104;

Mr. Malcolm M. Preston, Adirondack Hydro Development Corp., Potsdam Industrial Plaza, P.O. Box 970, Potsdam, NY 13676.

i. Comment Date: July 21, 1986.

j. Description of Project: The Applicants would utilize an existing dam owned by the Charter Township of VAN Buren. The proposed project would consist of: (1) A concrete dam approximately 365 feet long and 38 feet high; (2) an existing powerhouse, which is an integral part of the dam, containing one proposed generating unit rated at 1,800 kW; (3) an existing reservoir with a surface area of 1,270 acres and a storage capacity of 17,780 acre-feet at powerpool elevation of 652 feet N.G.V.D., (4) an existing outlet channel approximately 100 feet long with a variable width; (5) a proposed 4,160 volt transmission line; and (6) appurtenant facilities. The estimated average annual energy output for the project is 8,800,000 kWh.

k. Purpose of Project: Power produced at the project would be sold to the Detroit Edison Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

5 a. Type of Application: Preliminary Permit.

b. Project No.: 7534–000.

c. Date Filed: April 21, 1983.

d. Applicant: Edwards Energy Systems, Inc.

e. Name of Project: Inglis Dam.

f. Location: Withlacoochee River, Levy County, Florida.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Dean N. Edwards, Edwards Energy Systems, Inc., 2992 Heather Trail, Clearwater, FL 33519, (813) 799–6460.

i. Comment Date: July 21, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' "old" Inglis Dam, which is located about 1 mile south of the existing Inglis Lock bypass channel. The proposed project works would consist of: (1) A proposed penstock, 160 feet long with an inside dimension of 14' x 14"; (2) a proposed powerhouse containing a single generating unit of 1.6 MW capacity; (3) a proposed 2.7-mile-long, 12,470 volt transmission line; and (4) appurtenant facilities. The estimated average annual generation is 3.0 GWh.

k. Purpose of Project: The Applicant intends to sell the project power to Florida Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $12,000.

6. a. Type of Application: Major License.

b. Project No: 5601–002

c. Date Filed: April 1, 1985.

d. Applicant: Oroville-Wyandotte Irrigation District.

e. Name of Project: French Creek Hydro.

f. Location: On French Creek, a tributory to the North Fork Feather River, near Berry Creek, within Plumas National Forest, in Butte County, California (Sections 2, 3, 4, 5, 7, 8, 10, and 11 of T21N, R5E and Sections 12, 13, and 14 of T21N, R4E, M.D.M.& B.).

G. Filed Pursuant to: Federal Power Act, 16 U.S..C 791(a)–825(r).

h. Contact Person:

Mr. Donald Blake, President, Oroville-Wyandotte Irrigation District, P.O. Box 581, Oroville, CA 95965, (916) 533–4578;

Mr. Fritz C. Steppat, General Manager/ Chief Engineer, Oroville-Wyandotte Irrigation District, P.O. Box 581, Oroville, CA 95965, (916) 533–4578.

j. Comment Date: July 17, 1986.

j. Description of Project: The proposed run-of-the river project would utilize land which is within the project boundary of California Department of Water Resource's Project No. 2100 and would consist of: (1) A 10-foot-high, 70-foot-long concrete diversion structure at elevation 1,920 feet msl; (2)) a 11-foot-bore, 3,700 foot-long hardrock tunnel; (3) a 48-inch-diameter to 43-inch-diameter, 3,000-foot-long steel penstock; (4) a powerhouse containing a single turbine-generator unit with a rated capacity of 10,000 kW and operating under a head of 978 feet, and (5) a 115-kV, 6-mile-long transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) transmission system. The project's estimated average annual generation of 31.6 GWh would be sold into the Northern California regional grid.

k. This notice also consists of the following standard paragraphs: A3, A9. B, and C.

7. a. Type of Application: Preliminary Permit.

b. Project No: 9971–000.

c. Date Filed: April 14, 1986.

d. Applicant: Vernon Saulpaugh et al.

e. Name of Project: Bingham Mills.

f. Location: On the Roeliff Jansen Kill River in Columbia County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Vernon Saulpaugh, Star Route, Hudson, NY 12534, (518) 537–6494.

i. Comment Date: July 7, 1986.

j. Competing Application: Project No. 9774, Date Filed December 30, 1985.

k. Description of Project: The proposed project would consist of: (1) An existing 25-foot-high and 218-foot-long dam with spillway crest elevation of 166 feet msl; (2) an existing 33-acre reservoir with a storage capacity of 397-acre-feet at 166 feet msl; (3) an existing 25-foot-wide and 15-foot-long cyclopean concrete intake structure; (4) a proposed penstock 8 feet in diameter approximately 400 feet long to existing headrace works; (5) an existing powerhouse to contain two turbine/ generators for a total installed capacity of 450 kW; (6) an existing tailrace; (7) a new 12-kV transmission line 200 feet long; and (8) appurtenant facilities. The estimated average annual energy produced by the project would be 3.0 million kWh under a hydraulic head of 50 feet. The owner of the dam is Vernon Saulpaugh.

l. Purpose of Project: Project power will be sold to the Niagara Mohawk Power Corporation.

m. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

n. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $450,000.

a. Type of Application: Preliminary Permit.

b. Project No.: 9972–000.

c. Date Filed: April 14, 1986.

d. Applicant: City of Youngstown, Ohio.

e. Name of Project: Milton Dam.

f. Location: Mahoning River, Mahoning County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C 791(a)–825(r).

h. Contact Person: Mr. Granville J. Smith II, Vice President, STS Energenics Ltd., 1725 K St., NW, Suite 1112, Washington, DC 20006, (202) 463–8620.

i. Comment Date: July 7, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing earthen dam 41 feet high and 2,600 feet long; (2) an existing impoundment, Lake Milton, with a surface area of 1,940 acres and a storage capacity of 27,120 acre-feet at a normal maximum surface elevation of 951 feet mean sea level; (3) an existing lower gatehouse, to be rebuilt and to incorporate a proposed penstock 6 feet in diameter and 45 feet in length; (4) a proposed concrete powerhouse 25 feet long and 25 feet wide; (5) a prposed turbine-generator of 1.0 MW capacity; (6) an existing stilling basin to be converted to a tailrace; (7) a proposed 13.6 kV transmission line 100 feet long; and (8) appurtenant facilities.

The estimated annual energy production is four million kWh. The net hydraulic head is 40 feet. Project power would be sold to Ohio Edison Company. The dam is owned by the applicant.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

l. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit s 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies applicant would decide whether to proceed with more detailed studies and the preparation of a application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $54,355.

a. Type of Application: Minor License.

b. Project No.: 9708–000.

c. Date Filed: December 23, 1985.

d. Applicant: Rivers Electric Company, Inc.

e. Name of Project: Cuddebackville Project.

f. Location: On the Neversink River in Orange County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Charles R. Pepe, Rivers Electric Company, Inc., 120 North Pascack Road, Spring Valley, NY 10977.

i. Comment Date: July 23, 1986.

j. Description of Projects: The proposed project would consist of: (1) The existing Cuddebackville Dam in two sections separated by an island; a 9-foot high, 150-foot-long gravity section, and a 9-foot-high, 125-foot-long stoplock section; (2) an impoundment having a surface area of 2 acres with negligible storage, and a normal water surface elevation of 540 feet msl; (3) a proposal canal intake; (4) a proposed 4,000-foot-long power canal; (5) a proposed penstock intake; (6) a proposed 350-foot-long, 7-foot-diameter steel penstock; (7) a proposed powerhouse with three generating units having a total installed capacity of 360-kW; (8) a proposed tailrace; (9) a proposed 50-foot-long, 4.8-kV overheld transmission line; and (10) appurtenant facilities. The Applicant estimates the average annual generation

would be 2,200,000 kWh. The dam and existing project facilities are owned by Orange County, New York.

k. Purpose of Project: All project energy generated would be sold to the Orange and Rockland Utilities, Inc.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

10 a. Type of Application: Major License (5MW or less).

b. Project No.: 9840–000.

c. Date Filed: December 31, 1985.

d. Applicant: Appomattox River Water Authority.

e. Name of Project: Appomattox River Water Authority Hydroelectric Project.

f. Location: On the Appomattox River near Petersburg, Chesterfield and Dinwiddie Counties, Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Todd Cormier, Halliwell Associates, Inc., 865 Waterman Avenue, East Providence, RI 02914, (401) 438–5020.

i. Comment Date: July 23, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete gravity dam 1,250 feet long and 55 feet high; (2) an existing 3,053-acre reservoir with a storage capacity of 35,354 acre-feet at a surface elevation of 158.0 feet NGVD; (3) a proposed intake structure; (4) a proposed steel penstock 12 feet in diameter and 100 feet long; (5) a proposed concrete powerhouse 50 feet long, 25 feet wide, and 65 feet high housing a 4,500-kW hydropower unit; (6) a proposed 34.5 kV transmission line 260 feet long; and (7) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 15.8 GWh. The dam is owned by the Applicant.

k. Purpose of Project: Project energy would be sold to VEPCO.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

11 a. Type of Application: Minor License.

b. Project No.: 7880–002.

c. Date Filed: December 20, 1985.

d. Applicant: O'Connell Management Company, Inc.

e. Name of Project: Bethlehem.

f. Location: Ammonoosuc River, Grafton County, NH.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Peter F. O'Connell, O'Connell Management Company, Inc., One Heritage Drive, Quincy, MA 02171, (617) 328–055.

i. Comment Date: July 25, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing reinforced concrete dam 282 feet long and 29 feet high with a spillway 140 feet long and crest elevation of 1,140 feet NGVD; (2) an existing gateworks structure consisting of a headgate, ice sluice, and wastegate; (3) an existing impoundment of 5.5 acres surface area and capacity of 22 acre-feet at a normal maximum surface elevation of 1,140 feet NGVD, to be increased by the proposed addition of 4-foot-high flashboards to 9 acres surface area and capacity of 116 acre-feet at a normal maximum surface elevation of 1,144 NGVD; (4) a proposed 5-foot-diameter steel penstock 235 feet long; (5) a proposed reinforced concete turbine support struction 10 feet long and 10 feet wide, to house a submersible turbine-generator of 400 kW capacity; (6) a proposed excavated tailrace channel 200 feet long, 10 feet wide, and 6 feet deep; (7) a proposed 480 V transmission line 50 feet long and a proposed 19.9 kV transmission line 75 feet long; and (8) appurtenant facilities.

The estimated annual energy production is 1.8 million kWh. The net hydraulic head is 25 feet. Project power would be sold to Public Service Company of New Hampshire. The dam is owned by Bethlehem Hydroelectric Company, Inc.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

12 a. Type of Application: 5 MW Exemption.

b. Project No: 9826–000.

c. Date Filed: December 31, 1985.

d. Applicant: Bethel Mills, Inc.

e. Name of Project: Bethel Mills.

f. Location: On the third branch of the White River in the Town of Bethel, Windsor County, Vermont.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Mr. Michael A. Walker, Brown, Olson & Wilson, 21 Green Street, Concord, NH 03301, (603) 225–9716.

i. Comment Date: July 2, 1986.

j. Description of Project: The proposed project would consist of:

(1) The existing 15-foot-high, 150-foot-long Bethel Mills Dam; (2) an existing 10-acre reservoir with a surface elevation raised by 2.5-foot-high flashboards to a surface elevation of 555 feet NGVD, thereby impounding 50 acre-feet of gross storage capacity; (3) the replacement of the seven-foot-diameter, 78-foot-long wood stave penstock; (4) the replacement of the two generating units in powerhouse with two new units with an installed generating capacity of 525 kW; (5) an existing 200-foot-long, 2.7 kV transmission line; and (6) appurtenant facilities.

The Applicant estimates the average annual energy generation to be 2 GWh. The Applicant anticipates that the power generated by the project will be used by Bethel Mills with excess power sold to the Central Vermont Public Service Company.

k. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

13 a. Type of Application: Minor Lincense.

b. Project No: 9727–000.

c. Date Filed: December 26, 1985.

d. Applicant: Bellamy's Mill Power, Ltd.

e. Name of Project: Bellamy's Mills Hydropower Project.

f. Location: On Fishing Creek near North Whitakers and Brinkleyville, Nash and Halifax Counties, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. T. Stewart Gibson, 2627 Sunset Avenue, P.O. Box 7336, Rocky Mount, NC 27804, (919) 443–6123.

i. Comment Date: July 23, 1986.

j. Description of Project: The project would consist of: (1) An existing granite block gravity dam with an overall length of 220 feet and a height of 12 feet; (2) an existing 1.0-acre reservoir with a storage capacity of 5.0 acre-feet at a normal water surface elevation of 91.5 feet MSL; (3) an existing powerhouse to contain an installed capacity of 39 kW; (4) a proposed powerhouse to contain an installed capacity of 115 kW; (5) a proposed 50-foot-long, 7.2-kV single-phase transmission line; and (6) appurtenant facilities. The existing dam is owned by T. Stewart Gibson. The applicant estimates that the average annual energy generation would be 442,616 kWh. The applicant anticipates that the energy produced will be sold to North Carolina Power Company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

14 a. Type of Application: License (Over 5 MW).

b. Project No.: 8435–001.

c. Date Filed: June 3, 1985.

d. Applicant: Independence Electric Corporation.

e. Name of Project: Aliceville Hydro Project.

f. Location: On the Tombigbee River near Pickensville, Pickens County, Alabama.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825 (r).

h. Contact Person: Mr. G. William Miller, President, Independence Electric Corporation, 1215 19th Street, NW., Washington, DC 20036, (202–429–1780).

i. Comment Date: July 28, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Aliceville Lock and Dam and an existing 6,000-foot-long and 180-foot-wide diversion channel, and would consist of: (1) A reinforced concrete powerhouse which is located on the west side of the river in the existing diversion channel, and which would contain two 10–MW generating units for a total installed capacity of 20 MW: (2) a proposed 115–kV transmission line approximately 10 miles long; and (3) appurtenant facilities. The Applicant estimates the total annual power generation would be 63.5 GWH. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A3, A9, B, and C.

15 a. Type of Application: Preliminary Permit.

b. Project No.: 9921–000.

c. Date Filed: February 23, 1986.

d. Applicant: Washington County Water Conservancy District.

e. Name of Project: St. George Water Power Project.

f. Location: On Virgin River, near St. George, in Washington County, Utah (In Section 28 of T41S, R12W, SLB&M).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825 (r).

h. Contact Person: Mr. Ronald W. Thompson, District Manager, Washington County Water Conservancy District, 148 East Tabernacle, St. George, UT 84770, (801) 673–4892.

i. Comment Date: July 7, 1986.

j. Competing Application: Project No. 9382, Date Filed: August 1, 1985. Due Date: January 27, 1986.

k. Description of Project: The proposed project would consist of: (1) A 10-foot-high, 250-foot-long diversion dam at elevation 3570 feet; (2) a 10-foot-long, 20-foot-wide, 36,000-foot-long canal; (3) a 6-foot-diameter, 1,100-foot-long steel penstock; (4) a powerhouse containing one generator unit with a rated capacity of 2.7 MW operating under a head of 750 feet; and (5) a 100-foot-long, 12.5-kV transmission line interconnecting the Project to an existing Washington County Water Conservancy District's (WCWCD) transmission line. The project's estimated average annual generation of 18.3 GWh will be sold to WCWCD.

l. This notice also consists of the following standard paragraphs: A8, B, C, and D2.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specific comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development application desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb,

Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be set to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: June 5, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13090 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-3894-020 et al.]

ARCO Oil and Gas Company, Division of Atlantic Richfield Company et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates[1]

June 4, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before June 17, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per mcf	Pressure base
G-3894-020, D, May 19, 1986	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	United Gas Pipe Line Company, Sibley Field, Webster Parish, Louisiana.	([1])	
G-4690-001, D, May 19, 1986	....do	Arkansas Louisiana Gas Company, Sentell Field, Bossier Parish, Louisiana.	([1][3])	
G-5214-002, D, May 15, 1986	Sohio Petroleum Company, P.O. Box 4587, Houston, Texas 77210.	Tennessee Gas Pipeline Company, Hog Bayou Field, Cameron Parish, Louisiana.	([2])	

Docket No. and date filed	Applicant	Purchaser and location	Price permct	Pressure base
G-8493-000, D, May 19, 1986	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Texas Eastern Transmission Corporation, Hartburg Field, Newton County, Texas.	([14])	
G-11838-000, D, May 14, 1986	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Northern Natural Gas Company, W/2 Sec. 8-22S-16W, Edwards County, Kansas.	([3])	
CI61-1281-001, D, May 23, 1986	Mobil Oil Corporation, Nine Greenway Plaza—Suite 2700, Houston, Texas 77046-0957.	ANR Pipeline Company, Cedardale Field, Dewey, Major and Woodward Counties, Oklahoma.	([4])	
CI83-168-004, C, May 12, 1986	Cities Service Oil & Gas Corp	Tennessee Gas Pipeline Company, West Delta Block 52, State Lease #977, Offshore Louisiana.	([5])	
CI86-240-000, B, Feb. 28, 1986	Francis E. Cain, Agent for Rice-Rogers Gas, P.O. Box 80, Bigbend, W. Va. 26136.	Consolidated Gas Transmission Corporation, Sheridan District, Calhoun County, West Virginia.	([6])	
CI86-415-000, B, May 6, 1986	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120-7309.	Texas Eastern Transmission Corporation, Chevron Field, Kleburg County, Texas.	([7])	
CI86-417-000, (CI63-95), B, May 9, 1986.	Book Cliffs Oil & Gas Company	Northwest Pipeline Corporation, Westwater Field, Grand County, Utah.	([8])	
CI86-423-000 (G-12695), B, May 12, 1986.	Union Exploration Partners, Ltd., P.O. Box 7600, Los Angeles, Calif. 90051.	Transcontinental Gas Pipe Line Corporation, Live Oak Field, Vermilion Parish, Louisiana.	([9])	
CI86-427-00 (G-8605), B, May 13, 1986.	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Arkla Energy Resources, a Division of Arkla, Inc., Bear Creek Field, Bienville Parish, Louisiana.	([10])	
CI86-430-000 (CI73-756), B, May 14, 1986.	Shell Western E&P Inc., P.O. Box 4684, Houston, Texas 77210.	El Paso Natural Gas Company, Bisti Field, San Juan County, New Mexico.	([11])	
CI86-435-000 (G-9325), B, May 22, 1986.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, Magnet-Withers Field, Wharton County, Texas.	([12])	
G-3894-019, B, May 5, 1986	do	Transcontinental Gas Pipe Line Corporation, Greta Field, Refugio County, Texas.	([13])	
CI86-432-000, B, May 15, 1986	Phillips Petroleum Company, 336 Home Savings & Loan Building, Bartlesville, Okla. 74004.	ANR Pipeline Company, Boston Bayou Field, Vermilion Parish, Louisiana.	([7])	

[1] Assignment of acreage to Vernon E. Faulconer effective May 1, 1985.
[2] Sohio's interest in Hog Bayou Field were sold to Salvex, Inc. effective 2-21-85.
[3] To release gas for irrigation fuel.
[4] The Mobil—A. K. Cox Unit well is no longer capable of delivering commercial quantities of gas into Buyer's gathering system.
[5] By Assignment dated 5-9-83, effective 4-22-76, Cities Service Oil and Gas Corporation acquired from Marion Corporation certain acreage.
[6] Uneconomical.
[7] Gas reserves depleted, leases expired and the wells plugged and abandoned.
[8] Well hasn't produced since 1974. Line has washed out and purchaser won't spend money to repair the line. Producer can't afford to repair line for 19 cents/Mcf. Another pipeline in vicinity has made an economic offer to purchase the gas.
[9] The only developed gas reserves were assigned to ARCO Oil and Gas Company (successor in interest to Atlantic Refining Company) effective 6-1-58 and became subject to ARCO's Rate Schedule No. 195. UXP's initial wells have been plugged and abandoned. The dedicated leases are currently held by production from the Godchaux Sand assigned to ARCO.
[10] Conoco has no remaining production subject to Conoco Inc. Gas Rate Schedule No. 126.
[11] All acreage has been assigned to Hixon Development Company.
[12] Acreage subject to Rate Schedule No. 124 was assigned to Wayne M. Byles effective 12-16-85. Contract with Tennessee Gas Pipeline Company expired by its own terms 11-11-85.
[13] Assignment of acreage to Vernon E. Faulconer effective August 1, 1985.
[14] Assignment of acreage to Bettis, Boyle and Stovall effective July 1, 1985.
[15] Lease released October 5, 1984.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-13092 Filed 6-10-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CS66-37 et al.]

Byrom Oil Company et al.; Applications for Small Producer Certificates[1]

June 4, 1986.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to made protect with reference to said applications should on or before June 18, 1986, filed with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket	Date filed	Applicant
CS66-37	May 19, 1986[1]	Byrom Oil Company, P.O. Box 5370, Hobbs, New Mexico 88241.
CS69-4-003	May 5, 1986[2]	Kaneb Operating Company, Ltd., P.O. Box 4502, Houston, Texas 77210
CS71-187	Apr. 25, 1986[3]	C. Michael Scott, Gerald W. Scott, Patti Joan Scott Tucker and Ellis L. Brown, *et al. P.O. Box 430 Duncan, Oklahoma 73534*
CS72-212	May 1, 1986[4]	John H. HcCutchen, Trustee; Mildred H. McCutchen, Trust FBO; John H. McCutchen; and Robert N. McCutchen, Trustee; Mildred H. McCutchen, Trust FBO, Robert N. McCutchen, P.O. Box 1179, Wichita, Kansas 67201.
CS74-87	May 1, 1986[5]	Natural Resource Management, Corporation, NRM 81-1, LTD., and HMG ASSOCIATES, 26th Floor, San Jacinto Tower, 2121 San Jacinto Street, Dallas, Texas 75201.
CS77-241-002	May 5, 1986[6]	Ocelot Energy Corp., Suite 1700, One Denver Place, 999 Eighteenth Street, Denver, Colorado 80202-2490.
CS86-45-000	Mar 18, 1986	Jimmy M. Reed, P.O. Box 1206, Reseda, California 91335.
CS86-52-000	May 6, 1986	TIPCO Offshore Development, Inc., 6525 N. Meridian, Oklahoma City, Oklahoma 73116.
CS86-60-000	Apr. 28, 1986	Wood, McShane & Thams, P.O. Box 968, Monahans, Texas 79756.
CS86-61-000	Apr. 28, 1986	Bar D Oil Corporation, 1502 The 600 Building, Corpus, Christi, Texas 78473.

Docket	Date filed	Applicant
CS86-62-000	May 1, 1986	Memorial Exploration Company, 17 S. Briar Hollow Lane, Suite 200, Houston, Texas 77027.
CS86-63-000	May 1, 1986	Daniel-Price Exploration Co., 810 St. Cincinnati—Suite 200, Tulsa, Oklahoma 74119.
CS86-64-000	May 22, 1986	TNT Petroleum Company, 1918 The 600 Building, Corpus Christi, Texas 78473.
CS86-66-000	May 5, 1986	Warren, Inc. & Warren Associates, P.O. Box 7250, Albuquerque, New Mexico 87194-7250.
CS86-67-000	May 8, 1986	Source Petroleum Inc., P.O. Box 53432, Lafayette, Louisiana 70505.
CS86-68-000	May 12, 1986	Southland Energy Corporation, 7134 South Yale—Suite 200, Tulsa, Oklahoma 74136.
CS86-69-000	May 23, 1986	Childress Royalty Company, P.O. Box 66, Joplin, Missouri 64802.

[1] Letter dated May 14, 1986, advising that the heirs and devisees of W. K. Byrom have formed Byrom Oil Company, a limited partnership.

[2] The application was received on April 14, 1986. Supplemental information and the filing fee were received on May 5, 1986. Applicant requests redesignation of the small producer certificate in Docket No. CI69-4 under the name of Kaneb Operating Company, Ltd., and termination of the small producer certificate in Docket No. CS77-604. The docket designation, CS86-65-000, initially assigned to this filing, is hereby canceled.

[3] Letter dated April 22, 1986, requesting redesignation of small producer certificate to reflect that Charles W. Scott passed away and his heir, C. Michael Scott, has taken over operations for himself, for Gerald W. Scott and Patti Joan Scott Tucker, and for his father's original partners, Ellis L. Brown, *et al.*

[4] Letters dated April 28, 1986, received May 1, 1986, and May 15, 1986, received May 19, 1986, advising that Mildred H. McCutchen's interests upon her death were assigned to John H. McCutchen, Trustee, Mildred H. McCutchen Trust FBO John H. McCutchen and to Robert N. McCutchen, Trustee, Mildred H. McCutchen Trust FBO Robert N. McCutchen, and requesting redesignation of the small producer certificate under the name of these trusts.

[5] Letter dated April 28, 1986, requesting redesignation of small producer certificate to reflect that NRM Petroleum Corporation merged with its parent and ceased to exist, and advising that the correct name of its parent is Natural Resource Management Corporation.

[6] Ocelot Energy Corp. requests to be added to the small producer certificate held by its affiliate, Ocelot Oil Company, in Docket No. CS77-241.

[FR Doc. 86-13093 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-6267-000 et al.]

Texaco Producing, Inc., et al.; Applications for Abandonment and Certificate of Public Convenience and Necessity

June 4, 1986.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to abandon service or for a certificate to sell natural gas in interstate commerce, as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order Nos. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR §§ 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-6267-000, B, Apr. 28, 1986 [1]	Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052.	United Gas Pipe Line Company, Hollywood and Houma Fields, Terrebonne Parish, Louisiana.	([2])	
G-18710-000, B, Apr. 28, 1986 [1]	....do	....do	([3])	
CI86-395-000, B, Apr. 26, 1986 [4]	Caruthers Operating Company, Inc., *et al.*, 1325 American Tower, 401 Market Street, Shreveport, Louisiana 71101 [5].	Texas Gas Transmission Corporation, Lisbon Field, Claiborne Parish, Louisiana.	([6])	
CI86-422-000, A, May 12, 1986	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	TXG Gas Marketing Company, Maurice Field, Lafayette and Vermilion Parishes, Louisiana.	([7])	
CI86-426-000, B, May 13, 1986 [8]	Amax Petroleum Corporation, *et al.*, P.O. Box 42806, Houston, Texas 77042.	United Gas Pipe Line Company, East Addition, South Extension, High Island OCS Blocks 339, 340, and 356 and South Addition, High Island OCS Blocks 520, 545, 546, 547, and 548, Offshore Texas.	([9])	
CI86-433-000, B, May 19, 1986	Felmont Oil Corporation, 695 East Main Street, Stamford, Connecticut 06904-2336.	ANR Pipeline Company, Block 273 Field, Eugene Island Area, Offshore Louisiana.	([10])	

[1] Additional information filed May 22, 1986.

[2] Applicant requests authorization to abandon for a two-year period the sale of excess gas to United authorized in Docket No. G-6267 and covered under Applicant's FERC Gas Rate Schedule No. 34. Applicant states that United has advised that it is unable to take gas above minimal percentages of deliverability. Applicant estimates deliverability of 10.8 MMcf per day and United is taking only 18.0 Mcf per day. Applicant states that United is not paying for gas not taken. Applicant states that United will still maintain first call on the gas on a day-to-day basis. Applicant desires to develop other markets for the gas. Applicant states that the gas is priced under NGPA sections 104, 106, 103 and 107(c)(1). NGPA section 103 and 107(c)(1) gas is not subject to the Commission's Natural Gas Act jurisdiction under NGPA section 601(a)(10(B).

[3] Applicant requests authorization to abandon for a two-year period the sale of excess gas to United authorized in Docket No. G-18710 and covered under Applicant's FERC Gas Rate Schedule No. 137. Applicant states that United has advised that it is unable to take gas above minimal percentages of deliverability. Applicant estimates deliverability of 700 Mcf per day and United is taking only 1 Mcf per day. Applicant states that United is not paying for gas not taken. Applicant states that United will still maintain first call on the gas in a day-to-day basis. Applicant desires to develop other markets for the gas. Applicant states that the gas is priced under NGPA sections 104, 106 and 107(c)(1). NGPA section 107(c)(1) gas is not subject to the Commission's Natural Gas Act jurisdiction under NGPA section 601(1)(1)(B).

[4] Additional information filed May 23, 1986.

[5] The *et al.* parties are Dellconn Oil Coroporation; Western Pacific Corporation; Mrs. Vassar M. Armstrong; John D. Caruthers, Jr.; Robert M. Caruthers; Estate of Mary Morelock Schorr; and Max M. Morelock.

[6] Applicant, a small producer certificate holder in Docket No. CS71-338, requests authorization to abandon a sale of gas under a contract dated December 20, 1973, which has a primary term extending to January 1, 1994. Applicant states that the gas is NGPA section 104 gas, and that Texas Gas is not paying for gas not taken. Applicant states that the current deliverability of the four wells amounts in the aggregate to approximately 50 to 600 Mcf per day. Applicant desires to sell the gas to a market which will take sufficient gas to make the operation profitable.

[7] Applicant requests a limited-term certificate with pregranted abandonment to sell gas to TXG Gas Marketing Company (TXG). The gas is dedicated to Texas Gas Transmission Company (Texas Gas) under a certificate issued in Docket No. CI66-172 and covered by Applicant's FERC Gas Rate Schedule No. 434. On May 2, 1986, Applicant filed for a limited-term abandonment in Docket No. CI66-172-003. Applicant plans to sell the gas not needed by Texas Gas for a two-year period to run concurrently with its limited-term abandonment in order that Applicant may market the surplus gas to TXG. The TXG Gas Sales Agreement dated May 17, 1986, has a primary term from the date of initial delivery through April 30, 1987, and may be extended by mutual agreement of the parties. Applicant states that the gas is NGPA section 104 replacement or recompletion gas.

[8] Additional material received May 19 and 23, 1986.

[9] Applicant, a small producer certificate holder in Docket No. CS72-419, filing on behalf of itself and on behalf of Britoil Ventures, Inc., small producer certificate holder in Docket No. CS84-60-000, a working interest owner, requests authorization to abandon the sale of gas to United for a limited-term ending August 31, 1988, from its 5% percent in certain leases in the listed blocks in High Island Area, Offshore Texas. Applicant also requests blanket pre-granted abandonment authorization for the resale of such gas in interstate commerce. The gas involved in NGPA sections 102(d) and 104 post-1974 gas. Applicant states it is suffering a significant loss of cash flow resulting from a serious decline in its gas balancing position with other interest owners. Pennzoil Producing Company, a joint interest owner, was granted a blanket limited-term abandonment in Docket No. CI86-57-000, by order issued March 5, 1986. Such limited term also ends August 31, 1988. Applicant states that in February 1986, United's takes from Applicant's 5 percent interest dropped to 5,276 Mcf which is 2.2 percent of Applicant's deliverability of 235,200 Mcf. Applicant further states that it was advised by United that United intends to discontinue all takes on May 1, 1986. Applicant states that it has not received payment for the gas which United has failed to take under its contracts with Applicant.

[10] Applicant requests a limited-term abandonment of its sale of gas to ANR for a period of three-years. Applicant states that the gas is classified as either NGPA section 104-flowing or 104 replacement/recompletion gas and that its deliverability from the subject acreage is approximately 900 Mcf/d, while ANR is purchasing only 634 Mcf/d. Applicant states that ANR's

purchases have been substantially below Applicant's share of gas produced from the field for the past three years. As a result, Applicant states that it is under-balanced with respect to its other working interest owners by approximately 180,000 Mcf, and there is no gas balancing agreement or effective take-or-pay balancing agreement or effective take-or-pay provision in effect. Consequently, Applicant states that ANR's failure to purchase gas is draining Applicant of revenues and reserves without compensation.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-13091 Filed 6-10-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-737-000, etc.]

Connecticut River Power Company, Inc., et al.; Small Power Production and Cogeneration Facilities Qualifying Status Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

June 5, 1986.

Take notice that the following filings have been made with the Commission.

1. Connecticut River Power Company, Inc.

[Docket No. QF86-737-000

On May 19, 1986, Connecticut River Power Company, Inc. (Applicant), of c/o Orr and Reno, P.A., One Eagle Square, P.O. Box 709, Concord, New Hampshire 03301, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in the Village of North Stratford, New Hampshire. The electric power production capacity will be 30 megawatts. The primary energy source will be biomass in the form of waste wood. Natural gas will be used for mill uses start-up (preheating) and occasional flame stabilization, and will not exceed two percent of the total annual energy input to the facility. Coal and oil will not be used.

2. LUZ Solar Partners III, Ltd.

[Docket No. QF86-734-000]

On May 20, 1986, LUZ Solar Partners III, Ltd. (Applicant), a California Limited Partnership, c/o LUZ Engineering Corporation, General Partner, 924 Westwood Boulevard, Suite 1000, Westwood, California 90024 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located approximately 30 miles west of Barstow, California at the junction of U.S. Highway 395 and California Highway 58 at Kramer Junction, California. The primary energy source will be solar energy. The facility will consist of a solar collector field, a solar-fired preheater-steam generator, a solar-fired superheater, a separate natural gas-fired auxiliary boiler, a natural gas-fired emergency heat transfer fluid heater and a dual inlet steam turbine generator. The net electric power production capacity of the facility will be 30 MW. Potomac Capital Investment Corporation, a wholly-owned subsidiary of Potomac Electric Power Company, an electric utility and also a subsidiary of CP National Corporation, an electric utility will have equity interest in the facility. No other small power production facilities owned by the Applicant and using the same energy source are located within one mile of the facility.

3. LUZ Solar Partners IV, Ltd.

[Docket No. QF86-736-000]

On May 20, 1986, LUZ Solar Partners IV, Ltd. (Applicant), a California Limited Partnership, c/o LUZ Engineering Corporation, General Partner, 924 Westwood Boulevard, Suite 1000, Westwood, California 90024 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located approximately 31 miles west of Barstow, California at the junction of U.S. Highway 395 and California Highway 58 at Kramer Junction, California. The primary energy source will be solar energy. The facility will consist of a solar collector field, a solar-fired preheater/steam generator, a solar-fired superheater, a separate natural gas-fired auxiliary boiler, a natural gas-fired emergency heat transfer fluid heater and a dual inlet steam turbine generator. The net electric power production capacity of the facility will be 30 MW. Potomac Capital Investment Corporation, a wholly-owned subsidiary of Potomac Electric Power Company, an electric utility and also a subsidiary of CP National Corporation, an electric utility will have equity interest in the facility. No other small power production facilities owned by the Applicant and using the same energy source are located within one mile of the facility.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-13168 Filed 6-6-86; 8:45 am]

BILLING CODE 6717-01-M

Western Area Power Administration

Collbran Project; Notice of a Rate Order

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of a rate order—Collbran project.

SUMMARY: Notice is given of Rate Order No. WAPA-26 of the Under Secretary of the Department of Energy (DOE) for placing an increased power rate into effect on an interim basis beginning on the first day of the July 1986 billing period for power marketed by the Western Area Power Administration (Western) from the Collbran Project.

The wholesale firm and nonfirm rate for all project energy is 21.8 mills per kWh. This is an increase of about 2.5 mills over the previous energy rate for firm and nonfirm energy. The rate was last adjusted in 1983.

The rate order further explains the rate adjustment and discusses the principal factors leading to the decisions on the rate increase, and responds to the comments offered during the rate adjustment proceeding.

EFFECTIVE DATE: The rate will become effective on the first day of the July 1986 billing period.

FOR FURTHER INFORMATION CONTACT:
Ms. Marlene Moody, Assistant Area Manager for Power Marketing, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524–5493
Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535
Mr. Ronald K. Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–5581.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664, December 14, 1983), and as amended on May 28, 1986, the Secretary of Energy delegated to the Administrator of Western the authority to develop power and transmission rates; to the Under Secretary of the Department of Energy the authority to confirm, approve, and place such rates in effect on an interim basis; and to the Federal Energy Regulatory Commission the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates.

The proceeding on a proposed rate adjustment and a 30-day customer consultation and comment period was initiated on October 22, 1985, with an announcement of the proposed rate adjustment published in the **Federal Register** at 50 42771. The October 22 notice also announced an informal public meeting on November 5, 1985. On October 23, 1985, letters were sent to customers and other interested parties to announce the proposed rate adjustment and the meeting, and to transmit copies of the **Federal Register** notice and the rate brochure dated October 1985. Written comments were accepted through November 21, 1985.

Subsequently, a final revised FY 1985 power repayment study was completed, and the proposed rate was reduced to 21.8 mills/kWh.

Public comments received have been considered in the preparation of the rate order.

Rate Order No. WAPA–26 confirming and approving an increased power rate on an interim basis is hereby issued, and the rate will be promptly submitted to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued at Washington, DC, May 30, 1986.
Joseph F. Salgado,
Under Secretary.

Department of Energy Deputy Secretary

[Rate Order No. WAPA–26]

In the matter of: Western Area Power Administration—Collbran Project Power Rates; Order Confirming, Approving, and Placing an Increased Energy Rate in Effect on an Interim Basis.
May 30, 1986.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101 *et seq.*, the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, ch. 1093, 32 Stat. 388 (1902), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Collbran Project (Collbran), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664, December 14, 1983), and as amended on May 28, 1986, the Secretary of Energy delegated the authority to develop power and transmission rates to the Administrator of the Western Area Power Administration (Western); the authority to confirm, approve, and place in effect such rates on an interim basis to the Under Secretary of the Department of Energy; and the authority to confirm, approve, and place in effect on a final basis, to remand or to disapprove those rates to the Federal Energy Regulatory Commission (FERC). This rate order is issued pursuant to the delegation to the Administrator and the Under Secretary and the rate adjustment procedures at 10 CFR Part 903, published at 50 FR 37837 on September 18, 1985.

Background

Project History

The Collbran Project, located in west-central Colorado about 35 miles northeast of Grand Junction and near the town of Collbran, was authorized by the Act of July 3, 1952, ch. 565, 66 Stat. 325 (1952). The project collects a major part of the unused water of Plateau Creek and its principal tributaries for irrigation uses and, by exchange of water, generates hydroelectric power. The project supplies supplemental irrigation water to about 20,000 acres and new irrigation water to about 2,000 acres, generates up to 14,000 kilowatts (kW) of hydroelectric power, and, incidental to the foregoing, provides flood control, recreational, fish, and wildlife benefits. Construction of the project facilities started in 1957, and the major part of the construction was completed by the end of calendar year 1962.

Water for power generation is obtained from Big Creek, Cottonwood Creek, and their tributaries on the Grand Mesa. Seventeen small dams on the Grand Mesa were used to supply irrigation water up to 1963. With the construction of the Collbran Project, water from these dams was diverted for hydroelectric generation. In exchange for Big Creek and Cottonwood Creek water previously used for irrigation but now used for power, the project provides an equivalent amount of water from the Vega Reservoir to the irrigators. By agreement with the water users, Reclamation operates and maintains these dams and reservoirs. Fifteen of the Grand Mesa reservoirs are on the water collection system that provides water for the generation of electricity. Two reservoirs, although not a part of that water collection system, were regulated by Reclamation to increase the water available for power generation by exchanging water from the two reservoirs for water from the Vega Reservoir. These latter two dams, Blackman and Currier, have, as of June 1983, been breached and abandoned.

Following are the capacities of the powerplants:

Powerplant	Name-plate capacity (kW)	Capability (kW)
Upper Molina	8,640	9,000
Lower Molina	4,860	5,000
Total	13,500	14,000

Power generated at the powerplants is transformed to 115 kilovolts at each plant, and a 4.75-mile, 115-kV transmission line connects the two plants. At the Lower Molina Powerplant, the project's power system is interconnected at 138 kV to the Molina Substation of the Colorado-Ute Electric Association (Colorado-Ute). As provided by Contract No. 14–06–400–1268 and supplements thereto, the entire output of the Collbran plants has been placed under contract with Colorado-Ute through FY 1989.

Power Repayment Studies

Normally a power repayment study (PRS) for the Collbran Project is prepared annually by Western, with the cooperation of Reclamation, to ensure that revenues will be adequate to repay costs. Power generation and project development data are provided by

Western and Reclamation. A PRS is prepared in accordance with Collbran authorizing legislation, the Reclamation Project Act of 1939, other applicable statutes, and with DOE Order No. RA 6120.2 on power marketing administration financial reporting.

The studies array historic income, expense, and investments to be repaid from power revenues, along with estimates for future years, and show the annual repayment of power production and transmission costs as well as nonpower costs assigned to power for repayment, through the application of revenues over the repayment period of the project. The studies show, among other items, estimated revenues and expenses year-by-year over the remainder of the study period, the estimated amount of Federal investment repaid during each year, and the total estimated amount of Federal investment remaining to be repaid at the end of each year. Revenue is applied in a manner that minimizes Collbran revenue requirements. All investments are paid within their repayment periods; highest interest bearing investments are paid first. The studies determine revenue requirements but do not deal with rate design.

A final revised PRS was completed in January 1986. This study was run using actual, rather than estimated, data for FY 1985 and used an interest rate of 11.375 percent for FY 1986 and beyond. The increased interest rates for replacements and additions has significantly increased the project interest expense, as a result of the increased interest expense, the project revenues are not sufficient to meet repayment requirements. The final revised study showed that a rate for all energy of 21.8 mills/kWh was necessary to repay project obligations in a timely manner.

Western has a policy of transmitting and disposing of power and energy in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business principles. This rate increase is consistent with that policy.

Existing and Increased Rates

The increased rates which are the subject of this order supersede the existing rates as follows:

	Existing rates	Increased rates
Firm energy—mills/kWh	19.3	21.8
Nonfirm energy—mills/kWh	190.3	21.8
Effective date	December 1983 billing period.	June 1986 billing period.
Rate schedule	CP-F/NF-1	CP-F/FN-2.

Public Notice and Comments

Published "Procedures for Public Participation in Power and Transmission Rate Adjustments" for power marketed by Western and other power marketing administrations have been followed in the development of these rates. Since the installed capacity of Collbran is less than 20,000 kW, the rate adjustment is defined at 10 CFR 903.2(f)(2) as a "minor" rate adjustment. The following discussion summarizes the steps Western took to assure involvement of interested parties in the rate process.

1. Advance announcement was made to Colorado-Ute that a power rate adjustment was being considered, and that preliminary studies indicated the rates for both firm and nonfirm energy would need to be increased from the existing rates to about 22 or 23 mills per kWh.

2. A **Federal Register** notice (50 FR 42771, October 22, 1985) announced the proposed power rate adjustment, the commencement of a public consultation and comment period, and the date of an informal public meeting.

3. A letter was sent to the project's single customer and other interested parties to announce the proposed rate adjustment and the meeting. It also transmitted a brochure dated October 1985, which provided information on the proposed adjustment, along with a copy of the October 22, 1985, **Federal Register** notice.

4. An informal public meeting was held November 5, 1985, in Salt Lake City, Utah. Western explained the need for the rate increase and presented the results of the FY 85 preliminary PRS completed October 1985, upon which the proposed rate increase was based. The rate proposed for all energy was 22.7 mills per kWh. A representative of the single customer asked questions and provided preliminary comments. Western and Reclamation provided the additional information requested at the meeting.

5. The consultation and comment period (October 22 through November 21, 1985) provided for the receipt of oral and written comments. The only comments received were from Colorado-Ute.

Certification of Rates

Western transmits and disposes of power and energy in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business principles. With the new rate in effect, the administrator has certified that Collbran power will be sold at the lowest possible rate consistent with sound business principles. The rate has been developed in accordance with administrative policies and applicable laws.

Discussion

The discussion below relates to PRS issues, several customer comments, and to procedural matters. There were no rate design issues raised during the public consultation and comment period.

No changes in the PRS were made as a result of comments received.

Customer Comments

Issue: Colorado-Ute questioned the need for repairing or rehabilitating the dams in the water collection system that are operated and maintained by Reclamation but are owned by the water users.

Response: Under the provisions of Reclamation's contract with the water users, the costs of operating, maintaining, and replacing facilities used exclusively for generation of power are assumed by Reclamation. As noted in the rate brochure, an increased level of O&M and extraordinary maintenance is being performed or scheduled to be performed during the next 5-year period. Historically, only the minimum amount of maintenance work to keep the dams operable was performed. As a result of an assessment of the Grand Mesa dams in 1979, it was determined that a higher level of maintenance was necessary and that extensive clearing out of trees, weeds, and other debris from the dams and reservoirs was needed. As discussed with Colorado-Ute in the informal public meeting of November 5, 1985, the dams are absolutely necessary to collect water to operate the power system. Their abandonment would eliminate all power storage capacity and turn the project into a run of the river system with greatly reduced annual generation. The cost of abandoning the project along with all the current investment cost would still have to be repaid even though the project generation would be greatly reduced. The net result would be even higher energy rates than those currently being implemented.

Issue: The power customer requested that the Collbran Project be integrated with other projects in the Salt Lake City Area (Colorado River Storage, Rio

Grande, and Provo River Projects) for marketing and rate purposes.

Response: This is a topic of consideration in the development of the Salt Lake City Area Post–1989 Marketing Plan, but the customers are requesting that it be done as early as 1986 if possible. Western has given this request consideration in the proper forum, but it is not an issue directly relevant to this rate adjustment.

After reviewing and considering the comments received from the customer and the report of the public meeting, no further changes were made to the preliminary power repayment studies. The preliminary revised FY 1985 PRS used estimated data for FY 1985 and used 12.375 percent as the interest rate for all future year investments. Actual revenue and expense data became available in December and were put into the final revised FY 1985 PRS. The interest rate for FY 1986 was also announced in December and included in the final revised FY 1985 study for all future year investments. The actual expenses for FY 1985 were less than estimated and this, combined with the lower interest rate for future years, resulted in the proposed rate being reduced from 22.7 mill/kWh to 21.8 mills/kWh.

Environmental Evaluation

In compliance with the National Environmental Policy Act of 1969 and section D of DOE guidelines published in the **Federal Register** on February 23, 1982 (47 FR 7976), Western has followed the process described below in conducting environmental evaluations of the rate adjustment.

Section D of the DOE guidelines states that the level of documentation required for rate increases for power marketing administrations depends upon the size of the rate increases as it relates to the rate of inflation since the last rate increase. The Consumer Price Index (published by the Department of Labor) was used to estimate the rate of inflation from the date of the last rate increase to the planned date of the new increase. Because the power rate increase of 12.9 percent is expected to exceed the rate of inflation over the interval since the last rate adjustment, it was determined that an Environmental Assessment (EA) was required. Western prepared an EA, which was submitted to DOE. DOE issued a "Finding of No Significant Impact" on March 28, 1986. These documents are on file in Western's offices.

Executive Order 12291

The DOE has determined that this is not a major rule within the meaning of the criteria of section 1(d) of Executive Order 12291. In addition, Western has received an exemption from sections 3, 4, and 7 of that order and, therefore, will not prepare a regulatory impact statement.

Availability of Information

Information regarding this rate adjustment, including studies, comments, and other supporting material, is available for public review in the Salt Lake City Area Office, Western Area Power Administration, 438 East 200 South, Suite 2, Salt Lake City, Utah 84111; in the Office of the Director, Division of Marketing and Rates, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and in the Office of the Assistant Administrator for Washington Liaison, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

Submission to the FERC

The rate herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve and place in effect Rate Schedule CP–F/NF–2 on an interim basis, effective on the first day of the July 1986 billing period. The rate shall remain in effect on an interim basis pending FERC confirmation and approval of this or a substitute rate, on a final basis, or until superseded.

Issued in Washington, DC, May 30, 1986.

Joseph F. Salgado,

Under Secretary.

Rate Schedule CP–F/NF–2 (Supersedes Schedule CP–F/NF–1) Rate Schedule for Wholesale Firm and Nonfirm Energy Service

Effective: On the first day of the July 1986 billing period.

Available: In the area served by the Collbran Project.

Applicable: To wholesale power customers for general power service supplied through one meter at one point of delivery.

Character and conditions of service: Alternating current, sixty (60) hertz, three-phase, delivered and metered at the voltages and points established by contract.

Monthly rate: Energy Charge: 21.8 mills/kWh for all energy delivered.

[FR Doc. 86–13195 Filed 6–10–86; 8:45 am]
BILLING CODE 6450–01–M

Colorado River Storage Project; Notice of a Rate Order

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Notice of a rate order—Colorado River Storage Project Transmission Rates.

SUMMARY: Notice is given of Rate Order No. WAPA–27 of the Under Secretary of the Department of Energy for placing increased rates into effect on an interim basis for the transmission of power over the Colorado River Storage Project system by the Western Area Power Administration (Western).

The firm transmission rate consists of a charge of $15.94 per kilowatt year. The nonfirm transmission rate consists of a charge of 3.1 mills per kWh. The rates are being put into effect on an interim basis beginning on the first day of the July 1986 billing period.

The rate order further explains the rate adjustment and discusses the principal factors leading to the decisions on the rate increase and responds to the major comments and criticisms offered during the rate adjustment proceeding.

EFFECTIVE DATE: The rates will become effective on the first day of the July 1986 billing period.

FOR FURTHER INFORMATION CONTACT:

Ms. Marlene Moody, Assistant Area Manager for Power Marketing, Salt Lake City Area Office, Western Area Power Administration, P.O. Box 11606, Salt Lake City, UT 84147, (801) 524–5493

Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, (303) 231–1535

Mr. Ronald K. Greenhalgh, Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–5581.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664, December 14, 1983), and as amended on May 28, 1986, the Secretary of Energy delegated to the Administrator of Western the authority to develop power and transmission rates; to the Under Secretary of the Department of Energy the authority to confirm, approve, and place such rates in effect on an interim basis; and to the Federal Energy Regulatory Commission the authority to confirm, approve, and place in effect on a final basis, to remand, or to disapprove such rates.

The proceeding on a proposed rate adjustment and a 30-day customer consultation and comment period was initiated on October 22, 1985, with an announcement of the proposed rate adjustment published in the **Federal Register** at 50 FR 42772. The October 22 notice also announced a public meeting on November 6, 1985. On October 23, 1985, letters were sent to customers and other interested parties to announce the proposed rate adjustment and the meeting, and to transmit copies of the **Federal Register** notice and the rate brochure dated October 1985. Written comments were accepted through November 21, 1985.

All public comments received were supportive of the rate adjustment or have been considered in the preparation of the rate order.

Rate Order No. WAPA–27 confirming and approving increased power rates on an interim basis is hereby issued, and the rates will be promptly submitted to the Federal Energy Regulatory Commission for confirmation and approval on a final basis.

Issued at Washington, D.C., May 30, 1986.

Joseph F. Salgado,

Under Secretary.

Department of Energy Under Secretary

[Rate Order No. WAPA–27]

In the matter of: Western Area Power Administration—Colorado River Storage Project Transmission Rates; Order Confirming, Approving, and Placing Increased Transmission Rates in Effect on an Interim Basis

May 30, 1986.

Pursuant to section 302(a) of the Department of Energy (DOE) Organization Act, 42 U.S.C. 7101 *et seq.*, the power marketing functions of the Secretary of the Interior and the Bureau of Reclamation (Reclamation) under the Reclamation Act of 1902, ch. 1093, 32 Stat. 388 (1902), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Act of 1939, 43 U.S.C. 485h(c), and acts specifically applicable to the Colorado River Storage Project (CRSP), were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–108, effective December 14, 1983 (48 FR 55664, December 14, 1983), and as amended on May 28, 1986, the Secretary of Energy delegated the authority to develop power and transmission rates to the Administrator of the Western Area Power Administration (Western); the authority to confirm, approve, and place in effect such rates on an interim basis to the Under Secretary of Energy; and authority to confirm, approve, and place in effect on a final basis, to remand or to disapprove those rates to the Federal Energy Regulatory Commission (FERC). This rate order is issued pusuant to the delegation to the Administrator and the Under Secretary and the rate adjustment procedures at 10 CFR Part 903, published at 50 FR 37837 on September 18, 1985.

Background

Project History

On April 11, 1956, the CRSP was authorized by the Colorado River Storage Project Act, ch. 203, 70 Stat. 105 (1956). By means of the four storage units authorized, the flow of the Colorado River is regulated in such a way that irrigation, municipal, industrial, and other water use developments in the Upper Colorado River Basin can take place while still maintaining water deliveries to the lower basin as required by the Colorado River Compact. Facilities have also been provided at the storage units for flood control, for recreation, and for other beneficial purposes. In order to optimize the use of the water and to obtain revenues to assist in the repayment of the irrigation developments, hydroelectric power generating plants have been installed on three of the four storage units and on one of the twenty participating projects.

The Flaming Gorge Powerplant went on line in November 1963, followed by the Glen Canyon Powerplant in September 1964. The three powerplants of the Aspinall Unit came on line as follows: The Blue Mesa Powerplant in September 1967, the Morrow Point Powerplant in December 1970, and the Crystal Powerplant in August 1978. The Fontenelle Powerplant of the Seedskadee participating project went on line in May 1968.

Transmission facilities include a high-voltage transmission grid to deliver power to certain delivery points, to provide interconnections among the plants of the CRSP units and participating projects, and to interconnect with other Federal systems and systems of neighboring utilities. Additional transmission facilities are planned in order to improve system reliability, to provide for the accommodation of inadvertent power flows from other systems, and to allow delivery of planned additional generation.

Transmission Rate Study

A transmission rate study is completed as part of the power repayment study that is done each year. A period of 3 future years is used as a study period in calculating the transmission rate. Planned investment in transmission facilities is identified, and annual investment costs are determined by amortizing the investment at appropriate interest rates for 50 years. Other annual costs such as operation and maintenance, replacements, and wheeling over other systems are also estimated. Annual revenues from rental of transmission facilities and from exchange of hydro generated power for coal generated power (made possible because of the transmission facilities) are included. Capacity commitments for use of the transmission system are projected using planned changes in capacity of CRSP powerplants and contractual wheeling arrangements that Western has with others. Average values for annual costs and capacity are arrived at by averaging the 3 years in the study period. The firm rate is determined by dividing the average annual cost by the average annual capacity commitment. The nonfirm rate is calculated by applying a load factor of 58.2 percent to the firm rate to get an average cost per kWh. The rate increase is necessary to recover the large increase in investment associated with the Western Colorado Transmission System that is scheduled to become operational during the study period.

Existing and Increased Rates

The existing firm transmission rate of $10.27 per kW-year for the use of the CRSP transmission system was placed in effect in April 1983. It was based on the average of the estimated annual costs per kilowatt for the years FY 1982, 1983, and 1984. The aforementioned 3-year estimated average annual transmission costs were $17,630,000 as of the end of FY 1981, which were comprised of the anticipated transmission system investment and operation, maintenance and replacement (OM&R) costs, plus the costs of wheeling over other systems, less revenues for rental of CRSP transmission facilities, less revenues from Colorado-Ute Electric Association (Colorado-Ute), and Salt River Project (SRP) because of the exchange of Colorado-Ute and SRP coal-fired generation of CRSP hydro generation. Dividing the 3-year average annual cost of $17,630,000 by the capacity of 1,716,300 kW resulted in a unit cost of $10.27 per kW–year for the established firm transmission rate. At an annual load factor of 58.2 percent the nonfirm transmission rate was about 2.0 mills per kWh. The nonfirm transmission rate was raised from 1 to 2 mills per kWh in April 1983.

The new transmission rate is based on data available as of September 1, 1985. Projections were made for the 3 ensuing years of FY 1986, 1987, and 1988 as to the anticipated transmission system investment of OM&R costs; costs of wheeling over other systems; revenues from Colorado-Ute and SRP because of the exchange of Colorado-Ute and SRP coal-fired generation for CRSP hydro generation. The estimated average annual costs are $29,241,283 and the estimated transmission capacity commitments are 1826.7 MW. The average cost per kW for the 3 years, $15.94 per kW-year, will be the firm transmission rate. A new nonfirm transmission rate of 3.1 mills per kWh is also being established. The rate of 3.1 mills per kWh is obtained by applying an annual load factor of 58.2 percent to the firm transmission rate of $15.94 per kW year. Both rates are to become effective with the May 1986 billing period, or as soon thereafter as possible, where existing contracts do not permit changes by then.

Western has continued the practice of using the average cost per kW-Year and per kWh as the firm and nonfirm transmission rates.

Public Notice and Comments

Published "Procedures for Public Participation in Power and Transmission Rate Adjustments" for power marketed by Western and other power marketing administrations have been followed in the development of this rate. The rate increase results in a less than 1 percent increase in total CRSP revenues and thus is a minor rate adjustment, as defined at 10 CFR 903.2(f)(1). The following discussion summarizes the steps Western took to assure involvement of interested parties in the rate process:

1. **Federal Register** notice (50 FR 42772, October 22, 1985) announced the proposed transmission rate adjustment and informal public meeting.

2. On October 23, 1985, letters were sent to customers and other interested parties to announce the proposed rate adjustment and the meeting, and to transmit copies of the notice and the rate brochure dated October 1985.

3. An informal public meeting was held on November 6, 1985, in Salt Lake City, Utah. Western explained the need for a rate increase and presented the results of the transmission rate study. Customers asked a few clarifying questions. No substantive comments were received.

4. Written comments were accepted through November 21, 1985.

Certification of Rates

Western transmits and disposes of power and energy in such a manner as to encourage the most widespread use thereof at the lowest possible rates consistent with sound business principles. With the new rates in effect, the Administrator has certified that the CRSP transmission rates are the lowest possible rates consistent with the sound business principles. Rates have been developed in accordance with administrative policies and applicable laws.

Discussion

Very comments about the proposed rate increase were received. One customer commented that it was not notified of the public meeting and that it was not advised of the large rate increase early enough to reflect the increase in its budget. This customer also objected to paying for the increased investment in a system that would not serve it directly and to applying a postage stamp type rate for specific point-to-point service.

In November 1984 meeting, customers were told that Western was examining its CRSP transmission rates and that early indications were that they could increase to as much as $18 per kW per year. Notice of the intent to adjust rates and of the scheduled informal public meeting was published in the **Federal Register** on October 22, 1985. The same methodology that had been used in previous transmission rate studies was used in the current study. This methodology was accepted by the customer when it agreed to SP–FT1 as the rate applicable to its transactions.

The other comments received, one verbally at the meeting and two in writing, stated that the information provided demonstrated the need for a rate increase and that they supported Western in this effort. No changes were made in the transmission study in response to comments.

Environmental Evaluation

In compliance with the National Environmental Policy Act (NEPA) of 1969 and section D of the DOE Guidelines which were published in the **Federal Register** (47 FR 7976) on February 23, 1982, Western has followed the process described below in conducting an environmental evaluation of the rate adjustment.

Section D of the DOE guidelines states that the level of documentation required under NEPA, for rate increases of power marketing administrations, depends on the size of the rate increase as it relates to the rate of inflation since the last rate increase.

The Consumer Price Index (published by the Department of Labor) was used to estimate the rate of inflation from the date of the last rate increase to the planned date on the new increase. Since the transmission rate increase of 55.2 percent is much greater than the increase in the consumer price index for the same period, Western prepared an Environmental Assessment and submitted it to DOE. DOE issued a Finding of No Significant Impact on March 25, 1986. These documents are on file in Western's offices.

Executive Order 12291

The DOE has determined that this is not a major rule within the meaning of the criteria of section 1(b) of Executive Order 12291. In addition, Western has received an exemption from sections 3, 4, and 7 of that order and, therefore, will not prepare a regulatory impact statement.

Availability of Information

Information regarding this rate adjustment, including studies, comments, and other supporting material, is available for public review in the Salt Lake City Area Office, Western Area Power Administration, 438 East 200 South, Suite 2, Salt Lake City, Utah 84111; Division of Marketing and Rates, Western Area Power Administration, 1627 Cole Boulevard, Golden, Colorado 80401; and Office of Assistant Administrator for Washington Liaison, Western Area Power Administration, Room 8G061, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

Submission to the FERC

The rates herein confirmed, approved, and placed in effect on an interim basis, together with supporting documents, will be submitted to the FERC for confirmation and approval on a final basis.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective on the first day of the July 1986 billing period, Rate Schedules SP–FT2 and PS–NFT2. These rates shall remain in effect on an interim basis pending the FERC confirmation and approval of them or substitute rates, on a final basis, or until they are superseded.

Issued in Washington, D.C., May 30, 1986.

Joseph F. Salgado,

Under Secretary.

Rate Schedule SP-NFT2 (Supersedes Schedule SP-NFT1)

Colorado River Storage Project; Rate Schedule for Nonfirm Transmission Service

Effective: On the first day of the July 1986 billing period.

Available: In the area served by the Colorado River Storage Project transmission facilities.

Applicable: To nonfirm transmission service customers where power and energy are supplied to the Colorado River Storage Project system at points of interconnection with other systems and transmitted and delivered subject to the availability of transmission capacity, less losses, to points of delivery on the Colorado River Storage Project system specified in the service contract.

Character and conditions of service: Transmission service on an intermittent basis for three-phase alternating current at sixty (60) hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate: Transmission Service Charge: 3.1 mills per kilowatthour for each kilowatthour contracted for as specified in the service contract; payable monthly.

Requirements for reactive power: Requirements for reactive power shall be as specified in the contract, otherwise there shall be no entitlement to transfer of reactive kilovolt-amperes at delivery points except when such transfers may be mutually agreed upon by the Contractor and the contracting officer or their authorized representatives.

Adjustments for losses: Power and energy losses, incurred in connection with the transmission and delivery of power and enregy under this rate schedule, shall be supplied by the customer in accordance with the service contract.

Rate Schedule SP-NFT2 (Supersedes Schedule SP-NFT1)

Colorado River Storage Project; Rate Schedule for Firm Transmission Service

Effective: On the first day of the July 1986 billing period.

Available: In the area served by the Colorado River Storage Project transmission facilities.

Applicable: To firm transmission service customers where power and energy are supplied to the Colorado River Storage Project system at points of interconnection with other systems and transmitted and delivered less losses, to points of delivery on the Colorado River Storage Project system specified in the service contract.

Character and conditions of service: Transmission service for three-phase alternating current at sixty (60) hertz, delivered and metered at the voltages and points of delivery specified in the service contract.

Rate: Transmission Service Charge: $15.94 per kilowatt per year for each kilowatt contracted for as specified in the service contract, payable monthly at the rate of $1.3283 per kilowatt.

Requirements for reactive power: Requirements for reactive power shall be as specified in the contract, otherwise there shall be no entitlement to transfer of reactive kilovolt-amperes at delivery points except when such transfers may be mutually agreed upon by the contractor and the contracting officer or their authorized representatives.

Adjustments for losses: Power and energy losses, incurred in connection with the transmission and delivery of power and enregy under this rate schedule, shall be supplied by the customer in accordance with the service contract.

[FR Doc. 86-13196 Filed 6-10-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/28K; FRL-3028-3]

Inorganic Arsenicals; Clearance by the Office of Management and Budget for Reporting Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of clearance by the Office of the Management and Budget (OMB) for Reporting Requirements for the Inorganic Arsenicals.

SUMMARY: EPA issued a notice, published in the **Federal Register** of January 10, 1986 (51 FR 1334), amending the Notice of Intent to Cancel the registrations for the wood preservative uses of creosote, pentachlorophenol (including its salts), and the inorganic arsenicals published in the **Federal Register** of July 13, 1984 (49 FR 28666). The amended notice, among other things, indicated that employers of inorganic arsenical wood treatment plants were to submit to EPA records pertaining to the monitoring of inorganic arsenic air levels but that the recordkeeping requirements would not be effective until (1) OMB approved them under the Paperwork Reduction Act of 1980, 44 U.S. 3501 et seq. and (2) a notice of that approval was published in **Federal Register**. This notice announces that the reporting requirements have been cleared by OMB under control number 2070-0081. Thus, the reporting requirements for employers of inorganic arsenical wood treatment plants are now in effect.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail: Carol E. Langley, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW.,

Office location and telephone number: Rm. 711, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-0064).

Dated: June 2, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 86-12897 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[PF-455; FRL-3028-1]

Pesticide Tolerance Petitions; BASF Corp. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and feed additive petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-455] and the petition number, attention Product Manager (PM-25), at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Information Services Section (TS-757C), Environmental Protection Agency, Rm. 236, CM No 2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record.

Information not marked confidential may be disclosed publicy by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor (PM–25), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Room 245, CM No. 2, 1921 Jefferson Davis Hwy., Arlington, VA, (703–557–1800).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and feed additive petitions (FAP), relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

Initial Filings

1. *PP 6F3383.* BASF Corp., Chemicals Div., Agricultural Chemical Group, 100 Cherry Hill Rd., Parsippany, NJ 07054. Proposes amending 40 CFR 180.412 by establishing tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydorxy-2-cyclohexene-1-one and its metabolites containing the 2-cyclohexene-1-one moiety (calculated as the herbicide) in or on the commodities raspberries at 10.0 parts per milion (ppm) and strawberries at 10.0 ppm. The proposed analytical method for determining residues is gas chromatography using a sulfur-specific flame photometric detection.

2. *PP 6F3381.* Monsanto Co., 1101 17th St., NW., Washington, DC 20036. Proposes amending 40 CFR Part 180 by requesting an exemption from the requirement of a tolerance for residues of the inert ingredient 4-dichloroacetyl)-1-oxa-4-azaspiro[4.5]decane when used in formulations of the herbicide, 2-chloro-*N*-(2,6-diethylphenyl)-*N*-methoxymethylacetamide applied to corn field either before the corn plants emerge from the soil or until the corn reaches 5 inches in height with a maximum of 0.4 pound of inert ingredient per acre. The proposed analytical method for determining residues is high pressure liquid chromatography (HPLC) with radioactivity detection and gas chromatography with a flame ionization detector.

3. *PP 6F3380.* Monsanto Co. Proposes amending 40 CFR 180.364 by increasing the established tolerance for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosponic acid in or on soybeans from 6 ppm to 20 ppm and soybean hay from 15 ppm to 200. The proposed analytical method for determining residues is HPLC with a ninhydrin pert column reactor and absorbance detector.

4. *FAP 6H5502.* Monsanto Co. Proposes amending 21 CFR 561.253 by increasing the established regulation permitting the residues of the herbicide glyphosate in or on soybean, hulls from 20 ppm to 100 ppm.

Authority: 21 U.S.C. 346a and 348.

Dated: May 29, 19086.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–12895 Filed 6–10–86; 8:45 am]

BILLING CODE 6560–50–M

[PP 5G3207/T519; FRL–3026–8]

Mycogen Corp.; Extension of Exemptions for Requirements of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the exemptions from the requirement of tolerances for residues of the fungus *Alternaria cassiae* to evaluate control of sicklepod *Cassia obtusifolia* in or on certain crops.

DATE: These temporary exemptions from the requirement of tolerances expire May 10, 1987.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of June 13, 1985 (50 FR 24832), that temporary exemption from the requirement of tolerances were established for residues of the fungus *Alternaria cassiae* to evaluate control of sicklepod *Cassia obtusifolia* on the crops soybeans and peanuts. These exemptions from the requirement of tolerances were extended in response to pesticide petition PP 5G3207, submitted by Mycogen Corp., c/o W.R. Landis Associates, Inc., P.O. Box 5126, Valdosta, GA 31603–5126.

The company requested an extension of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 53219–EUP–1, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the exemptions from the requirement of tolerances will protect the public health. Therefore, the temporary exemptions from the requirement of tolerances have been extended on the condition that the herbicide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Mycogen Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

The temporary exemptions from the requirement of tolerances expire May 10, 1987. Residues remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary exemptions from the requirement of tolerances. These temporary exemptions from the requirement of tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial

number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 29, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-12720 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-64003; FRL-3028-4]

Intent To Cancel Certain Pesticide Registrations; John Opitz, Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to cancel.

SUMMARY: EPA is issuing a notice of intent to cancel certain pesticide registrations under section 6(b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). The registrations which the Agency intends to cancel are held by registrants whom the Agency, after a good faith effort, has been unable to contact. Persons adversely affected by this notice may request a hearing.

DATES: All registrations will be cancelled at the end of 30 days from the date of publication or receipt of this notice by registrants, unless a hearing has been requested by a person adversely affected by this notice, or the Agency is provided with a correct and current address of an affected registrant.

A request for a hearing by an affected registrant must be received by the Agency on or before July 11, 1986, or 30 days after receipt by mail by the affected registrant of this notice, whichever is the later date.

A request for a hearing submitted by any other adversely affected person must be received on or before July 11, 1986.

ADDRESS: Hearing requests must be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack E. Housenger, Registration Support and Emergency Response Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 716C, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7889).

SUPPLEMENTARY INFORMATION: Over the years, EPA has been unable to contact certain pesticide registrants at the addresses on file at the Agency or appearing on current pesticide product labels. EPA's inability to communicate with these registrants impairs the Agency's ability to discharge its statutory mandate to regulate pesticide products and their impact on the environment. Furthermore, it creates an undesirable situation in that some registrants may unknowingly be in violation of the Act and escape burdens assumed by other registrants in compliance with the Act.

Section 6(b) of FIFRA allows the Administrator to issue a notice of intent to cancel a pesticide's registration if that ". . . . pesticide or its labeling or other material required to be submitted does not comply with the provisions of this Act . . . ."

Section 3(c)(1)(A) of FIFRA and 40 CFR 162.10(a)(1)(ii) make it a condition of registration that a registrant's address be filled with the Agency and appear on the label of the registrant's pesticide product. In addition, section 12(a)(1)(E) of FIFRA makes it unlawful to distribute, sell, offer for sale, hold for sale, ship, deliver or offer for delivery to any person a misbranded pesticide. Under FIFRA section 2(q)(2)(C)(i), failure to have the registrant's correct address on the label of its pesticide product constitutes misbranding. Therefore, failure of a registrant to submit a correct and current address and include such address as part of the label of its pesticide products is in violation of the Act's provisions and is grounds for cancellation of that registrant's registration.

EPA published a policy statement, published in the **Federal Register** of March 5, 1986 (51 FR 7634), indicating that the Agency may decide to initiate cancellation proceedings for registrations held by registrants whom the Agency has, after good faith efforts, been unable to contact by mail. This notice implements that policy.

This notice will be sent to all affected registrants by certified mail to the most current addresses the Agency has in its files. For the purposes of this notice, the Agency will consider validated non-delivery as receipt and the date of validated non-delivery as the date of receipt in those instances where actual receipt is not accomplished.

The impact of these cancellations on the agricultural economy is difficult to determine. It is believed that some or all of the pesticide products subject to this cancellation action are no longer on the market. Some of the pesticide products have no agricultural uses. At worst, the impact on the agricultural economy is expected to be slight.

Pursuant to section 6(b), the Secretary of Agriculture has reviewed this notice and has no comments. The Science Advisory Panel has waived its right (under section 25(d)) to review this notice.

Registrations Subject to Cancellation

The following registrations are subject to cancellation under this notice.

Registrant and Registration Numbers

John Opitz, Inc., 5014 39th Street, Long Island City, NY 11104—509-3, 509-9

A. Wilson, 975 Ball Ave, Union, NJ 07083—798-104

Xterminator Product Corp., 165 Monticello Ave, Jersey City, NJ 07304—269-13

Wy-To Chemicals, Inc., 6227 N. Broadway, Chicago, IL 60626—69-19, 69-21, 69-22, 69-23

Alpha Chemical Company, Inc., 1503-13 Argyle Ave., Baltimore, MD 21217—479-2

R.J. Scarry and Company, 1620 Market Street, Denver, CO 80202—425-1, 425-2, 425-3, 425-4, 425-6

Continental Cosmetic Co., Inc., 2655, West 19th Street, Chicago, IL 60608—8977-1, 8977-2, 8977-3, 8977-4

C&R Products, 18210 N.E. San Rafael, Portland, Oregon 97230—8568-3, 858-4

Jay Rodgers Company, 5780 Federal Street, Detroit, MI 08057—7555-4

Pioneer Salt & Chemical Co., 940 N. Delaware Ave., Philadelphia, PA 19123—7853-2, 7853-3

Lee and Company, Inc., Watervliet, NY 12189—7165-1

Ed. Hauf Distributing Company, P.O. Box 187, Princeton, IL 61356—7285-2

Dixie Mills Company, Box 351, East Saint Louis, IL 62202—8135-3

Com-Pak Chemical Corp., 223 S. Holmes, Shakopee, MN 55379—7293-1, 7293-3

Ree-Lac Chemical Co., Inc., 508 E. 164 Street, New York, NY 10056—7858-1

Martens Chemical Corporation, 253 Bay Ridge Avenue, Brooklyn, NY 11220—7634-4, 7634-5

Medafab Corp., 1010 Washington Street, Hanitowoc, WI 54220—7972-3

The Carter Oil Co., P.O. Box 2514, Billings, MT 59101—378-8

Dixie Chemical Products Co., LTD, 2211 5th Avenue South, Birmingham, AL 35200—333-6

A.W. Curtis Laboratories, 454 Farnsworth, Detroit, MI 48202—848-5, 848-6

Abbot Chemical Corp., 701 E. Saratoga Ave., Ferndale, MI 48220—852-2, 852-3

M & M Chemical Sales Corp., 106 Cushman Street, Monson, MA 01057—2413-5, 2413-6, 2413-9

Scranton Chemical Company, 705-709 Davis Street, Scranton, PA 18501—922-3, 922-4, 922-16

Syracuse Pharmacal Company, Inc., c/o Leager Labs Inc., 4161 Beck Ave., St. Louis, MO 63116—832-1

Thomas E. Cook Chemical Company, 305 N. Main Street, Springfield, TN 37172—600-5

American Mineral Spirits Company, A Division of Union Oil Co. of California, 825 SE Thornton, Minneapolis, MN 55414—528-51

Aero-Dyne Manufacturing Corp., 3505 W. Main Street, Emmetsburg, IA 50536—8111–2
Charles Industries, 90 E. Franklin, Lake Forest, IL 60045—7504–2, 7504–3
Chemco Products, Inc., P.O. Box 9248, Tulsa, OK 74104—8957–4, 8957–5, 8957–6, 8957–7, 8957–8, 8957–9, 8957–10
Premax Laboratories, Inc., 907 Fox Plaza, San Francisco, CA 94102—9722–3
Kasco-Efco Laboratories, Inc., P.O. Box 730, Cantiague Rock Road, Hicksville, NY 11802—8951–1
Emarkay Laboratories, Box 531, Vineland, NJ 08360—6185–1, 6185–9
Iodent Chemical Company, 2233 Park Avenue, Detroit, MI 48201—6857–1
Custom Laboratories, Inc., Box 2132, Spokane, WA 9920—5913–2
MPL Laboratories, Inc., 509 Washington Avenue South, Minneapolis, MN 55415—7363–5
Steinco Products, Inc., P.O. Box 11402, Memphis, TN 38106—6940–2, 6940–4, 6940–5
Do-All Chemical Corporation, 630 Driggs Avenue, Brooklyn, NY 11211—8000–7, 8000–8, 8000–9, 8000–10, 8000–11
Burgess Fobes Paint Company, 217 Reed Street, Portland, ME 04103—8145–1, 8145–2
Washine Chemical Corp., Div. Mallinckrodt Chemical Works, 165 Main Street, Lodi, NJ 07644—7085–12, 7085–14, 7085–16, 7085–17, 7085–18, 7085–24, 7085–29
Sifers Chemical, Inc., 112–116 W. Jackson, Iola, KS 66749—7286–2, 7286–3, 7286–5
Chemiseal Company, 353 No. Western Ave., Chicago, IL 60612—1285–5
Ogden Filter Company, Inc., 4214 Santa Monica Blvd., Los Angeles, CA 91602—8588–1
EKCO Chemical Products Company, 302 5th Avenue, Moline, IL 61265—9092–1
J M Laboratories, 410 N. Michigan Avenue, Chicago, IL 60611—8819–2
Piefer Company, 2268 Amsterdam Ave., New York, NY 10032—9088–3
Associated Laboratories, Inc., 1771 Massachusetts Ave., Cambridge, MA 02140—7667–1
Clover Farm Stores Corporation, 2135 Columbus Road, Cleveland, OH 44113—8813–3, 8813–4
KBS Chemical Company, 127 South 15th Street, Newark, NJ 07107—7552–2
Griffin Chemical Company, 1326 South Seventh Street, Louisville, KY 40208—6799–3, 6799–6, 6799–7

Dated: May 30, 1986.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 86–12885 Filed 6–10–86; 8:45 am]

BILLING CODE 6560–50–M

[PP 6G3319/T516; FRL–3026–7]

Norflurazon; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for the combined residues of the herbicide norflurazon and it metabolite in or on certain raw agricultural commodities. These temporary tolerances were requested by Zoecon Corporation.

DATE: These temporary tolerances expire April 9, 1988.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–1830).

SUPPLEMENTARY INFORMATION: Zoecon Corp., A Sandoz Co., 975 California Ave., Palo Alto, CA 94304, has requested in pesticide petition PP 6G3319 the establishment of temporary tolerances for the combined residues of the herbicide norflurazon [4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluroro-*m*-tolyl)-3(2*H*)-pyridazinone] and its desmethyl metabolite [4-chloro-5-(amino)-2-(alpha, alpha, alpha-trifluroro-*m*-tolyl-3(2*H*)-pyridazinone] in or on the raw agricultural commodities peanuts at 0.2 parts per million (ppm); peanut hulls at 1.0 ppm; and peanut vines at 2.0 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 11273-EUP-44, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Zoecon Corp. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 9, 1988. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 610–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 29, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–12721 Filed 6–10–86; 8:45 am]

BILLING CODE 6560–50–M

[OPP–240068; FRL–3028–3]

State Registrations of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 19 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register**.

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Owen F. Beeder, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection

Agency, 401 M St., SW., Washington, D.C.
Office location and telephone number: Rm. 716A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–7893).

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by EPA in January and February of 1986. Receipts of State registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Alabama

EPA SLN No. 86 0002. Chevron Chemical Co. Registration is for Ortho Paraquat + Plus to be used on alfalfa to control weeds between cuttings. January 23, 1986.

Arizona

EPA SLN No. AZ 86 0001. Brian Dunn. Registration is for Diazinon 50 W Ciba Geigy to be used on Chinese cabbage to control aphids. January 10, 1986.

EPA SLN No. AZ 86 0002. Brian Dunn. Registration is for Prokil Ethyl Methyl Parathion 6–3E to be used on Chinese cabbage to control aphids. January 10, 1986.

EPA SLN No. AZ 86 0003. Brian Dunn. Registration is for Manzate D to be used on Chinese cabbage to control downy mildew. January 10, 1986.

EPA SLN No. AZ 86 0004. Brian Dunn. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. January 10, 1986.

Arkansas

EPA SLN No. AR 86 0001. Chevron Chemical Co. Registration is for Ortho Paraquat + Plus to be used on fescue in broadcast application to control endophyte-infected fescue, forage legume/grass mixtures, and other grasses. January 28, 1986.

EPA SLN No. AR 86 0002. Chevron Chemical Co. Registration is for Ortho Diquat H/A Herbicide to be used on Bermuda grass (dormant nonfood or feed crop) to control emerged annual broadleaf and grassy weeds in lawns, parks, golf courses, etc. January 28, 1986.

California

EPA SLN No. CA 86 0001. Stauffer Chemical Co. Registration is for VAPAM Soil Fumigant to be used on all crops to eliminate seedling weeds before planting crops. Januray 6, 1986.

EPA SLN No. CA 86 0002. Kern County Agricultural Commissioner. Registration is for Botran 75W to be used on carrots to control *Sclerotinia sclerotiorum* (white mold). January 14, 1986.

EPA SLN No. CA 86 0003. Ventura County Dept. of Agriculture. Registration is for Fumitoxin New Coated Tablets-R to be used on dried flowers to control Indian meal moths and field crickets. January 7, 1986.

EPA SLN No. CA 86 0004. Sutter County Agricultural Commissioner. Registration is for Round-up to be used on wild rice to control annual grasses fallow ground. January 10, 1986.

EPA SLN No. CA 86 0005. Chevron Chemical Co. Registration is for Ortho Dibrom 14 to be used on telephone or utility poles or other inanimate objects or tree trunks and limbs to control melon flies. January 23, 1986.

EPA SLN No. CA 86 0006. University of California. Registration is for Weed-B-Gon Jet Weeder to be used on ornamental trees to control mistletoe. January 27, 1986.

EPA SLN No. CA 86 0007. Stanislaus County Agricultural Commissioner. Registration is for Weeder MCPA Concentrate to be used on triticale to control mustard and pig weeds. January 31, 1986.

EPA SLN No. CA 86 0008. Siskiyou County Agricultural Department. Registration is for Clean Crop Diazinon 14G to be used on apple tree roots to control woolly apple aphids. February 4, 1986.

EPA SLN No. CA 86 0009. Contra Costa County Agriculture Department. Registration is for Commensal Rodent Bait Bromadiolone Treated Grain .005% to control Norway rats, roof rats, and house mice in and around the periphery of homes and industrial, commercial, and public buildings located in urban areas, and alleys located in urban areas. February 27, 1986.

Delaware

EPA SLN No. DE 85 0003. Union Carbide Agricultural Products. Registration is for Temik 15G Aldicarb Pesticide to be used on potatoes to control aphids, Colordao potato beetles, and leafhoppers. December 12, 1985.

Florida

EPA SLN No. FL 85 0016. Mobay Chemical Corp. Registration is for Furadan 15G to be used on field corn to control corn stalk borers. December 31, 1985.

EPA SLN No. FL 85 0001. Polk County Environmental Services. Registration is for Cythion to be used on mosquitoes to control adult and blind mosquitoes in populated and rural areas. Feburary 14, 1986.

Georgia

EPA SLN No. GA 86 0001. Dow Chemical Co. Registration is for Lorsban 4E to be used on grapes to control grape root borers. January 24, 1986.

Mississippi

EPA SLN No. MS 86 0001. Chevron Chemical Co. Registration is for Ortho Diquat H/A to be used on Bermuda grass (dormant nonfood or feed crop) to suppress emerged annual broadleaf and grassy weeds in lawns, parks, golf courses, etc. January 9, 1986.

Missouri

EPA SLN No. MO 86 0001. Y-Tex Corp. Registration is for Max-Con Insecticide Ear Tag to be used on livestock to control horn flies on beef herds. February 11, 1986.

Nebraska

EPA SLN No. NE 86 0001. Y-Tex Corp. Registration is for Max-Con Insecticide Ear Tag to be used on livestock to control horn flies. January 30, 1986.

EPA SLN No. NE 86 0002. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on field corn and sorghum to control hemp dogbane in preharvest uses. January 16, 1986.

Nevada

EPA SLN No. NV 86 0001. Enviro-Chem, Inc. Registration is for Bug-Buster to be used in clear acrylic insecticide spray paint used on interior or exterior surfaces of various buildings to control flying or crawling insects, such as flies, mosquitoes, spiders, cockroaches, and ants, on contact. January 8, 1986.

EPA SLN No. NV 86 0002. Y-Tex Corp. Registration is for Max-Con Insecticide Ear Tag to be used on livestock to control horn flies and Gulf coast ticks. January 13, 1986.

New Jersey

EPA SLN No. NJ 86 0001. E.I. DuPont de Nemours & Co., Inc. Registration is for Benlate, Orthocide, and Captan to be used in a tank mix on peaches and nectarines to control brown rot blossom

blight, fruit brown rot, peach scab, and powdery mildew. February 6, 1986.

EPA SLN No. NJ 86 0002. E.I. DuPont de Nemours & Co., Inc. Registration is for Benlate and Manzate D to be used in a tank mix on peaches and nectarines to control brown rot blossom blight, fruit brown rot, peach scab, and powdery mildew. February 6, 1986.

EPA SLN No. NJ 86 0003. E.I. DuPont de Nemours & Co., Inc. Registration is for Benlate Fungicide and Wettable Sulfur to be used in a tank mix on peaches and nectarines to control brown rot blossom blight, fruit brown rot, peach scab, and powdery mildew. February 6, 1986.

New York

EPA SLN No. NY 86 0001. Platte Chemical Co. Registration is for Paraquat Plus to be used on alfalfa to control weeds between cuttings. January 10, 1986.

North Dakota

EPA SLN No. ND 86 0001. FMC Corp. Registration is for Furadan CR-10 to be used on rape to control fleas and beetles. February 19, 1986.

Oregon

EPA SLN No. OR 86 0001. ICI Americas, Inc. Registration is for Parlay 50 WP-Grass to be used on grass as a seed yield enhancer. January 28, 1986.

EPA SLN No. OR 86 0002. Pestcon Systems, Inc. Registration is for Fumitoxin Aluminum Phosphide Tablets and Pellets to be used to control Africanized honeybees and bees infested with tracheas mites in beehives, supers, and other beekeeping equipment. January 6, 1986.

Pennsylvania

EPA SLN No. PA 86 0001. ICI Americas, Inc. Registration is for Ambush (Permethrin) to be used on watercress to control diamondback moths. January 27, 1986.

Tennessee

EPA SLN No. TN 86 0001. Chevron Chemical Co. Registration is for Ortho Paraquat + Plus to be used on fescue to control endophyte-infected fescue, forage legume/grass mixtures, and other grasses. January 16, 1986.

EPA SLN No. TN 86 0002. Chevron Chemical Co. Registration is for Ortho Paraquat + Plus to be used on alfalfa to control weeds and grasses. February 5, 1986.

Texas

EPA SLN No. TX 86 0001. E.I. DuPont de Nemours & Co., Inc. Registration is for DuPont Vydate to be used on celery to control nematodes and carrot weevils. January 10, 1986.

EPA SLN No. TX 86 0002. E.I. DuPont de Nemours & Co., Inc. Registration is for DuPont Glean Herbicide to be used on winter oats to control selective weeds. January 10, 1986.

EPA SLN No. TX 86 0003. Shell Oil Co. Registration is for Pydrin Insecticide 2.4 EC to be used on collards to control various insects and beetles. January 10, 1986.

EPA SLN No. TX 86 0004. Chevron Chemical Co. Registration is for Ortho Diquat H/A to be used on Bermuda grass (nonfood or feed crop) to suppress emerged annual broadleaf blue grass. January 10, 1986.

EPA SLN No. TX 86 0005. PBI/Gordon Corp. Registration is for Quadmec Herbicide to be used on bluegrass and Bermuda grass to control broadleaves, grass weeds, and nutsedge in turf. January 14, 1986.

Utah

EPA SLN No. UT 86 0001. FMC Corp. Registration is for Parathion 2 Coated Granules to be used as a larvicide in mosquito abatement districts. January 16, 1986.

Vermont

EPA SLN No. VT 85 0003. Miller Chemical and Fertilizer Corp. Registration is for Miller Lime Sulfur Solution to be used on sheep and cattle to control mange. December 24, 1985.

(Sec. 24 as amended, 92 Stat. 835 (7 U.S.C. 136))

Dated: April 28, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-12894 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-240067; FRL-3028-2]

State Registration of Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received notices of registration of pesticides to meet special local needs under section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, from 11 States. A registration issued under this section of FIFRA shall not be effective for more than 90 days if the Administrator disapproves the registration or finds it to be invalid within that period. If the Administrator disapproves a registration or finds it to be invalid after 90 days, a notice giving that information will be published in the **Federal Register.**

DATE: The last entry for each item is the date the State registration of that product became effective.

FOR FURTHER INFORMATION CONTACT:

Owen F. Beeder, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC

Office location and telephone number: Rm 716A, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7893).

SUPPLEMENTARY INFORMATION: This notice only lists the section 24(c) applications submitted to the Agency. The Agency has 90 days to approve or disapprove each application listed in this notice. Applications that are not approved are returned to the appropriate State for action. Most of the registrations listed below were received by the EPA in January 1986. Receipts of State registrations will be published periodically. Of the following registrations, none involve a changed-use pattern (CUP). The term "changed-use pattern" is defined in 40 CFR 162.3(k) as a significant change from a use pattern approved in connection with the registration of a pesticide product. Examples of significant changes include, but are not limited to, changes from a nonfood to food use, outdoor to indoor use, ground to aerial application, terrestrial to aquatic use, and nondomestic to domestic use.

Arizona

EPA SLN No. AZ 85 0008. Ciba Geigy Corp. Registration is for Ridomil 2E to be used on broccoli, cabbage, and cauliflower to control downy mildew. December 10, 1985.

EPA SLN No. AZ 85 0009. Royal Packing Co. Registration is for Ciba Geigy Diazinon to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0010. Royal Packing Co. Registration is for Prokil Ethyl Methyl Parathion 6-3E to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0011. Royal Packing Co. Registration is for Manzate D to be used on Chinese cabbage to control downy mildew. December 20, 1985.

EPA SLN No. AZ 85 0012. Royal Packing Co. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0013. Oshita, Inc. Registration is for Ciba Geigy Diazinon 50W to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0014. Oshita, Inc. Registration is for Prokil Ethyl Methyl Parathion 6–3E to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0015. Oshita, Inc. Registration is for Manzate D to be used on Chinese cabbage to control downy mildew. December 20, 1985.

EPA SLN No. AZ 85 0016. Oshita, Inc. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0017. Clinton Curry. Registration is for Ciba Geigy Diazinon 50W to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0018. Clinton Curry. Registration is for Prokil Ethyl Methyl Parathion 6–3E to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0019. Clinton Curry. Registration is for Manzate D to be used on Chinese cabbage to control downy mildew. December 20, 1985.

EPA SLN No. AZ 85 0020. Clinton Curry. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0021. DiAriggo Bros. Registration is for Ciba Geigy Diazinon 50W to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0022. DiAriggo Bros. Registration is for Prokil Ethyl Methyl Parathion 6–3E to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0023. DiAriggo Bros. Registration is for Manzate D to be used on Chinese cabbage to control downy mildew. December 20, 1985.

EPA SLN No. AZ 85 0024. DiAriggo Bros. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0025. Waymon Sellers. Registration is for Ciba Geigy Diazinon 50W to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0026. Waymon Sellers. Registration is for Prokil Ethyl Methyl Parathion 6–3E to be used on Chinese cabbage to control aphids. December 20, 1985.

EPA SLN No. AZ 85 0027. Waymon Sellers. Registration is for Manzate D to be used on Chinese cabbage to control downy mildew. December 20, 1985.

EPA SLN No. AZ 85 0028. Waymon Sellers. Registration is for Prokil Methyl Parathion 5 to be used on Chinese cabbage to control aphids. December 20, 1985.

California

EPA SLN No. CA 85 0064. Chemland, Inc. Registration is for Formaldehyde to be used on farm, animal, and poultry facilities for fumigation. November 7, 1985.

EPA SLN No. CA 85 0066. SDS Biotech Corp. Registration is for Bravo 500 to be used on nonbearing strawberry nursery plants to control common leafspot. November 6, 1985.

EPA SLN No. CA 85 0067. SDS Biotech Corp. Registration is for Bravo W–75 to be used on nonbearing strawberry nursery plants to control common leafspot. November 6, 1985.

EPA SLN No. CA 85 0068. Claude M. Finnell. Registration is for Ridomil 2E to be used on broccoli and cauliflower to control downy mildew. December 19, 1985.

EPA SLN No. CA 85 0070. Pest Detection/Emergency Projects—CDFA. Registration is for Fumitoxin Coated Tablets and Pellets to be used on beehives, supers, and other beekeeping equipment to control Africanized honey bees and bees infested with treacheal. November 21, 1985.

EPA SLN No. CA 85 0073. Ciba-Geigy Agricultural Division. Registration is for Apron 70SD to be used on pea seeds to control downy mildew (all treated seed will be exported). December 3, 1985.

EPA SLN No. CA 85 0074. Yolo County Agricultural Commissioner. Registration is for Glyphosate to be used on fallow ground that will be planted to tomatoes to control volunteer wheat. December 13, 1985.

EPA SLN No. CA 85 0075. Stanislaus County Agricultural Commissioner. Registration is for Brominal ME4 to be used on triticale to control fiddle neck and groundsel. December 20, 1985.

Florida

EPA SLN No. FL 85 0018. Union Carbide Agricultural Products Company. Registration is for Weedone CB to be used to control unwanted woody plants by basal, stump, or stem application. December 31, 1985.

Hawaii

EPA SLN No. HI 85 0003. Velsicol Chemical Corp. Registration is for Gold Crest C–100 to be used as a perimeter surface treatment in crawl spaces to control termites. December 12, 1985.

EPA SLN No. HI 85 0007. Hawaiian Sugar Planters Association. Registration is for Roundup to be used on sugarcane for preplant aerial application to temporarily fallowed fields prior to cultivation and planting. September 19, 1985.

EPA SLN No. HI 850008. Hawaiian Sugar Planters. Registration is for Roundup to be used on sugarcane fields and along irrigation ditches to control weeds. September 19, 1985.

Louisiana

EPA SLN No. LA 85 0009. Chevron Chemical Co. Registration is for Ortho Diquat Herbicide to be used on Bermuda grass (nonfood or feed crop) to control weeds and grasses. November 27, 1985.

Maryland

EPA SLN No. MD 85 0002. Chevron Chemical Co. Registration is for Orthene 75S Soluble Powder to be used on nonbell peppers to control aphids. December 3, 1985.

New Hampshire

EPA SLN No. NH 85 0001. Union Carbide Agricultural Products Co. Registration is for Temik 15G Aldicarb to be used on potatoes to control aphids, Colorado potato beetles, and leafhoppers. November 27, 1985.

Oklahoma

EPA SLN No. OK 85 0008. Velsicol Chemical Corp. Registration is for Banvel Herbicide to be used on wheat to control annual and perennial broadleaf weeds. December 27, 1985.

Oregon

EPA SLN No. OR 85 0042. Wilbur-Ellis Co. Registration is for Dimethoate 267 to be used on lentils to control aphids and lygus. November 18, 1985.

EPA SLN No. OR 85 0043. Wilbur-Ellis Co. Registration is for Dimethoate 267 to be used on cherries to control cherry fruit flies. November 18, 1985.

EPA SLN No. OR 85 0044. Wilbur-Ellis Co. Registration is for Dimethoate 267 to be used on grass grown for seed to control winter grain mites, aphids, thrips, and plant bugs. November 18, 1985.

EPA SLN No. OR 85 0045. Wilbur-Ellis Co. Registration is for Dimethoate 267 to be used on wheat to control aphids (greenbugs). November 18, 1985.

EPA SLN No. OR 85 0046. Wilbur-Ellis Co. Registration is for Dimethoate 267 to be used on ornamental and nursery trees to control aphids. November 18, 1985.

EPA SLN No. OR 85 0047. Platte Chemical Co. Registration is for Clean

Crop Sud NIC 4 to be used on potatoes to prevent sprouting while in storage. December 9, 1985.

EPA SLN No. OR 85 0048. FMC Corp. Registration is for Funginex 1.6 EC Fungicide to be used for cranberries to control cotton ball (*Monilinia oxycocci*). December 16, 1985

Tennessee

EPA SLN No. 85 0007. Chevron Chemical Co. Registration is for Ortho Diquat Herbicide H/A to be used on Bermuda grass (lawns, parks, golf courses, etc.) to control dormant nonfood or feed crop weeds and grasses. December 2, 1985.

EPA SLN No. TN 85 0008. Southern Mill Creek Products Co. Registration is for SMCP Standard 2,4-D Amine to control Eurasian water milfoil and water hyacinth. December 2, 1985.

Utah

EPA SLN No. TN 85 0009. Y-Tex Corp. Registration is for Max-Con Insecticide Ear Tag to control flies and ticks. December 20, 1985.

EPA SLN No. UT 85 0002. Orco, Inc. Registration is for Orco Patrol to be used on cropland and noncropland areas and pastures to control ground squirrels. November 26, 1985.

EPA SLN No. UT 85 0003. Enviro-Chem, Inc. Registration is for Bug-Buster to be used on acrylic insecticide spray paint for use on walls and ceilings in homes and nonfood contact surfaces of commercial buildings such as offices, hotels, motels, warehouses, schools, theaters, and farm buildings, including dairy barns and milk parlors. December 31, 1985.

(Sec. 24 as amended, 92 Stat. 835 (7 U.S.C. 136))

Dated: May 30, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-12893 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-36124; FRL-3029-1]

Draft Report of the Pesticide Label Utility Project; Availability and Request for Public Comment

AGENCY: Environmental Protection Agency (EPA or Agency).

ACTION: Notice.

SUMMARY: The Office of Pesticide Programs has drafted a report on the Pesticide Label Utility Project. In order to obtain external input before the report is finalized, the Agency is providing an opportunity for public comment. Copies of the Draft Report of the Pesticide Label Utility Project are available from the contact person named below.

DATE: Written comments in response to this notice must be submitted by July 30, 1986.

ADDRESS: Written comments, identified with "OPP-36124", should be submitted, in triplicate, by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comment to: Rm. 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Arthur-Jean Williams, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1114D, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-0595).

SUPPLEMENTARY INFORMATION: Section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) explains that the Administrator shall register a pesticide if certain conditions exist. One of these conditions is that unreasonable adverse effects on the environment will not result when the pesticide is used in accordance with widespread and commonly recognized practice. Section 2(bb) of FIFRA defines "unreasonable adverse effect on the environment" as "any unreasonable risk to man or the environment, taking into account the economic, social , and environmental costs and benefits of the use of any pesticide." The Office of Pesticide Programs (OPP), working under the authority of FIFRA, relies on risk/benefit analyses to determine if unreasonable adverse effects result from pesticide use, and thus, to determine whether a pesticide should be registered on reregistered.

During the registration and reregistration of pesticide products, one element of the Agency's risk/benefit analysis is the assumption that users of pesticide products read and adhere to use directions and precautionary measures specified on the product labeling.

In an effort to determine whether the Agency should place such confidence in this assumption, OPP initiated the Label Utility Project in September 1984. The project was designed to determine the effectiveness of labeling in communicating to pesticide users and how EPA might improve labeling's effectiveness.

The first year of the project was used to obtain information from a variety of sources on whether people read, understand, and follow pesticide labeling; how pesticide labeling might be improved as a communication tool; and what other communication tools the Agency might use to increase use and understanding of health and safety precautions and use directions. From the information obtained over the past year OPP has drafted a report on the Label Utility Project.

The Draft Report of the Pesticide Label Utility Project contains a discussion and analysis of the information the Agency obtained over the past year and draft recommendations to OPP on how it might proceed. To date, this project has been a cooperative effort between the Agency and many groups and individuals outside the Agency. In order to maximize external input in the project OPP is making the Draft Report available for public comment prior to submitting it to the Director, OPP, for review and consideration.

Date: June 2, 1986.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 86-13034 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[PP 5G3279/T520; FRL-3029-2]

Establishment of Temporary Tolerances; Ethoprop

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the nematocide ethoprop in or on certain raw agricultural commodities. These temporary tolerances were requested by Rhone-Poulenc, Inc.

DATE: These temporary tolerances expire April 28, 1988.

FOR FURTHER INFORMATION CONTACT:

By mail: William H. Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 211, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2600).

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., Agrochemical Division, P.O. Box 125, Monmouth Junction, NJ 08852, has requested in pesticide petition PP 5G3279 the establishment of temporary tolerances for residues of the nematocide ethoprop (O-ethyl S,S-dipropyl phosphorodithioate) in or on the raw agricultural commodities broccoli and cauliflower at .02 part per million (ppm).

These temporary tolerance will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 359-EUP-69, which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the nematocide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rhone-Poulenc, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 28, 1988. Residues not in excess of these amounts remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally apply during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: May 30, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86-13035 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL-3030-5]

Privacy Act of 1974; Systems of Records

AGENCY: Environmental Protection Agency.

ACTION: Privacy Act of 1974, Notification of Deletion of system of records.

SUMMARY: The Environmental Protection Agency is deleting a system of records, Confidential Statements of Employment and Financial Interest Files (EPA-8), that is duplicated by the Government-wide Office of Personnel Management system (OPM/GOVT-8), by the same title.

DATE: Effective June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Donnell Nantkes, Grants, Contracts, and General Law Division, Office of General Counsel (LE-132G), Washington, D.C. 20460, telephone (202) 382-4550.

SUPPLEMENTARY INFORMATION: On January 25, 1978, and pursuant to the provisions of the Privacy Act of 1974, there was published in the **Federal Register** (43 FR 3502) a notice of the system of records, Confidential Statements of Employment and Financial Interest Files (EPA-8). This system of records duplicates the Government-wide Office of Personnel Management systems, Confidential Statements of Employment and Financial Interest Files (OPM/GOVT-8), published in the **Federal Register** on September 20, 1984 (49 FR 36970). Accordingly, this notice formally deletes the EPA system of records.

Dated: June 2, 1986.

Howard M. Messner,

Assistant Administrator for Administration and Resources Management.

[FR Doc. 86-13152 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59768; FRL-3029-8]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of ten such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86-152, 86-153, 86-154, 86-155, 86-156, 86-157, 86-158 and 86-159—June 16, 1986.

Y 86-160—June 17, 1986.

Y 86-161—June 17, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-152

Importer. Confidential.

Chemical. (G) Thermoplastic elastomer.

Use/Import. (S) Tube, sealing, etc. for industrial instruments. Import range: Confidential.

Toxicity Data. Ames test: Non-mutagenic.

Exposure. Processing: less than 100 workers, up to 6 hrs/da.

Environmental Release/Disposal. No release to water and land.

Y 86–153

Manufacturer. Lawter International Inc.

Chemical. (S) Polymer of rosin, maleic anhydride, pentaerythritol, dodecylphenol, paraformaldehyde, dimerized fatty acids.

Use/Production. (S) Industrial printing ink vehicle. Prod. range: 90,000–115,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86–154

Manufacturer. Lawter International Inc.

Chemical. (S) Polymer of rosin, maleic anhydride, pentaerythritol, dodecylphenol, paraformaldehyde, dimerized fatty acids.

Use/Production. (S) Industrial printing ink vehicles. Prod. range: 92,000–120,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86–155

Manufacturer. Lawter International Inc.

Chemical. (S) Polymer of rosin, Polymerized rosin, maleic anhydride, pentaerythritol, dodecylphenol, paraformaldehyde, dimerized fatty acid.

Use/Production. (S) Industrial printing ink vehicle. Prod. range: 72,000–85,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86–156

Manufacturer. USS Chemicals.

Chemical. (G) Unsaturated polyester resin.

Use/Production. (G) Thermosetting polyester resin for compression molding applications (open non-dispersive use). Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86–157

Importer. Confidential.

Chemical. (G) Polyester resin.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing and use: inhalation.

Environmental Release/Disposal. No release.

Y 86–158

Importer. Confidential.

Chemical. (G) Polymethacrylic resin.

Use/Import. (G) Polymethacrylic emulsion for surface finish. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86–159

Importer. Confidential.

Chemical. (G) Polyester resin.

Use/Import. (G) Open, non-dispersive use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Processing and use: inhalation.

Environmental Release/Disposal. No release.

Y 86–160

Importer. Dynamit Nobel Chemicals.

Chemical. (G) Branched saturated polyester resin containing hydroxyl groups.

Use/Import. (S) Industrial metal decorating laquers and enamels. Import range: 180,000–450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86–161

Importer. Confidential.

Chemical. (G) Thermoplastic polyamide resin.

Use/Import. (G) Coating. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: June 2, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86–13153 Filed 6–10–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–51626; FRL–3030]

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 important commences. Staturory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-two PMNs and provides a summary of each.

DATES: Close of Review Period.

P 86–1073, 86–1074, 86–1075, 86–1076, 86–1077, 86–1078, 86–1079, and 86–1080—August 20, 1986.

P 86–1081, 86–1082, 86–1083, 86–1084, 86–1085, 86–1086, 86–1087, 86–1088, and 86–1089—August 24, 1986.

P 86–1090, 86–1091, 86–1092, 86–1093, and 86–1094—August 25, 1986.

P 86–1095, 86–1096, 86–1097, 86–1098, 86–1099, 86,1100, 86–1101, 86–1102, 86–1103, and 86,1104—August 26, 1986.

Written comments by:

P 86–1073, 86–1074, 86–1075, 1076, 86–1077, 86–1078, 86–1079, and 96–1080—July 21, 1986.

P 86–1081, 86–1082, 86–1083, 86–1084, 86–1085, 86–1086, 86–1087, 86–1088, and 86–1089—July 25, 1986.

P 86–1090, 86–1091, 86–1092, 86–1093, and 86–1094—July 26, 1986.

P 86–1095, 86–1096, 86–1097, 86–1098, 86–1099, 86–1100, 86–1101, 86–1102, 86–1103, and 86–1104—July 27, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS–51626]" and the specific PMN number should be sent to: Documents Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M Street, SW., Washington, DC 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E–107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86–1073

Manufacturer. Confidential.

Chemical. (G) Substituted aromatic polymer.

Use/Production. (G) Resin for non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 63 workers, up to 3 hrs/da, up to 25 da/yr.

Environmental Release/Disposal. 0.25 kg/batch released to land. Contract disposal as hazardous waste.

P86-1074

Manufacture. Confidential.

Chemical. (G) Aqueous polyurethane dispersion.

Use/Production. (S) Industrial coating resin. Prod. range: 100,000–500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 48 workers, up to 8 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. 5 to 20 kg/batch released to water. Disposal by biological treatment system after biotreatment.

P 86-1075

Manufacturer. Confidential.

Chemical. (G) Sulfated oil, sodium salts.

Use/Production. (G) Dispersant, wetting agent, processing and tanning aid. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1076

Manufacturer. Confidential.

Chemical. (G) Alkyl ester sulfated, sodium salts.

Use/Production. (G) Dispersant, wetting agent, processing and tanning aid. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1077

Manufacturer. Confidential.

Chemical. (G) Alkyl esters sulfated, sodium salts.

Use/Production. (G) Dispersant, wetting agent, processing and tanning aid. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1078

Manufacturer. Confidential.

Chemical. (G) Alkyl phosphates, mono- and di-esters, salts with amine and potassium hydroxide.

Use/Production. (S) Industrial textile lubricant for synthetic fiber manufacuring and processing. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 12 workers, up to 6 hrs/da, up to 24 da/yr.

Environmental Release/Disposal. 20 kg/batch released to air with 5 klg/batch to land. Disposal by publicly owned treatment works (POTW).

P 86-1079

Manufacturer. Owens-Corning Fiberglass Corporation.

Chemical. (G) Polyether-modified polyester polyol.

Use/Production. (G) A polyester polyol for manufacture of isocyanurate rigid foams or sheathing and roofing insulation boards. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: a total of 7 workers.

Environmental Release/Disposal. Confidential. Disposal by incineration.

P 86-1080

Importer. Biddle Sawyer Corporation.

Chemical. (S) Cuprate (4-), [5-(acetylamino)-4-hydroxy-3-[5-hydroxy-6-[[2-hydroxy-4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-7 sulfo-2-napthalenyl]azo-2,7-naphthalene disulfonate (6-)]-tetrasodium salt.

Use/Import. (S) Reactive dye for textiles. Import range: 30,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No exposure.

Environmental Release/Disposal. No release.

P 86-1081

Manufacturer. Confidential.

Chemical. (G) Halogenated aromatic substituted alkane.

Use/Production. (S) Site-limited intermediate in process. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1082

Manufacturer. Confidential.

Chemical. (G) Halogenated aromatic substituted olefin.

Use/Production. (S) Chemical intermediate, destructive use. Prod. range: Confidential

Toxicity Data. Acute oral: 4.0 g/kg; Acute dermal: >5 g/kg; Irritation: Skin—Mild, Eye—Mild; Ames test: Non-mutagenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-1083

Importer. American Hoechst Corporation.

Chemical. (G) Modified hydrocarbon resin.

Use/Import. (G) Printing ink additive. Import range: 22,000–140,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10 to 20 customers, up to 600 manhours/yr.

Environmental Release/Disposal. No data submitted.

P 86-1084

Importer. American Hoechst Corporation.

Chemical. (G) Modified phenolic resin.

Use/Import. (G) Printing ink additive. Import range: 22,000–140,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10 to 20 customers, up to 600 manhours/yr.

Environmental Release/Disposal. No data submitted.

P 86-1085

Importer. American Hoechst Corporation.

Chemical. (G) Yellow azo dye.

Use/Import. (G) Coloration of paper. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Processing: a total of 2 workers, up to 1 hr/each, up to 100 manhours/yr.

Environmental Release/Disposal. Limited.

P 86-1086

Importer. American Hoechst Corporation.

Chemical. (G) Yellow azo dye.

Use/Import. (G) Colorant of paper. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Processing: a total of 2 workers, up to 1 hr/each, up to 100 manhours/yr.

Environmental Release/Disposal. Limited.

P 86-1087

Importer. Sternson, Inc.

Chemical. (S) Isopropylethanolamine linked epon 828/vibrathane B602 epoxy unethane resin.

Use/Import. (S) Sealants, water proofing membrane and adhesives. Import range: 8,000–200,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86–1088

Manufacturer. Confidential.
Chemical. (G) Urethane acrylate with pendant hydroxy and carboxy groups.
Use/Production. (G) U.V. curable conformal coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1089

Importer. Confidential.
Chemical. (G) Potassium alkenyl succinate.
Use/Import. (G) Polyvinyl chloride additive. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1090

Manufacturer. Confidential.
Chemical. (G) Fatty acid modified polyester acrylate.
Use/Production. (G) Industrial coating having an open use. Prod. range: 150,000–502,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 44 workers, up to 8 hrs/da, up to 155 da/yr.
Environmental Release/Disposal. 3 to 116 kg/batch released to land. Disposal by incineration, approved landfill and commercial disposer.

P 86–1091

Manufacturer. Confidential.
Chemical. (G) Mixed glycol and oligoester of aromatic and aliphatic dicarboxylic acids.
Use/Production. (S) Component for polyurethane foam insulating material. Prod. range: 2,000,000–4,000,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 18 workers, up to 6 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. 1 to 30 kg/batch released to control technology. Disposal by incineration.

P 86–1092

Manufacturer. Confidential.
Chemical. (G) Polyester of alkane dicarboxylic acid, alkanediols and benzene polycarboxylic acid derivative.
Use/Production. (G) Resin for industrial enamels. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 12 workers, up to 10 hrs/da, up to 5 da/yr.
Environmental Release/Disposal. No release. Disposal by POTW.

P 86–1093

Manufacturer. Confidential.
Chemical. (G) Fatty acid modified polyester.
Use/Production. (S) Site-limited and industrial isolated intermediate. Prod. range: 101,000–338,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 49 workers, up to 8 hrs/da, up to 62 da/yr.
Environmental Release/Disposal. Trace to 132 kg/batch released to land. Disposal by incineration and approved landfill.

P 86–1094

Manufacturer. Confidential.
Chemical. (G) Alkenes, polymers with lard oil, sulfurized.
Use/Production. (G) Lubricant additive. Prod. range: 110,000–440,000 kg/yr.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 6 hrs/da.
Environmental Release/Disposal. 0.0001 to 0.0002 kg/day released to air. Disposal by company treatment facility.

P 86–1095

Manufacturer. Confidential.
Chemical. (G) Aryliminonapthalenone.
Use/Production. (G) Non-dispersive use in a commercial article. Prod. range: 200–1,400 kg/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Slight, Eye—Very slight; Skin sensitization: Moderate.
Exposure. Manufacture: dermal, a total of 5 workers, up to .9 hr/da, up to 13 da/yr.
Environmental Release/Disposal. Less than .5 to 16 kg/batch incinerated with less than .5 kg/batch to biological treatment.

P 86–1096

Manufacturer. Confidential.
Chemical. (G) Substituted naphthol.
Use/Production. (G) Chemical intermediate. Prod. range: 180–1,200 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, a total of 8 workers, up to .9 hr/da, up to 9 da/yr.
Environmental Release/Disposal. Less than 38 kg/batch incinerated.

P 86–1097

Manufacturer. Confidential.
Chemical. (G) Alkyl substituted vinyl polymer.
Use/Production. (G) Non-dispersive use in an article. Prod. range: 1,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 7 workers, up to 1.5 hr/da, up to 50 da/yr.
Environmental Release/Disposal. Less than 1 to 10 kg/batch incinerated.

P 86–1098

Manufacturer. Confidential.
Chemical. (G) Substituted nitrobenzoic acid, derivative.
Use/Production. (G) Chemical intermediate. Prod. range: 17,500–20,000 kg/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: <2,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.
Exposure. Manufacture and use: dermal, a total of 15 workers, up to 0.9 hr/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 4 kg/batch incinerated.

P 86–1099

Manufacturer. Confidential.
Chemical. (G) Substituted aminobenzoic acid, derivative.
Use/Production. (G) Chemical intermediate. Prod. range: 17,500–20,000 kg/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Slight, Eye—Slight; Skin sensitization: Low potential.
Exposure. Manufacture and use.
Environmental Release/Disposal. No release.

P 86–1100

Manufacturer. Confidential.
Chemical. (G) Hydroxylated amine resin.
Use/Production. (G) Silanated epoxy resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86–1101

Manufacturer. Confidential.
Chemical. (G) Polyether polyurethane.
Use/Production. (G) Industrial coating having a non-dispersive use. Prod. range: 22,000–102,001 kg/yr.
Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 53 workers, up to 8 hrs/da, up to 119 da/yr.

Environmental Release/Disposal. 0.8 to 197 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-1102

Manufacturer. Confidential.

Chemical. (G) Fatty acid modified polyester.

Use/Protection. (G) Isolated intermediate. Prod. range: 100,000-331,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 52 workers, up to 8 hrs/da, up to 61 da/yr.

Environmental Release/Disposal. Trace to 130 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-1103

Manufacturer. Confidential.

Chemical. (G) Rosin modified fumaric resin.

Use/Production. (S) Industrial aqueous flexographic printing inks. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal and inhalation, a total of 4 workers, up to 5 hrs/da.

Environmental Release/Disposal. Less than 0.2 to 8 kg/batch released to water and land. Disposal by POTW and sanitary landfill.

P 86-1104

Manufacturer. Confidential.

Chemical. (S) Poly(oxy-1;4-butanediyl), alpha-(4-nitrobenzoyl)-beta-((4-nitrobenzoyl)oxy)-hydrogen.

Use/Production. (S) Industrial and commercial curing agent. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Irritant; Eye—Irritant; Ames test: Non-mutagenic.

Exposure. Manufacture: dermal and inhalation, a total of 8 workers, up to 6 hrs/da, up to 70 da/yr.

Environmental Release/Disposal. 0.5 to 1.0 kg/batch released to air and land. Disposal by incineration and metal recovery.

Dated: June 2, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-13154 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180693; FRL-3030-2]

Emergency Exemptions; Anilazine, etc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests in the 14 States listed below. These exemptions, issued during the month of April, are subjet to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available for the contact persons in EPA listed below.

DATE: See each specific exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific exemption for the names of the contact person. The following information applies to all contact people:

By mail: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Rm. 716, CM#2, 1921 Jeffereson Davis Highway, Arlington, VA (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Alabama Department of Agriculture and Industries for the use of anilazine on watercress to control leaf spot; April 29, 1986 to October 31, 1986. (Gene Asbury)

2. California Department of Food and Agriculture for the use of iprodione on sweet cherries to control fruit decay; April 21, 1986 to August 1, 1986. (Libby Pemberton)

3. California Department of Food and Agriculture for the use of metalaxyl on asparagus to control phytophthora megasperma (slime); April 26, 1986 to May 1, 1986. California initiated a crisis exemption for this use. (Libby Pemberton)

4. California Department of Food and Agriculture for the use of formetanate hydrochloride on strawberrys to control the two-spotted spider mite; April 24, 1986 to October 31, 1986. (Jack E. Housenger)

5. Colorado Department of Agriculture for the use of fluazifop-butyl on dry bulb onions to control grasses; April 25, 1986 to August 1, 1986. (Jim Tompkins)

6. Florida Department of Agriculture and Consumer Srvices for the use of fluazifop-butyl on carrots to control grassy weeds; April 4, 1986 to August 15, 1986. (Libby Pemberton)

7. Idaho Department of Agriculture for the use of fluazifop-butyl on dry bulb onions to control grasses; April 25, 1986 to September 1, 1986. (Jim Tompkins)

8. Iowa Department of Agriculture for the use of fluazifop-butyl on dry bulb onions to control grasses; April 25, 1986 to September 1, 1986. (Jim Tompkins)

9. Maryland Department of Agriculture for the use of anilazine on watercress to control leaf spot; April 29, 1986 to October 31, 1986. (Gene Asbury)

10. Minnesota Department of Agriculture for the use of fluazifop-butyl on dry bulb onions to control grasses; April 25, 1986 to September 1, 1986. (Jim Tompkins)

11. Nebraska Department of Agriculture for the use of fluazifop-butyl on dry bulb onions to control grasses; April 25, 1986 to August 15, 1986. (Jim Tompkins)

12. New York Department of Environment Conservation for the use of fluazifop-butyl on dry bulb onions to control grasses; April 25, 1986 to July 1, 1986. (Jim Tompkins)

13. Ohio Department of Agriculture for the use of fluazifop-butyl on dry bulb onions to control grasses; April 25, 1986 to September 1, 1986. (Jim Tompkins)

14. Pennsylvania Department of Agriculture for the use of anilazine on watercress to control leaf spot; April 29, 1986 to October 31, 1986. (Gene Asbury)

15 Texas Department of Agriculture for the use of methidathion on field corn to control Banks grass mites; April 24, 1986 to August 31, 1986. (Jack E. Housenger)

16. Texas Department of Agriculture for the use of cypermethrin on dry bulb onions to control onion thrips; April 29, 1986 to September 6, 1986. Texas initiated a crisis exemption for this use. (Libby Pemberton)

17. West Virginia Department of Agriculture for the use of anilazine on watercress to control leaf spot; April 29, 1986 to October 31, 1986. (Gene Asbury)

Authority: 7 U.S.C. 136.

Dated: June 3, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 86-13151 Filed 6-10-86; 8:45 am]

BILLING CODE 6560-50-M

[SAB FRL-3029-7]

Science Advisory Board, Integrated Environmental Management Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given of a meeting of the Science Advisory Board's Integrated Environmental Management

Subcommittee on July 1–2, 1986 at the U.S. EPA Region 3, 841 Chestnut Street, Philadelphia, Pa. 19107, in Conference Room 8A. The meeting will begin at 9:00 a.m. on July 1 and will adjourn at approximately 12:00 noon on July 2, 1986.

The agenda for the meeting includes a case study briefing on planning and managing an integrated environmental management study; further discussion of the health scoring methodology and its applications; and a briefing on the methodology employed for the Kanawha Valley study.

The meeting is open to the public. Any member of the public wishing to attend, obtain information, or submit written comments should contact Dr. Terry F. Yosie, Director, Science Advisory Board or Mrs. Joanna Foellmer located at 401 M Street SW., Washington, DC 20460 or call (202) 382–4126 by close of business June 24, 1986.

Dated: June 5, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86–13150 Filed 6–10–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Advisory Committee for the ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Working Group Meetings

June 3, 1986.

Working Group A: Allotment Planning
Chairman: Donald M. Jansky (202) 467–6400
Vice Chairmen: Jeffrey Binckes (301) 428–4712, Michael W. Mitchell (703) 442–6126
Date: Wednesday, June 25, 1986
Time: 1:30 p.m.
Location: Jansky Telecommunications, 1899 L Street NW., 10th Floor Conference Room, Washington, DC 20036
Agenda: (1) Definition of Requirements; (2) Report on IFRB Information Meeting

Working Group B: Improved Regulatory Procedures
Chairman: R.A. Hedinger (201) 949–5057
Vice Chairmen: Hans J. Weiss (301) 428–4777, Robert Mazer (202) 289–3000
Date: Wednesday, June 25, 1986
Time: 9:30 a.m.
Location: Jansky Telecommunications, 1899 L Street NW., 10th Floor Conference Room, Washington, DC 20036
Agenda: (1) Discussion of MPM Issues; (2) Assignment of Writing Responsibilities.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–13136 Filed 6–10–86; 8:45 am]

BILLING CODE 6712–01–M

[Report No. W–8]

Window Notice for the Filing of FM Broadcast Applications

Released: June 4, 1986.

Notice is hereby given that applications for vacant FM broadcast allotment(s) listed below may be submitted for filing during the period beginning June 6, 1986 and ending July 7, 1986 inclusive. Selection of a permittee from a group of acceptable applicants will be by the Comparative Hearing process. The Kinston, North Carolina allotment on Channel 275A (See Fourth Report And Order, MM Docket No. 84–231, released May 9, 1986) has been removed from this Public Notice because it is short-spaced to the licensed facilities of FM broadcast stations WGNI, Wilmington, North Carolina and WZYC, Newport, North Carolina. The window Public Notice for the filing of the Kinston, North Carolina allotment will be released in the future when the two FM radio stations referenced above are licensed at their new construction permit sites.

Channel—175C2

Flagstaff	AZ

Channel—275A

Linden	AL
Cartago	CA
McFarland	CA
Summerland Key	FL
Statesboro	GA
Delphi	IN
Mt. Vernon	KY
Curwensville	PA
Raleigh	NC
Orangeburg	SC

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–13134 Filed 6–10–86; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL HOME LOAN BANK BOARD

Banco de Ahorro, FSB Mayaguez, Puerto Rico; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6) (A) and (D) of the Home Owner's to an Act of 1933, as amended, 12 U.S.C. 1464(d)(6) (A) and (D) (1982), the Federal Home Loan Bank Board appointed the Federal Deposit Insurance Corporation as sole receiver for Banco de Ahorro, FSB, Mayaguez, Puerto Rico on May 30, 1986.

Dated: June 5, 1986.

Jeff Sconyers,

Secretary.

[FR Doc. 86–13112 Filed 6–10–86; 8:45 am]

BILLING CODE 6720–01–M

FEDERAL RESERVE SYSTEM

BT Financial Corporation, 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 July 3, 1986.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *BT Financial Corporation,* Johnstown, Pennsylvania; to acquire 100 percent of the voting shares of Fayette Bank and Trust Company, Uniontown, Pennsylvania.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW, Atlanta, Georgia 30303:

1. *Bonifay Holding Company, Inc.,* Bonifay, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Bonifay, Bonifay, Florida. Comments

on this application must be received not later than June 25, 1986.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Northway Bancshares, Inc.*, Richardson, Texas; to acquire 100 percent of the voting shares of Great Western National Bank of Lewisville, Lewisville Texas, a *de novo* bank. Comments on this application must be received not later than July 7, 1986.

Board of Governors of the Federal Reserve System, June 5, 1986.

James McAfee,

Associate Secretary of the Board

[FR Doc. 86-13108 Filed 6-10-86; 8:45 am]

BILLING CODE 6210-01-M

Intrawest Financial Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that the Board has determined to be 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 availabe for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 30, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *IntraWest Financial Corporation*, Denver, Colorado; to engage *de novo* through its subsidiary, IntraWest Insurance Company, Northglenn, Colorado, in the activity of underwriting and reinsuring credit life and accident and health insurance directly related to extensions of credit by Applicant or its subsidiaries which are secured by first mortgages on residential real estate (home mortgage redemption insurance).

Board of Governors of the Federal Reserve System, June 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-13109 Filed 6-10-86; 8:45 am]

BILLING CODE 6210-01-M

Hartford National Corp.; Correction

This notice corrects a previous **Federal Register** document (FR Doc. No. 86-12215), published at page 19797 of the issue for Monday, June 2, 1986.

1. *Hartford National Corporation*, Hartford, Connecticut; to acquire 100 percent of the voting shares of First Bancorporation, Vineyard Haven, Massachusetts, and thereby indirectly acquire First Bank, Chelmsford, Massachusetts. Comments on this application must be received by June 20, 1986.

Board of Governors of the Federal Reserve System, June 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-13106 Filed 6-10-86; 8:45 am]

BILLING CODE 6210-01-M

[Document No. R-0575]

Format for Wire Transfer of Funds

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed format for wire transfer of funds; request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System ("Board") is requesting comments on a proposed two-part program to require depository institutions sending funds transfers over Fedwire to provide third-party payments information in a structured message format.[1] Specifically, a two-phased program is proposed which would involve:

1. A higher price for messages not conforming to the standard format beginning January 1, 1988, as an incentive to encourage use of the format; and

2. Mandatory use of the standard message format beginning January 1, 1989.

DATE: Comments on the proposal should be submitted no later than August 11, 1986.

ADDRESS: Interested parties are invited to submit written data, views and other comments to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551, or to deliver such comments to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.). Written comments should refer to Docket No. R-0575. Comments received may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information. (12 CFR 261.6(a))

FOR FURTHER INFORMATION CONTACT: Julius F. Oreska, Manager, (202/452-3878) or Peggy Weimer, Senior Analyst, Division of Federal Reserve Bank Operations (202/452-3341); Elaine Boutilier, Attorney, Legal Division (202/452-2418); or Telecommunications Device for the Deaf ("TDD") users, Earnestine Hill or Dorothea Thompson (202/452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The current Fedwire format for funds transfer messages consists of two parts. The first part contains precisely structured information that identifies the sending and receiving depository institution and the dollar amount of the transfer. The second part of the message contains information in an unstructured form about the customers of the depository institutions involved in the transfer and the purpose of the transfer.

The lack of structure in the second part of the message requires depository institutions receiving the messages to

[1] For complete information on funds transfer data elements and formatting conventions, refer to *Developing a More Efficient Fund Transfer Service: Phase II: Network Formatting Convention and Inter-Network Conversion Rules*, American Bankers Association, Revised edition, April 1985. Parties interested in receiving detailed technical information on edits planned for the standard format should contact their local Federal Reserve Bank.

review the payment instructions manually in order to post the payments to the customers' accounts. This manual processing can be error prone, time-consuming, and costly. In addition, the inability of depository institutions to process the incoming wires in an automated fashion has caused some problems in monitoring customer account balances under the Board's risk reduction program for large-dollar transfers.

The operating difficulties associated with the unstructured payment instructions in Fedwire messages led the American Bankers Association (ABA) to undertake a study of funds transfer formats in the early 1980's. In 1982, the ABA issued a report that recommended a format convention for Fedwire third-party payments. The convention requires that the third-party information, that is, customer information, be identified using standard three character identifiers for each field of information. Use of these identifiers or field tags is intended to facilitate the automated handling of Fedwire funds transfers.

The Federal Reserve has supported this convention since it was introduced. Unfortunately, less than 11 percent of third-party messages processed on Fedwire are in the structured form. The Board believes that this limited use is primarily because of the lack of incentives on Fedwire to encourage institutions to make the necessary changes to their systems in order to begin processing payments using the ABA convention.

The ABA convention has the potential of even greater benefits to institutions as a result of the Board's policy to reduce risks in large-dollar transfer systems which requires depository institutions to manage their payments system risks. To do this, an institution must not only manage its own position on each payments system and across all payments systems, it must also manage its customer's position. The Board's policy statement (50 FR 21120, May 22, 1985) states that each institution should have the capability of monitoring the effect of all significant transactions on the funds positions of customers as the transactions occur during the business day. This capability is difficult to attain without automation of posting a transfer to a customer's account. Consequently, receiving institutions of funds transfers need a higher level of service than is now available. The proposed program would improve the funds transfer service to facilitate monitoring customers' intra-day funds positions.

If the potential benefits of a structured Fedwire message are to be realized, the Board believes that the Federal Reserve should more actively support its use. A program has been developed to accomplish this objective. In the first part of the program, which would begin on January 1, 1988, a surcharge of 25 cents over the automated transfer fee (currently 55 cents) would be charged to the sender of a message that contains unstructured third-party information.[2] Senders of structured third-party messages would be charged the regular on-line funds transfer fee.

Beginning in January 1989, the Board proposes to make the structured third-party message mandatory. By then, the depository institutions will have had over two years to prepare for the change. Mandated use would be enforced by rejecting immediately back to the sender any third-party transfer messages that do not conform to the required format. If a transfer were rejected, the sending institution would be able to complete the transfer by originating a reformatted transfer or requesting the transfer through the Federal Reserve's off-line operation.

The phased implementation of the structured third-party message as the Fedwire standard should provide depository institutions sufficient time to modify their software and adjust their operations to the new requirement. By the third quarter of 1986, the Reserve Banks expect to provide detailed software specifications to depository institutions using computer-to-computer interfaces and to the software vendors that support such institutions. In addition, the Reserve Banks would assist institutions using personal computers to implement structured Fedwire transfers.

The Board is requesting comments from interested parties on all aspects of this proposal. The Board specifically solicits comments on whether depository institutions can make the necessary software modifications by January 1988.

The Board is also interested in the public's views on whether Fedwire should offer a special service to facilitate the inclusion of customer account information in funds transfer messages. In concept, such a service may be similar to the universal identification service offered on the CHIPS network, i.e., insertion of the correct customer account number when the sending institution did not have this information. The Board is interested in the public's views on the benefits of such a service; how it might be structured to satisfy their business needs, and whether such a service is consistent with privacy considerations.

Finally, the Federal Reserve is studying electronic payment formats to determine whether additional changes should be made. This study will include a review of all industry standards and will focus on how the needs of users of electronic payment services can best be met. In connection with this study, the Board is interested in receiving comments from the public on any electronic payment format changes they feel are necessary.

By order of the Board of Governors of the Federal Reserve System, June 5, 1986.

William W. Wiles,

Secretary.

[FR Doc. 86-13107 Filed 6-10-86; 8:45 am]

BILLING CODE 6210-01-M

[2] This proposal is consistent with pricing principle number 7, adopted by the Board in 1981. (46 FR 1338). This principle states in part: "The structure of fees and service arrangements may be designed both to improve the efficient utilization of Federal Reserve services and to reflect desirable longer-run improvements in the nation's payments system."

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86M-0232]

CILCO®, Inc.; Premarket Approval of Modified C-Loop Single-Piece Perspex CQ. Posterior Chamber Intraocular Lenses (Planar Model SM-1, Angular Model CR-1, and Planar Model GR-1)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by CILCO®, Inc., Huntington, WV, for premarket approval, under the Medical Device Amendments of 1976, of the Modified C-Loop Single-Piece Perspex CQ Posterior Chamber Intraocular Lenses (Planar Model SM-1, Angular Model CR-1, and Planar Model GR-1). After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by July 11, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices

and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7536.

SUPPLEMENTARY INFORMATION: On November 14, 1985, CILCO®, Inc., Huntington, WV 25701, submitted to CDRH an application for premarket approval of the Modified C-Loop Single-Piece Perspex CQ Posterior Chamber Intraocular Lenses (Planar Model SM–1, Angular Model CR–1, and Planar Model GR–1). The devices are indicated for the replacement of the human lens in the visual correction of aphakia and are to be used for primary implantation in patients 60 years of age or over where a cataractous lens has been removed by extracapsular extraction methods. The devices are available in a range of powers from 4 diopters to 32 diopters in 0.5 diopter increments.

On February 7, 1985, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On April 30, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval).

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Docket Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 11, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the hearing of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: June 4, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–13115 Filed 6–10–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0201]

Gynotech, Inc.; Premarket Approval of DILAPAN™ Hygroscopic Cervical Dilator

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Gynotech, Inc., Lebanon, NJ, for premarket approval, under the Medical Device Amendments of 1976, of the DILAPAN™ Hygroscopic Cervical Dilator. After reviewing the recommendation of the Obstetrics-Gynecology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by July 11, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raju G. Kammula, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: On February 27, 1985, Gynotech, Inc., Lebanon, NJ 08833, submitted to CDRH an application for premarket approval of the DILAPAN™ Hygroscopic Cervical Dilator. The DILAPAN™ Hygroscopic Cervical Dilator is intended for use in dilation of the cervix uteri prior to the termination of pregnancy up to 16 weeks gestation.

On August 19, 1985, the Obstetrics-Gynecology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On April 28, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Raju G. Kammula (HFZ–470), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through

administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 11, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Device and Radiological Health (21 CFR 5.53).

Dated: June 4, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–13114 Filed 6–10–86; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Agency for Toxic Substances and Disease Registry, Solid Waste Disposal Act; Notification of Authority

Notice is hereby given that, under sections 3001(b)(1) and 3019 of the Solid Waste Disposal Act (42 U.S.C. 6921(b)(1), 6939a), as amended, the Agency for Toxic Substances and Disease Registry is authorized to participate with the U.S. Environment Protection Agency and the National Toxicology Program in the identification or listing of hazardous wastes at levels in excess of levels which endanger human health, and to conduct health assessments to determine the extent of potential hazard to the public health from a release or threat of release of a hazardous substance, as the activities pertain to the functions assigned to the Agency.

Dated: June 5, 1986.

James O. Mason,

Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 86–13144 Filed 6–10–86; 8:45 am]

BILLING CODE 4160–18–M

Social Security Administration

Review of Commercial Activities; FY 86 and FY 87

The Acting Commissioner of Social Security gives notice that the Social Security Administration (SSA) will review in FY 86 and FY 87 some of its activities to determine if these activities should be performed by commercial sources under contract or performed "in-house" by government personnel using government facilities. Publication of this informational notice is required by the provisions of the Office of Management and Budget (OMB) Circular A–76 (Revised). This notice is not an invitation for bids or a request for proposals.

Authority: The Budget and Accounting Act of 1921 (31 U.S.C. 1 et seq. and the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 et seq.); OMB Circular A–76 (Revised).

For Additional Information Contact:

Mr. Edward Shaw, Social Security Administration, Office of Management, Budget, and Personnel, 4–S–17 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone (301) 594–5175

Commercial Activities on SSA's Inventory List Schedule for Review in FY 86 and FY 87

SSA is required to inventory all functions that are not purely governmental and which can be designated as commercial activities. These inventoried commercial activities are scheduled for review and for cost-comparison studies to determine if the activity should remain "in-house" or contracted out. The commercial activities scheduled for FY 86 and FY 87 review and the locations where these activities are being performed are as follows:

Commercial Activity and Location

1. Microfilm Duplication—Baltimore, MD
2. Data Entry-Annual Wage Reporting (Data Operations Centers)—Albuquerque, NM; Salinas, CA; and Wilkes-Barre, PA
3. Data Entry-Other Than Annual Wage Reporting (Data Operations Centers)—Albuquerque, NM; Salinas, CA; and Wilkes-Barre, PA
4. Audiovisual—Baltimore, MD
5. Warehouse Operations—Middle River, MD; and Baltimore, MD
6. Computer Operations (Program Service Centers)—New York, NY; Philadelphia, PA; Chicago, IL; Birmingham, AL; San Francisco, CA; and Kansas City, MO
7. Computer Operations (National Computer Center)—Baltimore, MD
8. SSI Folder Retention—Wilkes-Barre, PA

This notice does not impose recordkeeping or reporting requirements on the public.

Martha A. McSteen,

Acting Commissioner of Social Security.

[FR Doc. 86–13129 Filed 6–10–86; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N–86–1598; FR–2228]

Availability of Funding Under the Fair Housing Assistance Program; Non-Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of funding availability.

SUMMARY: HUD is soliciting applications from eligible State and local fair housing agencies for Type I, non-competitive funding under the Fair Housing Assistance Program. Agencies must meet specific eligibility criteria, set out in this announcement, as well as in 24 CFR Part 111, in order to qualify for consideration under this Program.

FOR FURTHER INFORMATION CONTACT: Thomas J. Jankowski, Director, Office of Fair Housing Enforcement and section 3 Compliance, Office of Fair Housing and Equal Opportunity, Room 5208, 451–7th Street SW., Washington, DC 20410–2000. Telephone: (202) 755–6836/755–0455. (This is not a toll-free number.) Application Kits are available upon written or telephone request. To assure a prompt resonse, it is suggested that requests for Application Kits be made by telephone.

DATE: Applications for Type I, non-competitive funding, for those agencies currently eligible to apply, may be submitted between June 11, 1986 and July 11, 1986. No application received after the closing date will be considered unless it is received before awards are made and qualifies for a late application exception as specified in the Application Kit. Notwithstanding this deadline, any agency which secures substantial equivalency recognition or interim referral status from HUD subsequent to this date may submit an application at any time before publication of the next Type I Notice of Funding Availability.

SUPPLEMENTARY INFORMATION: This announcement of solicitation for non-competitive funding under the Fair Housing Assistance Program (FHAP) is

issued pursuant to 24 CFR Part 111. It should be noted that Part 111 permits all eligible agencies to apply for and receive training funds, regardless of the year of their participation in the Program. Additionally, § 111.104 has been amended to allow for participation in Type I funding by agencies that have entered into agreements providing for interim referrals of complaints or for other utilization of such agencies' services. See 24 CFR 115.11, authorizing interim referrals, which was added in 1984.

Interested agencies are urged to review 24 CFR Parts 111 and 115 and the information in this announcement to determine eligibility for application.

The FHAP has two types of funding: Type I-Non-Competitive Funding and Type II-Competitive Funding. Type I-Non-Competitive Funding includes support for capacity building, training, complaint monitoring and reporting systems, and contributions. Type II-Competitive Funding includes support for specialized project proposals developed by State and local agencies to enhance their fair housing programs. Under this announcement, eligible agencies can apply for Type I funding only.

Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601–19 (the Federal Fair Housing Act), prohibits discrimination in the sale, rental or financing of housing and in the provision of brokerage services. Section 810(c)B of that Title provides that, wherever a State or local fair housing law provides rights and remedies substantially equivalent to those in the Federal Fair Housing Act, the Secretary of HUD is required to notify the appropriate State or local agency of any complaint filed with HUD that appears to constitute a violation of State or local law. Section 816 provides that the Secretary may cooperate with State and local agencies charged with the administration of State and local fair housing laws and, with the consent of such agencies, may use their services and their employees and may reimburse the agencies for services rendered in carrying out the Federal Fair Housing Act. The FHAP was authorized by Congress to provide HUD with the resources to enhance the fair housing capabilities of State and local civil rights agencies.

This program is listed in the Catalog of Federal Domestic Assistance at 14.401, Fair Housing Assistance Program.

Collection of information requirements contained in this notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB Control Number 2529–0005.

FHAP Funding Requirements in This Announcement

I. Eligibility

To be eligible to apply for funds under the FHAP, an agency must meet the criteria prescribed in 24 CFR 111.104. Specifically, an agency must be certified as a substantially equivalent agency under the standards set forth at 24 CFR Part 115, and must have executed a written Memorandum of Understanding; or an agency must have entered into a written agreement for interim referral or other utilization of services, as set forth at 24 CFR 115.11. The memorandum of Understanding/written agreement must describe the working relationship to be in effect between the agency and the appropriate HUD Regional Office of Fair Housing and Equal Opportunity.

However, if an agency has applied to the Department for recognition as a substantially equivalent agency, and has been found by the Department to have statutory authority substantially equivalent to the Federal Fair Housing Act but has not been granted final or interim recognition, it will be eligible to apply for Type I funds if either of two conditions are met:

1. The agency was proposed for recognition as a substantially equivalent agency by the Secretary pursuant to 24 CFR Part 115 as in effect prior to October 8, 1984, or

2. The Department has published a notice advising the public that the law which the agency administers is, on its face, substantially equivalent to the Federal Fair Housing Act and seeking public comments on the current practices and past performance of the agency, pursuant to 24 CFR 115.6, as amended effective October 8, 1984.

Such an agency may enter into negotiations with the Regional Office of Fair Housing and Equal Opportunity to develop a Memorandum of Understanding meeting the criteria set forth in 24 CFR 115.6(c), and may at the same time submit funding proposals. No funds will be obligated to such an agency until it has received final recognition as equivalent.

In the event that an agency is not eligible to apply for funding under one of the above two conditions before the deadline, but the agency secures final recognition from HUD as a substantially equivalent agency or enters into a written agreement providing for interim referral of complaints subsequent to the application deadline, such agency shall be eligible to apply at any time before publication of the next type I NOFA. That agency's funding shall be pro-rated for the remaining portion of the funding year.

All Type I proposals must pertain to housing discrimination based on race, color, religion, sex or national origin.

II Methods of Distribution

A. Scope

Applications are solicited for non-competitive funding as described at 24 CFR 111.102. A total of approximately $4,000,000 is available under this Announcement.

B. Categories of Funding

1. *Capacity Building*—Under 24 CFR 111.102(a), HUD will provide all agencies seeking capacity building support for the first and second years of their participation in the FHAP with a level of funding based upon HUD records showing the number of compliants of housing discrimination received by HUD from that agency's jurisdiction during the period of January–December 1985. The Maximum payments will be determined by HUD in accordance with the following formula:

Number of complaints	Maximum payment
25 or less	$20,000
26–50	35,000
51–75	50,000
76–100	60,000
For each additional complaint over 100	600

Under 24 CFR 111.105(b), all agencies seeking capacity building support must submit a written narrative justification documenting that within their jurisdiction there is a sufficient volume of current or potential complaint activity to justify the requested allocation of funds.

2. *Training.* Agencies receiving Type I funds will be required to participate in HUD-sponsored training. (See 24 CFR 111.105(a)(4)). Funds to support participation in this training are available to the agency at 15% of their capacity building or contributions allocation, but such allocation shall not exceed $7,500, nor be less than $3,000. Any agency which is otherwise eligible to receive funding for capacity building or contributions, but elects not to apply for it, may apply for training support funds up to the level which the agency would have been entitled to receive had it applied for capacity building or contributions funding.

These funds are intended to support attendance at HUD-sponsored training at national training sites, as well as to support participation in training sponsored by HUD Regional Offices, for

Region-specific problems, and for participants from the agency unable to attend national training. These monies may also be used to support additional in-house training by agencies for agency-specific problems, and for turn-around training of staff unable to attend national or regional training, subject to the approval of the HUD Regional Government Technical Monitor.

3. *Complaint Monitoring and Reporting Systems.* Any agency applying for capacity building funds will be entitled to receive funds for the creation, modification or improvement of the agency's complaint information and monitoring capability, to result in a system compatible with HUD's, provided that the agency has not previously been funded for that purpose. Complaint monitoring and reporting systems funds are available in a fixed funding amount, and on a one-time only basis, in accordance with the following formula, which uses the same complaint levels referred to in paragraph II. B. 1., above:

Number of complaints	Maximum payment
50 or Fewer complaints	$3,000
51 or 100 complaints	5,000
More than 100	8,000

4. *Contributions.* Agencies eligible for their third-or-later year of non-competitive support will be provided with support for complaint processing based solely on the number of dual-filed housing discrimination complaints actually processed by the agency during the annual period beginning January 1, 1985 and ending December 31, 1985. However, where the number of cases processed in the specified period would result in a contributions funding level lower than the contributions amount in the agency's current cooperative agreement, and where the agency can also demonstrate based upon performance subsequent to December 31, 1985, that it is processing a higher number of cases, HUD may consider year-to-date performance in determining the total amount of contributions funding for the agency. (See 24 CFR 111.102(b)). (A dual-filed complaint is a complaint which has been docketed at both HUD and the agency). The unit reimbursement level will be $600 per complaint.

C. Applications

To receive first or second year funding, applicants must submit all information required in the Type I—Non-competitive Application Kit. Applicants eligible for third-or-later year funding will be sent a Cooperative Agreement based solely on the number of dual-filed housing discrimination complaints actually processed by the agency in the twelve month period from January 1, 1985 through December 31, 1985, except as provided in II(B)(4)above. HUD will incorporate the training allotment into that Agreement. (This collection of information requirement has been assigned OMB control number 2529–0005.)

D. Award Procedures

Applications for Type I funding will be reviewed upon receipt for completeness and conformity with 24 CFR 111.105. (See also, paragraph III, below).

III. Application Notification and Award Procedures

A. Notification

All Applicants will be notified of the action on their Type I applications as soon as the evaluation of applications is completed.

B. Negotiations

After submission of the application, but before the award, HUD may require that applicants participate in negotiations and submit application revisions resulting from those negotiations. Awards for Type I applications are expected to be made within four weeks after negotiations are successfully completed.

C. Type of Funding Instrument

Applicants most likely will be funded under fixed-price Cooperative Agreements. However, HUD reserves the right to employ the form of agreement determined to be most appropriate after negotiation.

(Title VIII, Civil Rights Act of 1968 (42 U.S.C. 3601–19) section 7(d), Department of HUD Act (42 U.S.C. 3535(d))

Dated: June 6, 1986.

William E. Wynn,

Acting General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 86–13203 Filed 6–10–86; 8:45 am]

BILLING CODE 4210–28–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Permit

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–707003

Applicant: International Animal Exchange, Ferndale, MI

This amends the notice published May 23, 1986. In addition to the two ocelots (*Felis pardalis*) in that notice, IAE requests a permit to purchase in interstate commerce and export to the Taipei Municipal Zoological Gardens two additional captive born ocelots for the purpose of enhancement of propagation and survival of the species.

PRT–708303

Applicant: Oliver A. Ryder, San Diego, CA

The applicant requests a permit to import blood and skin samples from northern white rhinoceros (*Ceratotherium simum cottoni*) held in captivity in Dvur Kralove, Czechoslovakia, for the purpose of scientific research.

PRT–708243

Applicant: Gladys Porter Zoo, Brownsville, TX

The applicant requests a permit to import one male captive born Siberian tiger (*Panthera tigris altaica*) from Calgary Zoo, Alberta, Canada, for the purpose of enhancement of progagation.

PRT–708317

Applicant: Mark R. Kalin, Las Vegas, NV

The applicant requests a permit to export and reimport one captive born male jaguar (*Panthera onca*) for the purpose of enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 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.

Dated: June 5, 1986.

Earl B. Baysinger,

Chief, Federal Wildlife Permit Office.

[FR Doc. 86–13113 Filed 6–10–86; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

Wild Horse and Burro Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of Wild Horse and Burro Advisory Board.

SUMMARY: Notice is hereby given that a meeting of the Wild Horse and Burro Advisory Board will be held in Washington, DC, at the Department of the Interior, 18th and C Streets, NW., Washington, DC 20240, Room 7000B. An organizational meeting will be held on Tuesday, July 15, 1986. On Wednesday, July 16, the Board members will tour the BLM Northeast contract adoption facility at Lewisberry, Pennsylvania. On Thursday, July 17, the Board will discuss issues to be included on the agenda for future Board meetings. The meeting hours on Tuesday and Thursday will be 9 a.m. to 4 p.m.

DATES: Tuesday, Wednesday, and Thursday, July 15, 16, and 17, 1986.

ADDRESS: Director (250), Bureau of Land Management, Premier Building, Room 901, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Or to schedule or submit testimony: John S. Boyles, Chief, Division of Wild Horses and Burros, at the above address; telephone (202) 653–9215.

SUPPLEMENTARY INFORMATION: The Board, which was chartered on February 19, 1986, advises the Secretary of the Interior through the Director, Bureau of Land Management, and the Secretary of Agriculture, through the Chief, Forest Service, on matters pertaining to management and protection of wild free-roaming horses and burros on the Nation's public lands.

The proposed agenda for the meeting is:

Tuesday, July 15: Morning: Officials of the Department of the Interior and the Department of Agriculture will address the Board; organizational session.

Afternoon: Background presentations by BLM staff; schedule of future meetings and issue identification.

Wednesday, July 16: Tour of Lewisberry, Pennsylvania, contract adoption center.

Thursday, July 17: Morning: Public statement period.

Afternoon: Discussion of Board objectives and agenda for future meetings; determination of major issues to be addressed by the Board.

The meetings on Tuesday and Thursday will be open to the public. Members of the public may also join the tour of the Lewisberry adoption center, but will have to arrange their own transportation to the center. Opportunity will be given for members of the public to make oral statements to the Board, beginning at 9:00 a.m. on Thursday, July 17. Persons wishing to make statements should notify the Bureau of Land Management, either by mail or telephone, by July 7, so that time can be scheduled for their presentations. Depending on the number of speakers, it may be necessary to limit the length of each presentation. If so, speakers will be notified of the limitation prior to the meeting. Speakers should address specific wild horse and burro issues and are encouraged to submit a written copy of their testimony to the address given above or bring a written copy to the meeting. Persons unable to attend the meeting but who wish to provide testimony may submit a written statement to the address above. Additional opportunities for public statements will be provided at meetings to be held in the West later in the summer. Times and locations of these meetings will be determined by the Board during the Washington, DC, meeting.

Dated: June 5, 1986.

Robert F. Burford,

Director, Bureau of Land Management.

[FR Doc. 86–13083 Filed 6–10–86; 8:45 am]

BILLING CODE 4310–84–M

[Serial No. I–21338]

Idaho; Order Providing for Opening of Public Lands

In an exchange of lands made under the provisions of section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

Boise Meridian, Idaho

T. 13 S., Rs. 20 and 21 E.,
Beginning at corner No. 1 from which the west ¼ corner Sec. 30, T. 13 S., R. 21 E., bears N. 0°11′ E., 6.07 chs. distant.
From the initial point by metes and bounds:
N. 28°43′ E., 48.13 chs to corner No. 2;
S. 75°07′ E., 16.90 chs to corner No. 3;
S. 32°19′ W., 64.45 chs to corner No. 4;
N. 59°19′ W., 5.86 chs to corner No. 5;
N. 59°19′ W., 6.51 chs to corner No. 6;
N. 28°43′ E., 11.71 chs to corner No. 1, the place of beginning.

The area described contains 88.88 acres in Cassia County.

Upon acceptance of title to such lands, they became part of the Sawtooth National Forest and are subject to all the laws, rules, and regulations applicable thereto.

At 9:00 a.m. on July 9, 1986, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the Forest Supervisor, Sawtooth National Forest, 1525 Addison Avenue East, Twin Falls, Idaho 83301.

Dated: June 3, 1986.

Charles J. Haszier,

Acting State Director.

[FR Doc. 86–13174 Filed 6–10–86; 8:45 am]

BILLING CODE 4310–GG–M

[M–66965]

Realty Action—Exchange; Montana

AGENCY: Bureau of Land Management—Lewistown District Office, Interior.

ACTION: Notice of Realty Action M–66965—Exchange of public and private lands, in Phillips County, Montana.

SUMMARY: This exchange is between the United States of America and Phillips County. The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian Montana

Tract 1—T. 25 N., R. 24 E.,
Sec. 28, N½SW¼SE¼SE¼.
Tract 2—T. 25 N., R. 25 E.,
Sec. 21, N½NE¼NW¼NW¼.
Tract 3—T. 30 N., R. 28 E.,
Sec. 21, E½SE¼SE¼.
Tract 4—T. 30 N., R. 27 E.,
Sec. 8, SW¼NE¼, SE¼NW¼.
Tract 5—T. 35 N., R. 31 E.,
Sec. 25, NW¼NW¼.
Tract 6—T. 35 N., R. 29 E.,
Sec. 14, NE¼NE¼.

Aggregating 190.00 acres.

In exchange for these lands, the United States Government will acquire the surface estate in the following described private land:

Principal Meridian Montana

T. 31 N., R. 34 E.,
Sec. 30, Lots 1–2, E½NW¼.
T. 36 N., R. 28 E.,
Sec. 14, NE¼NE¼.

Aggregating 200.17 acres.

DATES: For a period of 45 days from the date of this notice in the **Federal Register**, parties may submit comments of the Bureau of Land Management, at the address below. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates public lands described above from settlement, sale, location and entry under the public land laws, including the mining laws but not from exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976.

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945.

2. The reservation to the United States of all minerals in Tracts 1, 2, and 6 being transferred out of Federal ownership. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document is available for review at this BLM Office.

A reservation to the United States of oil and gas in Tracts 3, 4, and 5 being transferred out of Federal ownership. Oil and gas shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document is available at this BLM Office.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of record).

4. Value equalization of $150.00 has been waived by Phillips County.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

6. The exchange of these lands will be subject to all valid existing rights and reservations of record including the following rights-of-way: Triangle Telephone Coop, M-42864; State Highway Commission, M-012134; KN Energy, Inc., M-58620 and M-34079; Big Flat Electric, Inc., M-57527.

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with local officials. The public interest will be served by completion of this exchange as we will be acquiring tracts adjacent to existing public land and also a wetland area. The final consummation of this proposed exchange is dependent on a favorable decision of the U.S. District Court for the District of Columbia in *National Wildlife Federation* v. *Robert F. Burford, et al.* Civil No. 85-2238 (D.D.C.).

Dated: June 4, 1986.

Glenn W. Freeman,

District Manager.

[FR Doc. 86-13173 Filed 6-10-86; 8:45 am]

BILLING CODE 4310-DN-M

[AA-12843 and AA-6699-B]

Alaska Native Claims Selection, Shumagin Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Shumagin Corporation for 1.05 acres. The lands involved are in the vicinity of Sand Point, Alaska, within U.S. Survey No. 6415.

A notice of the decision will be published once in the ALEUTIAN EAGLE and once a week for four (4) consecutive weeks in the ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ([907) 271-5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until July 11, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-13181 Filed 6-10-86; 8:45 am]

BILLING CODE 4310-TA-M

Realty Action—Exchange CA-17755; Public Lands In Humboldt County CA

The following described public land has been determined to be suitable for disposal under the provision of Pub. L. 91-476, an act to provide for the establishment of the King Range National Conservation Area (84 Stat. 1067), and Sec. 206 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2756).

Humboldt Meridian

T. 2 S., R. 5 E., HBM
Sec. 25: SE¼SE¼.
T. 5 S., R. 5 E., HBM
Sec. 6: SE¼SW¼;
Sec. 7: NE¼NW¼.
Containing 120 acres total.

Kermit Miller, 244 Orchard Lane, Redway, California 95560, has applied to acquire the above described lands in exchange for the following described privately owned lands:

T. 4 S., R. 1 E., HBM
Sec. 9: Lots 3 and 4, E½SW¼.
Containing 159.52 acres total.

A mineral evaluation has been requested on the public land. If any minerals are identified, a reservation of identified minerals will be made to the United States. If no minerals are identified, the mineral estate of the public lands will be conveyed with the surface. The mineral estate of the privately owned lands will be conveyed with the surface.

The publication of this notice in the **Federal Register** shall segregate the applied for public lands from all other forms of appropriation under the public land laws, including the mining laws, for a period of two years. The exchange is expected to be consummated before the end of that period.

There will be reserved to the United States in the applied for lands, a right-of-way thereon for ditches and canals constructed by the authority of the United States (43 U.S.C. 945).

The purpose of this exchange is to acquire non-Federal lands within the King Range National Conservation Area and to consolidate public land ownership for more effective management in the Scattered Blocks Planning Unit. This exchange is in conformance with Bureau planning and in the public interest.

Detailed information concerning the exchange, including the environmental analysis and the record of non-Federal participation, is available for review at the Arcata Area Office, BLM, 1125 16th Street, P.O. Box 1112, Arcata, California 95521.

For a period of 45 days from the first publication of this notice interested parties may submit comments to the California State Director, Bureau of Land Management, Rm E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the California State Director, who may vacate or modify this realty action and issue a final determination. In the absence of a vacation or modification

this realty action will become the final determination of the Bureau.

Van W. Manning,

Ukiah District Manager, Bureau of Land Management.

[FR Doc. 86-13169 Filed 6-10-86; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Upper Delaware Citizens Advisory Council; meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: June 27, 1986, 7:00 p.m.

Inclement Weather Reschedule Date: July 18, 1986*

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764-0159. (717) 729-8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include continued discussion of the management planning process and River flows issue. The meeting will be open to the public.

Any member of the public may file with the council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, N.Y. 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1¾ miles North of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: June 2, 1986.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 86-13204 Filed 6-10-86; 8:45 am]

BILLING CODE 4310-70-M

*Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Housing Guaranty Program; Investment Opportunity; Tunisia

The Agency for International Development (A.I.D.) has authorized the guaranty of a loan for Tunisia as part of A.I.D.'s development assistance program. The proceeds of this loan will be used to finance shelter projects for low income families in Tunisia. The name and address of the representative of the Borrower to be contacted by interested U.S. lenders or investment bankers, the amount of the loan and project number are indicated below:

Tunisia

Project: 664-HG-004B-$10,000,000.

Attention: Mr. Fredj Abdelmajid, Directeur des Finances Exterieures, Banque Centrale de Tunisie, 5, Place de la Monnaie, Tunis, Tunisia.

Telephone: 340-588 or 254-000, 651-324, 651-325. Telex: 15375, 13308, 13309, 13310, 13311.

Interested investors should telegram their bids to the Borrower's representative on June 24, 1986 but no later than 12:00 noon New York Time. Bids should be open at least 48 hours. Copies of all bids should be simultaneously sent to the following addresses:

Mr. David Olinger, Assistant Director/Near East, RHUDO/Tunis, USAID/Tunis, c/o American Embassy, Tunis, Tunisia

Telex: 14182 USAIDTUNIS Tunis, Tunisia

Michael G. Kitay, Agency for International Development, GC/PRE, Room 3208 N.S., Washington, DC 20523

Telex No.: 892703 AID WSA, Telefax No: 202/647-6901

Each proposal should consider the following terms:

(a) *Amount:* U.S. $10.0 million.

(b) *Term:* Up to 30 years.

(c) *Grace Period on Principal:* 10 years, with gradual amortization of principal after grace period.

(d) *Interest Rate:* Fixed interest rate.

(e) *Draw Down:* Proceeds from borrowing should be disbursed to Borrower at closing.

(f) *Prepayment:* Proposals allowing the possibility of prepayment shall be explicit.

(g) *Investment Expense:* Borrower has agreed to pay for all investment expenses, fees, and costs at closing from the proceeds of the loan. All such costs, fees, and commissions shall be clearly specified in each proposal.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lender and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing and Urban Programs, Agency for International Development, Room 3208 N.S., Washington, DC 20523, Telephone: (202) 647-9082.

Dated: June 6, 1986.

Mario Pita,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 86-13218 Filed 6-10-86; 8:45am]

BILLING CODE 6116-01-M

[Investigation No. 337-TA-226]

Certain Mass Spectrometers and Components Thereof; Review of Initial Determination

AGENCY: U.S. International Trade Commission.

SUMMARY: Commission determination to review initial determination.

ACTION: Notice is hereby given that the Commission has determined to review the administrative law judge's initial determination (ID) (Order No. 4) granting a joint motion to terminate the investigation filed by complainant Finnigan Corporation and S.N. Nermag and Delsi, Inc., the respondents remaining in the investigation, and to request that the parties file briefs with the Commission on certain issues.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0375.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.55 and 210.56. On May 2, 1986, the presiding administrative law judge (ALJ) issued an ID granting the joint motion to terminate the investigation filed by the parties remaining in the investigation. No petitions for review of the ID were filed and no Government agency or public comments were received with respect to the ID.

The Commission has determined to review the ID on the ground that the determination is one affecting Commission policy. Administrative Order 86–03 remanded the investigation to the ALJ for the purpose of obtaining additional findings of fact and conclusions of law on the questions of whether, and on what terms, there was a meeting of minds among the complainant and the respondents on December 24, 1985, when they signed the consent order agreement. The ALJ's ID (Order No. 4) sufficiently answered the question of whether a meeting of minds existed. The ID did not, however, answer the second question of what terms formed the basis of the meeting of minds, but instead approved the parties' attempt to interpret those terms by altering the language of the consent order. Therefore, the Commission determines to review the ID with respect to the following issues:

(1) Whether or not, in light of the fact that the ALJ determined in the ID that there was a meeting of the minds among the parties on the consent order agreement, the consent order agreement signed on December 24, 1985, is still a valid agreement among the parties.

(2) Whether or not the proposed consent order referred to in the ID is contrary to law or the public interest because it covers products defined without reference to the patent involved in this investigation, and is therefore arguably broader than the notice of investigation, which refers to articles covered by the patent.

(3) Whether or not the last sentence of paragraph 7 of the consent order agreement, as originally and currently worded, is contrary to law, in view of the fact that the existence of the licensing agreement arguably precludes complainant from bringing an action for infringement while the licensing agreement is in force.

The parties are requested to submit briefs on these issues. Persons submitting briefs must file an original and fourteen (14) true copies thereof with the Office of the Secretary no later than June 17, 1986. Briefs shall consist of no more than twenty (20) pages of textual material, double-spaced, on paper measuring 8½ × 11 inches. Any party may, prior to June 17, 1986, submit a written request for a hearing to present oral argument before the Commission.

Copies of the nonconfidential version of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: June 4, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–13215 Filed 6–10–86; 8:45 am]

BILLING CODE 7020–02–M

Report to the President on Investigation No. TA–201–58; Certain Metal Castings

June 2, 1986.

Determinations

On the basis of the information developed in the subject investigation, the Commission has determined that the following metal castings, whether or not advanced beyond cleaning, and whether or not machined beyond the removal of fins, gates, sprues, and risers or to permit location in finishing machinery, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles:[1]

Iron castings and ductile iron castings:

Construction castings, specifically, manhole covers, rings, and frames, catch basin grates and frames, cleanout covers and frames, and valve, service, and meter boxes, provided for in items 657.09, 657.10, and 657.25 of the Tariff Schedules of the United States (TSUS);

Pressure pipe fittings for water mains, provided for in TSUS items 610.62, 610.63, 610.70, 610.71, 610.74, and 610.82;

Housings for compressors, provided for in TSUS item 661.10; and

Brake drums and rotors, provided for in TSUS items 692.32 and 692.33.

Steel castings:

Parts of valves, including the bodies (or "shells"), bonnets, stems, wedges, handles, and seat rings, provided for in TSUS items 680.17, 680.25, and 680.27; and

Parts for construction equipment, tractors, and trucks, specifically:

Axle parts, including housings and spindles, for off-highway heavy construction vehicles, provided for in TSUS item 664.08;

Levers for front end loaders and crawler tractors, provided for in TSUS item 664.08;

Drive sprockets for track-laying construction machinery and track-laying tractors, provided for in TSUS items 664.08, 692.34, and 692.35;

Beam hanger brackets for class 6, 7, and 8 on-highway trucks, provided for in TSUS items 692.32 and 692.33; and

Sockets and suspension brackets for 5–ton military trucks, provided for in TSUS item 692.32.

Bronze castings:

Ship propellers, provided for in TSUS items 657.35, 678.50, and 696.15.

Background

The Commission instituted the investigation, No. TA–201–58, under section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)), in order to

[1] Chairman Stern determined that cast-steel beam hanger brackets and sockets and suspension brackets are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles. Commissioner Eckes determined that cast-steel parts of valves are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article. Commissioner Rohr did not participate with respect to cast-iron brake drums and rotors or cast-steel beam hanger brackets.

determine whether certain metal castings are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industries producing articles like or directly competitive with the imported articles. The investigation was instituted following receipt of a petition on December 2, 1985, as amended on December 12 and December 18, 1985, from the Cast Metals Federation.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 2, 1986 (51 FR 130). The hearing was held in Washington, DC, on March 18–19, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

This report is being furnished to the President in accorance with section 201(d)(1) of the Trade Act of 1974. The information in the report was obtained from responses to Commission questionnaires, fieldwork and interviews by members of the Commission's staff, other agencies, information presented at the public hearing, briefs submitted by interested parties, the Commission's files, and other sources.

The Commission transmitted its determinations in this investigation to the President on June 2, 1986. The Commission's public report, Certain Metal Castings (investigation No. TA-201-58, USITC Publication 1849, June 1986), contains the views of the Commissioners and information developed during the investigation. Copies may be obtained by calling 202-523-5178 or from the United States International Trade Commission, Office of the Secretary, 701 E Street, NW., Washington, DC 20436.

Issued: June 2, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-13210 Filed 6-10-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-229]

Certain Nut Jewelry and Parts Thereof; Commission Decision Not to Review Initial Determination Granting Motion for Summary Determination

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination granting a motion for summary determination of no violation of section 337 of the Tariff Act of 1930 as to one respondent.

SUMMARY: Notice is hereby given that the Commission has determined not to review the administration law judge's initial determination (ID) granting the motion of respondent Paul's Imports for summary determination that it has not violated section 337 of the Tariff Act of 1930 in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0261.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53) of the Commission's Rules of Practice and Procedure (19 CFR 210.53). On March 4, 1986, respondent Paul's Imports moved for summary determination to terminate the investigation as to it because it allegedly had not violated section 337. The complainant did not oppose this motion, and the motion was supported by the Commission investigative attorney. After initially denying the motion, the presiding administrative law judge, on reconsideration, issued an ID granting the motion for summary determination. No petitions for review or comments from Government agencies or the public were received.

Copies of the administrative law judge's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: June 5, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-13212 Filed 6-10-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-236]

Certain Portable Bag Sewing Machines and Parts Thereof; Commission Decision

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of initial determination granting stipulated motion for termination of the investigation of the basis of a settlement agreement. Review of initial determination granting stipulated motion for summary determination on the issue of injury to the domestic industry and determination to vacate this initial determination as moot.

SUMMARY: Notice is hereby given that the Commission has determined not to review the initial determination (ID) of the presiding administrative law judge (ALJ) granting a stipulated motion for termination of the investigation in its entirety on the basis of a settlement agreement. Notice is hereby given that the Commission has determined to review an ID of the ALJ granting a stipulated motion for summary determination on the issue of injury to the domestic industry and has further determined to vacate this ID as moot.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0261.

SUPPLEMENTARY INFORMATION: On March 24, 1986, complainant Axia Incorporated filed a stipulated motion (Motion No. 236-12) for summary determination that there is injury to the domestic industry. The complainant filed a supplement to its motion on April 2, 1986. On April 10, 1986, the presiding ALJ determined that there are no genuine issues of material fact that preclude summary determination on the issue of injury to the domestic industry, and he issued an initial determination (Order No. 13) granting the complainant's stipulated motion for summary determination. No petitions for review or government agency comments were received.

On April 18, 1986, complainant Axia, Inc. (Axia) and all respondents filed a stipulated motion (Motion No. 236-15) for termination of the investigation on the basis of a settlement agreement entered into between Axia and respondent American-Newlong, Inc. On May 2, 1986, the presiding ALJ issued an initial determination (Order No. 16) granting the motion. No petitions for review of the ID or Government agency or public comments have been received.

On May 12, 1986, the Commission determined to extend the period of time in which to decide whether to review Order No. 13 so that the time frame became coextensive with the deadline for reviewing Order No. 16. 51 FR 18672 (May 21, 1986).

These actions are taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.51, 210.53).

Copies of the presiding ALJ's IDs and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on these matters can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: June 5, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–13214 Filed 6–10–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–241]

Certain Prefabricated Bow Forms; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: McGinley Mills, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on June 3, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: June 3, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–13208 Filed 6–10–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–231]

Certain Soft Sculpture Dolls Popularly Known as "Cabbage Patch Kids," Related Literature and Packaging Therefor; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Calia, Inc. (Calia).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on June 2, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: June 2, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–13205 Filed 6–10–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731-TA-270 (Final)]

64K Dynamic Random Access Memory Components (64K DRAM's) From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Japan of 64K dynamic random access memory components (64K DRAM's) of the N-channel metal oxide semiconductor type, provided for in item 687.74 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective December 11, 1985, following a preliminary determination by the Department of Commerce that imports of 64K DRAM's from Japan were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 30, 1986 (51 FR 3860). The hearing was held in Washington, DC, on April 30, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 6, 1986. The views of the Commission are contained in USITC Publication 1862 (June 1986), entitled "64K Dynamic Random Access Memory Components from Japan: Determination of the Commission in Investigation No. 731-TA-270 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By Order of the Commission.

Issued: June 6, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-13206 Filed 6-10-86; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler and Commissioner Brunsdale dissenting.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-275 (Final)]

Oil Country Tubular Goods From Argentina

AGENCY: United States International Trade Commission.

ACTION: Termination of Investigation.

SUMMARY: On May 30, 1986, the U.S. Department of Commerce notified the Commission of a negative final determination of sales at less than fair value in connection with the subject investigation. Accordingly, pursuant to § 207.20(b) of the Commission's Rules of Practice and Procedure (19 CFR 207.20(b)), the antidumping investigation concerning oil country tubular goods from Argentina (investigation No. 731-TA-275 (Final)) is terminated.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Rebecca Woodings (202-523-0282), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Authority: This investigation is being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: June 6, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-13207 Filed 6-10-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-255 (Final) and 731-TA-276-277 (Final)]

Oil Country Tubular Goods From Canada and Taiwan

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is materially injured by reason of imports from Canada of oil country tubular goods,[3] provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be subsidized by the Government of Canada.

Further, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured by reason of imports from Canada and Taiwan of oil country tubular goods,[3] provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted these investigations effective December 30, 1985, following preliminary determinations by the Department of Commerce that imports of oil country tubular goods from Canada were being subsidized within the meaning of section 701 of the Act (19 U.S.C. 1671) and that imports of oil country tubular goods from Canada and Taiwan were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notices of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** of January 24, 1986 (51 FR 3270) and of March 19, 1986 (51 FR 9540). The hearing was held in Washington, DC, on May 6, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 2, 1986. The views of the Commission are

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler and Commissioner Brunsdale determine that an industry in the United States is not materially injured or threatened with material injury by reason of imports from Canada which are being subsidized, or by reason of imports from Canada and Taiwan which are being sold in the United States at LTFV.

[3] For purposes of these investigations, the term "oil country tubular goods" includes drill pipe, casing, and tubing for drilling oil or gas wells, of carbon or alloy steel, whether such articles are welded or seamless, whether finished or unfinished, and whether or not meeting American Petroleum Institute (API) specifications, provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States.

contained in USITC Publication 1865 (June 1986), entitled "Oil Country Tubular Goods from Canada and Taiwan: Determinations of the Commission in Investigations Nos. 701–TA–255 (Final) and 731–TA–276 and 277 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: June 2, 1986.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–13209 Filed 6–10–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–234]

Certain Upper Body Protector Apparatus for Use in Motosports: Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding office in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Sinisalo. USA Corporation (Sinisalo).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on June 6, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contactng the Commission's TDD terminal on 202–724–0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: June 6, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–13213 Filed 6–10–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–83 (Advisory Opinion Proceeding)]

Certain Window Shades and Components Thereof; Denial of Petition for Reconsideration

AGENCY: U.S. International Trade Commission.

ACTION: Denial of a petition for reconsideration of an advisory opinion in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0494.

SUPPLEMENTARY INFORMATION: On April 11, 1986, the Commission issued an advisory opinion in the above-referenced investigation in which it found that window shades that McCrory Corp. sought to import are not included within the scope of the exclusion order issued at the conclusion of the investigation Newell Co., complainant before the Commission in the underlying investigation, has filed a petition for reconsideration of that advisory opinion.

The petition for reconsideration has been denied because it does not raise a question regarding the Commission determination or an action to be taken thereunder that the petitioner had no other opportunity to address, as required by our rules. 19 CFR 210.60.

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–724–0002.

By order of the Commission.

Issued: June 3, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–13211 Filed 6–10–86; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–18; Sub–84X]

The Chesapeake and Ohio Railroad Co—Exemption—Discontinuance of Service in Floyd County, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the discontinuance of service by The Chesapeake and Ohio Railway Company of 8.60 miles of track on its Long Fork Subdivision in Floyd County, KY, subject to standard labor protective conditions.

DATES: This exemption will be effective on July 11, 1986. Petitions to stay must be filed by June 23, 1986. Petitions for reconsideration must be filed by July 1, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB–18 (Sub–No. 84X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Lawrence H. Richmond, 100 North Charles Street, Baltimore, MD 21201.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to: T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

Decided: June 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Acting Secretary.

[FR Doc. 86-13127 Filed 6-10-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-No. 56)]

Missouri Pacific Railroad Co.; Abandonment in Atchison, Jackson, Nemaha, and Marshall Counties, KS

The Commission has found that the public convenience and necessity permit the Missouri Pacific Railroad Company to abandon its 66-mile line between Parnell (milepost 337.8) and Vliets (milepost 403.8), in Atchison, Jackson, Nemaha, and Marshall Counties, KS.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

Decided: June 6, 1986.

By the Commission, Division 2, Commissioners Andre, Gradison, and Simmons. Commissioner Simmons commented with a separate expression.

Noreta R. McGee,

Acting Secretary.

[FR Doc. 86-13301 Filed 6-10-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-14 (Sub-5)]

Northwestern Pacific Railroad Co. Abandonment—in Sonoma County, CA; Findings

The Commission has issued a certificate and decision authorizing Northwestern Pacific Railroad Company to abandon its 3.87-mile line of railroad between Schellville (milepost 40.38) and Sebastiani (milepost 44.25) in Sonoma County, CA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) a financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: **Rail Section, AB-OFA".** Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

By the Commission, Division 1, Commissioners Sterrett, Gradison, and Lamboley. Commissioner Lamboley dissented with a separate expression.

Noreta R. McGee,

Acting Secretary.

[FR Doc. 86-13128 Filed 6-10-86; 8:45 am]

BILLING CODE 7035-10-M

DEPARTMENT OF JUSTICE

Antitrust Division

National Cooperative Research Notifications; Corporation for Open Systems International

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. No. 98-462 (the "Act"), the Corporation for Open Systems International has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture, and (2) the nature and objectives of the venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the venture and the general areas of planned activities are given below.

The parties to the venture are:

Amdahl Corporation, 1237 East Arques Avenue, Building 03—Main Lobby, Sunnyvale, CA 94086

Apollo Computer, Inc., MS CHF-02-RD, 270 Billerica Road, Chelmsford, MA 01824

Apple Computer, Inc., 20525 Mariani Avenue, MX/23FF, Cupertino, CA 95014

AT&T, Inc., Room 3J-608A, Crawfords Corner Road, Holmdel, NJ 07733

Bechtel Power Corporation, 50 Beale Street, San Francisco, CA 94119

Bell Communications Research, 290 West Mt. Pleasant Avenue, Livingston, NJ 07039

Boeing Computer Services, M/S 7A-49, P.O. Box 24346, Seattle, WA 98124

Bridge Communications, Inc., 2081 Stierlin Road, Mountain View CA 94043

Burroughs Corporation, One Burroughs Place, Detroit, MI 48232

Citicorp Technology Office, 3100 Ocean Park Blvd., Santa Monica, CA 90405

Concurrent Computer Corp., 106 Apple Street, Tinton Falls, NJ 07724

Control Data Corporation, 8100—34th Avenue South, Box 0, Minneapolis, MN 55440

Convergent Technologies, 2700 North 1st Street, San Jose, CA 95150-6685

Dart & Kraft, Inc., 2211 Sanders Road, Northbrook, IL 60062

Data General Corp., 4400 Computer Drive, Westboro, MA 01580

Digital Equipment Corporation, 146 Main Street, ML10-2/A53, Maynard, MA 01754

The Dow Chemical Company, 2040 Willard H. Dow Center, Midland, MI 48674

E.I. du Pont de Nemours & Co., Inc., 1SD, Mellon Bank Bldg., Room G-1116, Wilmington, DE 19898

Eastman Kodak Company, 343 State Street, Rochester, NY 14650

Excelan, 2180 Fortune Drive, San Jose, CA 94131

Gould Incorporated, SEL Computer Systems Division, 6901 W. Sunrise Boulevard, Ft. Lauderdale, FL 33313

General Motors Corporation, Advanced Engineering Staff, 30300 Mound Rd., Warren, MI 48090-9040

GTE Telenet Communications Corp., 12490 Sunrise Valley Drive, Reston, VA 22096

Harris Corporation, 1025 West NASA Boulevard, Melbourne, FL 32901

Hewlett-Packard, Inc., 3000 Hanover Street, 20 BU, Palo Alto, CA 94304

Honeywell, Inc., Honeywell Plaza, Minneapolis, MN 55408

Hughes Aircraft Co., 1600 Forbes Way, Long Beach, CA 90810

International Business Machines Corporation, 44 South Broadway, White Plains, NY 10604

Intel Corp., 5200 N.E. Elam Young Parkway, Hillsboro, OR 97124-6497

ITT Corporation, 320 Park Avenue, New York NY 10022

NCR Corporation, 1700 S. Patterson Blvd., Dayton, Ohio 45479

National Semiconductor Corp., National Advanced Systems Division, 800 East Middlefield Road, Mountain View, CA 94043

Northern Telecom Inc., Northern Telecom Plaza, 200 Athens Way, Nashville, TN 37228-1803

Pacific Bell, 2600 Camino Ramon, Room 1S001, San Ramon, CA 94583

Prime Computer, Inc., 500 Old Connecticut Path, Framingham, MA 01701

The Procter & Gamble Co., 2 Procter & Gamble Plaza, P.O. Box 599, Cincinnati, OH 45202

Rockwell International, 600 Grant Street, Pittsburgh, PA 15219
Sperry Corporation, Computer Systems, P.O. Box 500, Blue Bell, PA 19424–0001
Sun Microsystems, Inc., M/S 5–11, 2550 Garcia Avenue, Mountain View, CA 94043
Sytek Incorporated, 1225 Charleston Road, Mountain View, CA 94043
Tandem Computers Incorporated, 19333 Vallco Parkway, Cupertino, CA 95014–2559
Telex Computer Products, Inc., 6422 East 41st Street, Tulsa, OK 74135–6192
Texas Instruments, Inc., P.O. Box 2909, Mail Station 2211, Austin, Texas 78769
3 Com Corporation, 1365 Shorebird Way, P.O. Box 7390, Mountain View, CA 94039
Timeplex, Inc., 400 Chestnut Ridge Road, Woodcliff Lake, NJ 07675
Touch Communications, Inc., 10 Victor Square, Suite 150, Scotts Valley, CA 95066
Wang Laboratories, Inc., One Industrial Avenue, Lowell, MA 01851
Xerox Corporation, 101 Continental Boulevard, El Segundo, CA 90245

The purpose of COS is to provide a vehicle for the acceleration of the introduction of interoperable, multi-vendor products and services operating under agreed-to Open System Interconnection, Integrated Services Digital Network and related international standards to assure widespread customer acceptance of an open network architecture in world markets. It will engage in activities necessary to accomplish this objective, including:

1. Conducting research relating to the analysis and design required to define a system architecture based on standard interfaces that is capable of integrating a wide range of products and services from multiple vendors to provide end-users with coherent functionality in a broad set of applications;

2. Conducting research relating to the analysis and design of specific interfaces required at all levels of the architecture to enable the interoperability of selected sets of applications;

3. Conducting research on the problems of testing the conformance and the interoperability of the implementation of communications and applications based on the protocols identified by the architecture. Included in this research will be theoretical and pragmatic technical studies related to testing. Methods of specifying the capabilities of the protocol such as protocol definition languages will be analyzed for the suitability for this purpose and will be extended as necessary. Other techniques will also be explored to determine an integrated approach to testing for near-term and long-term use;

4. Conducting research and development with respect to the implementation of prototype protocol testing software and hardware that can be used to verify the interoperability of implementations of products and services offering selected sets of applications. These prototypes will be the basis for testing services that will be used to verify implementation of products that are designed to operate within the overall system architecture.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86–13122 Filed 6–10–86; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research Act of 1984—"Remaining Life Methodology for Disc Rim Cracking" Project by Southwest Research Institute

Notice is hereby given that pursuant to section 6(a) of the National Cooperative Research Act of 1984, Pub. L. 98–462 ("the Act"), Southwest Research Institute has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission of a project entitled: "Remaining Life Methodology for Disc Rim Cracking." The notification discloses (1) the identities of the parties to the project and (2) the nature and objective of the project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the project and its general areas of planned activities are given below. Although membership in the project remains open, the current parties to it are:

1. Baltimore Gas and Electric Company
2. Commonwealth Edison Company
3. The Toledo Edison Company
4. Wisconsin Electric Power Company

The purpose of the project is to develop a remaining-life methodology for rim cracks in low-pressure steam turbine discs through the development of nondestructive evaluation techniques to accurately size cracks; examination of retired existing cracked discs; development of computer software to allow the generation of stress intensity distributions for disc steeple cracks; and the generation of data on corrosion fatigue failures of disc steels in typical turbine environments.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86–13121 Filed 6–10–86; 8:45 am]

BILLING CODE 4410–01–M

Office of Justice Programs

Public Reading Room

AGENCY: Office of Justice Programs.

ACTION: Notice of public reading room.

SUMMARY: This notice sets forth the Office of Justice Programs' (OJP), Office of General Counsel library as the OJP public reading room to review information requested under the Freedom of Information Act, 5 U.S.C. 552 and the Privacy Act, 5 U.S.C. 552a.

DATE: This notice shall become effective upon publication.

ADDRESS: Office of General Counsel, Office of Justice Programs, United States Department of Justice, 633 Indiana Ave., NW., Room 1268, Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Yvette D. Caesar, Attorney Advisor, Office of General Counsel, Office of Justice Programs, United States Department of Justice, 633 Indiana Ave., NW., Washington, DC 20531, (202) 724–6235.

Dated: June 4, 1986.

Lois Haight Herrington,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 86–13155 Filed 6–10–86; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 86–42]

NASA Wage Committee, Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Wage Committee.

DATE AND TIME: June 27, 1986, 1:30 p.m., to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 5092, Federal Building 6, 400 Maryland Avenue SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Deborah C. Green, Code NPC, National Aeronautics and Space Administration, Washington, DC 20546 (202/453–2622).

SUPPLEMENTARY INFORMATION: The Committee's primary responsibility is to consider and make recommendations to the NASA Director, Human Resources

Management Division, on all matters involved in the development and authorization of a Wage Schedule for the Cleveland, Ohio, wage area, pursuant to Pub. L. 92–392. The Committee, chaired by Ms. Deborah Green, consists of 6 members. During this meeting the Committee will consider wage data, local reports, recommendations, and statistical analyses and proposed wage schedules reviewed therefrom. Discussions of these matters in a public session would constitute release of confidential commercial and financial information obtained from private industry. Since this meeting will be concerned with matters listed in 5 U.S.C. 552b(c)(4), it has been determined that this meeting will be entirely closed to the public. However, members of the public who may wish to do so, are invited to submit material in writing to the Chairperson concerning matters felt to be deserving of the Committee's attention.

Type of meeting: Closed.

Purpose of meeting: The NASA Wage Committee will recommend to the NASA Wage Fixing Authority the proposed wage schedule to be adopted.

June 2, 1986.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 86–13105 Filed 6–10–86; 8:45 am]

BILLING CODE 7510–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2412.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20459.

Revision

Form D and Regulation D

File No. 270–72

Notice is hereby given that pursuant to Paperwork Reduction Act of 1980 (44 U.S.C. 350 *et seq.*), the Securities and Exchange Commission has submitted for clearance revisions to Form D (17 CFR 239.500) and corresponding revisions to Regulation D (17 CFR 232.501–506) which would eliminate the requirements to furnish certain information about the issuer would simplify the substance and format of other information and would eliminate the requirements to file periodic updates of the Form every six months. The respondents are issuers who elect to offer and sell securities pursuant to section 4(6) of the Securities Act of 1933 ("the 1933 Act") or pursuant to Regulation D under the 1933 Act.

Submit comments to OMB Desk Officer: Ms. Sheri Fox, (202) 395–3785 Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

Shirely E. Hollis,

Acting Secretary.

[FR Doc. 86–13187 Filed 6–10–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15133; (812–6376)]

Lazard Cash Management Fund, Inc. et al.; Deferred Compensation Plans Application

June 5, 1986.

Notice is hereby given that Lazard Cash Management Fund, Inc. ("Cash Management"), Lazard Government Fund, Inc. ("Government") and Lazard Tax-Free Reserves, inc. ("Tax-Free") ("Applicants"), One Rockefeller Plaza, New York, NY 10020, all open-end, diversified, management investment companies registered under the Investment Company Act of 1940 ("Act"), filed an application on May 8, 1986, requesting an order, pursuant to section 6(c) of the Act, exempting Applicants' proposed deferred compensation plans for directors ("Plans"), to the extent necessary, from the provisions of sections 13(a)(2), 16(f)(1), 22(f) and 22(g) of the Act, and, pursuant to section 17(d) of the Act and Rule 17d(1) thereunder, to permit certain joint transactions relating to the Plans. Applicants also request that such order extend to other investment companies that may be added to the group of companies having Lazard Freres & Co. ("Lazard") as investment adviser and of which Applicants are a part. 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 the rule thereunder for the text of the relevant provisions.

According to the application, each Applicant's Board of Directors consists of four to ten directors, a majority of whom are not "interested persons" of each Applicant within the meaning of section 2(a)(19) of the Act. The directors of each Applicant who are not employees of Lazard, the Applicants' investment adviser, or its affiliates, receive an annual retiner fee for serving as a director as well as a fee for each board or committee meeting attended. Applicants state that the amounts paid to the directors are, and will continue to be, insignificant in comparison to the total net assets of each Applicant.

Under the proposed Plans, an individual director will be allowed to elect to defer receipt of fees which otherwise would become payable for services performed as a director or committee member. The election shall continue in effect until terminated by notice in writing, such termination to take effect on the first day of the calendar year beginning after receipt of the notice of termination. An election shall be irrevocable as to payments deferred in accordance with that election.

When a director's fees have been deferred such fees will be credited to a book account established for each electing director at the time they otherwise would have been paid. All amounts in such accounts will bear interest at a rate equivalent to the rate for 90-day U.S. Treasury Bills as determined at the beginning of each calendar quarter and interest will be credited quarterly at the end of each calendar quarter.

According to the application, all amounts credited to an account pursuant to an election by a director will be paid on the first business day of the year next succeeding the year in which the director ceases to be a director or reaches age 70. Payments will be made in a lump sum or in ten or fewer annual installments in accordance with an electing director's specification. In event of the electing director's death, amounts payable under a Plan will thereafter be payable to such persons as the electing director designated in the written notice of election, or, to the director's estate.

Applicants state that the purpose of the Plans is to permit individual directors to elect to defer receipt of their fees in order to avoid diminution or loss of Social Security benefits to which directors may otherwise be entitled, to enable directors to defer payment of income taxes on such fees, and for other reasons. Applicants believe that the availability of the Plans will enhance their ability to continue to attract and retain directors of high caliber and competency.

According to the application, deferral of directors' fees in accordance with the Plans will have a negligible effect on the Applicants' assets, liabilites, and net income per share. Applicants state that the Plans will not obligate an Applicant to retain a director in such capacilty, and will not obligate an Applicant to pay any (or any particular level of) director's fees to any director. Applicants represent that participation

in the Plans will be available to all directors who are not employees of Lazard or its affiliates.

Applicants contend that the Plans do not create "senior securities" as defined in the Act, that there is no restriction on transferability or negotiability of any security as contemplated by the rules and regulations pertaining to such restrictions, and that the deferral of fees under the Plans should not be considered the issuance of securities for services. Nevertheless, to avoid any uncertainty, Applicants request exemptions from the provisions of sections 13(a)(2), 18(f)(1), 22(f) and 22(g) of the Act, to the extent necessary, to permit implementation of the Plans.

Similarly, Applicants assert that the Plans are not joint transactions between an Applicant and its directors within the meaning of section 17(d) of the Act and Rules 17d-1 thereunder. In this respect, Applicants note that the interest to be accrued on deferred amounts will be based upon the rate paid on 90-day U.S. Treasury Bills, and hence, that the Plans do not possess the profit-sharing characteristics required for a joint transaction as contemplated by the Act. To the extent that the Plans may be deemed to involve joint transactions between the Applicants and their directors, Applicants submit that the participation in the Plans by Applicants will not be on a basis that is less advantageous than that of any other participant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 27, 1986, 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 order a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13192 Filed 6-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24119]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

June 5, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 30, 1986 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. Any request for 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 the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

The Southern Company, et al (70-6830)

The Southern Company ("Southern"), Atlanta, Georgia, a registered holding company, and Southern Company Services, Inc. ("Services"), a service company subsidiary of Southern, both located at 64 Perimeter Center East, Atlanta, Georgia 30346, have filed a post-effective amendment to the application-declaration previously filed in this proceeding pursuant to sections 6(a), 7 and 12 of the Act and Rules 45 and 50(a)(5) thereunder.

By prior order in this proceeding (HCAR No. 22861, February 24, 1983), Services was authorized to issue up to an aggregate principal amount of $150 million of unsecured notes, outstanding at any one time, through June 30, 1984, subsequently extended through June 30, 1986. Such maximum amount may include any combination of (1) current notes outstanding to Aetna Life Insurance Company and to Credit Lyonnias in a total amount of up to $42 million; (2) notes to Southern; and/or (3) up to $100 million of new notes ("Notes") to lenders other than Southern. The order granted an exception from the competitive bidding requirements of Rule 50 in connection with the issuance of the Notes and reserved jurisdiction over the associated fees and the terms and conditions of the Notes. By subsequent orders Services was authorized to issue $20 million in Notes maturing June 1, 1991, $30 million in Notes maturing June 1, 1991, $30 million in Notes maturing on December 1, 1990 (HCAR No. 23005, July 9, 1983, and HCAR No. 23137, November 29, 1983, respectively); and $20 million in Notes variously maturing on November 1, of 1993, 1994 or 1995 (HCAR No. 23880, October 25, 1985). Each of these orders contained a reservation of jurisdiction over the fees, and the terms and conditions associated with the unissued Notes. It is now proposed that this authority be extended through June 30, 1987.

Vermont Yankee Nuclear Power Corporation (70-7264)

Vermont Yankee Nuclear Power Corporation ("Vermont"), R.D. 5, Ferry Road, P.O. Box 169, Brattleboro, Vermont 05301, an indirect subsidiary of the New England Electric System and Northwest Utilities, registered holding companies, has filed an application-declaration pursuant to section 6(a), (b), 7, 9(a), 10, 12(c), and 12(e) of the Act and Rules 50(a)(5), 62 and 65 thereunder.

Vermont proposes to issue and sell three series of its first mortgage bonds ("New Bonds") in an aggregate principal amount of up to $56,307,000, maturing on October 1, 2007, and containing a 100% sinking fund payable in annual installments of 11.1% of the original principal amount. The New Bonds will be sold to holders of three existing series of bonds ("Old Bonds") in the same aggregate principal amount, but with varying maturity dates, in exchange for the Old Bonds. The New Bonds will be priced at the time to tender to produce a yield to maturity of up to 200 basis points above the current yield of the most closely corresponding U.S. Treasury security due in twenty years, representing a 65 to 75 basis point increase in the interest rate. The tender offer will include solicitations to modify the indenture, which would eliminate a restrictive convenant limiting payments for "other income deductions", including regulatory fines, to $50,000, and will broaden the covenants relating to the scope of Vermont's business to allow it to sell or lease products and services developed in the course of its business, and to utilize lease financing for

subsequently acquired property additions.

Southwestern Electric Power Company (70–7265)

Southwestern Electric Power Company ("Swepco"), 428 Travis Street, Shreveport, Louisiana 71156–0001, a subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration pursuant to to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) thereunder.

Swepco is seeking authority through December 31, 1986 to enter into transactions pursuant to which the Sabine River Authority of Texas ("District") would issue and sell $81,700,000 principal amount of its Pollution Control Revenue Refunding Bonds, Series 1986 ("Series 1986 Bonds") for the purpose of redeeming the $81,700,000 principal amount of the District's Adjustable Rate Pollution Control Revenue Bonds, Series 1984 on August 1, 1986 at the redemption price of 100–½% of principal amount. In connection with the issuance, Swepco will enter into a Second Supplemental Installment Sale Agreement pursuant to which Swepco will agree to pay the District an amount of money sufficient to enable the District to pay the debt service on the Series 1986 Bonds. The District will assign to the Trustee for the bonds all of the amounts payable under the Second Supplemental Installment Sale Agreement.

Cedar Coal Company, et al (70–7266)

Cedar Coal Company ("Cedar"), and the Southern Appalachian Coal Company ("SACCo"), both in c/o American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, subsidiaries of Appalachian Power Company ("APCo"), a subsidiary of American Electric Power Company, Inc., a registered holding company, have filed a declaration pursuant to section 12(d) of the Act and Rule 44 thereunder.

Cedar proposes to transfer to APCo the Coal Fork 138 KV Station and SACCo proposes to transfer to APCo the Julian 138 Station and the Julian 138 KV Top Line (collectively, "facilities"). All the facilities are located in West Virginia and APCo currently owns the land or land rights associated with the facilities. Cedar and SACCo propose to sell the facilities to APCo for cash in amounts which are equal to the original cost of the facilities less accumulated depreciation. The purchase price for the facilities is approximately $271,696.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86–13193 Filed 6–10–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–23298; Filed No. SR–CBOE–85–40]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule Change

On September 25, 1985, the Chicago Board Options Exchange, Inc. ("CBOE") submitted to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder [2] a proposed rule change to increase position and exercise limits for CBOE's Treasury Bond and Note options ("Treasury securities options"). These limits currently are contracts covering in excess of: (1) $100 million principal amount of underlying securities ("principal amount") where the initial or reopened public issuance ("underlying issue") is $1 billion to less than $2 billion; (2) $200 million principal amount where the underlyng issue is $2 billion to less than $4 billion; and (3) $400 million principal amount where the underlying issue is $4 billion or more. CBOE proposes to increase initial position and exercise limits to contracts covering 10% of the value of the underlying issue, rounded to the next lower $100 million amount, up to a maximum limit of contracts covering a value of $1.2 billion (12,000 contracts). CBOE also proposes to require that the separation or "stripping" by the Department of the Treasury of the principal and interest components of underlying Treasury securities be taken into account in determining whether the initial position and exercise limits should be changed. Specifically, the initial limits may remain so long as they cover a principal amount of underlying securities not in excess of 12% of the non-stripped securities. If stripping results in the initial limit exceeding this level, then CBOE proposes to reduce the initial limits so that they no longer cover a principal amount of underlying securities in excess of 12% of the non-stripped securities. For purposes of this rule, CBOE proposes to rely upon the monthly published reports of Treasury stripping activity. In the event that initial position limits are re-established due to Treasury stripping activity, persons who hold positions in excess of the new limits would not be required to liquidate such excess positions, but would not be allowed to increase their positions.[3]

[1] 15 U.S.C. 78s(b)(1)(1982)

[2] 17 CFR 240.19b–4 (1985).

I. Comments

Prior to filing the proposed rule change, CBOE received a letter written on behalf of Prudential-Bache Government Plus, Inc., ("Fund"), an open-end management investment company that invests primarily in securities of U.S. government agencies or instrumentalities.[4] The Fund encouraged CBOE to increase its position limits for Treasury Bond and Note options, contending that CBOE's current limits "prevent the desirable use of options on Treasury and Notes."[5]

The Fund also argued that recent substantial increases in the size of public issuances of Treasury notes and bonds have rendered the limits unnecessarily low,[6] and suggested that an across-the-board 10% limit would avoid the necessity of having to amend the limits where ever it appears that the amount of new issues was higher than expected. Finally, the Fund contended that there were no regulatory concerns that argue against raising position limits to a flat 10% or for exempting covered option writing from the position limits

[3] Notice of CBOE's original filing was published in Securities Exchange Act Release No. 22456 (September 25, 1985), 59 FR 40093 (October 1, 1985). CBOE's original fule filing would have increased Treasury securities options position and exercise limits from the current levels to $100 million principal amount for underlying issues of $1 billion to less than $2 billion; $200 million principal amount for underlying issues of $2 billion to less than $4 billion; $400 million principal amount for underlying issues of $4 billion to less than $6 billion; $600 million principal amount for underlying issues of $8 billion to less than $10 billion; and $1 billion for issues greater than $10 billion. Amendment No. 1, filed on April 4, 1986, proposed to change the current limits to a flat 10% level and proposed to adopt the provisions requiring adjustments to these limits due to stripping of the underlying issue. Notice of Amendment No. 1 was published in Securities Exchange Act Release No. 23117 (April 10, 1986), 51 FR 12376 (April 16, 1986). Amendment No. 2, filed on April 11, 1986, incorporates the $1.2 billion cap on position and exercise limits. Notice of Amendment No. 2 was published in Securities Exchange Act Release No. 23164 (April 22, 1986), 51 FR 15984 (April 29, 1986).

[4] Letter from Lawrence J. Latto and Jeffrey C. Martin, Shea & Gardner, to Fred Kreiger, CBOE, dated, August 27, 1985 ("Fund Letter").

[5] *Id.*, at 2. The Fund indicated that its primary use of options is covered writing (the writing or selling of calls or puts against long or short Treasury securities positions) to obtain premium income and a higher overall return than can be obtained on the underlying securities. *Id.*

[6] *Id.* at 3. The Fund indicated that recent public issuances had been up to $12 billion range. *Id.*

altogether. In this connection, the Fund suggested that concerns about manipulation seem more directly addressed by exercise limits and seem not to be implicated at all by covered options writing.[7] Subsequent to publication of notice of Amendment No. 2 to the filing, the Fund submitted a letter supporting the amended proposal.[8]

In response to publication of CBOE's original proposal, the Commission received a comment from the Federal Reserve Bank of New York ("FRB–NY").[9] The FRBN–NY indicated that the relatively large positions allowed by CBOE's original proposal (10,000 contracts) might create a concern about price manipulation. The FRB–NY indicated, however, that "presumably the exchanges and the regulators can prevent [manipulation] through their surveillance and enforcement procedures . . .," although manipulation may be "hard to define."[10]

The FRB–NY also indicated that the relatively large positions allowed by CBOE's proposal could increase the "position" risk of firms, *i.e.*, their exposure to unfavorable market moves in the price of underlying securities, as well as "liquidity" risk, *i.e.*, the risk created by having to trade out of large positions.[11] The FRBY–NY suggested that increased position and liquidity risks could result in "operational" risk if the firm were unable to alter its position. The FRB–NY suggested that phasing-in increased limits may meet concerns about relatively large positions. Finally, the FRB–NY suggested that CBOE revise its rule to account explicitly for strippings of Treasury bonds, a process, according to the FRB–NY, that can "substantially reduce the deliverable supply of underlying bonds."[12] As indicated above, subsequent to the FRB–NY letter, CBOE amended its filing to account explicitly for stripping. The FRB–NY did not comment on the CBOE's amended proposal.[13]

[7] *Id.*, at 4.

[8] Letter from Jeffrey C. Martin, Shea & Gardner, to John P. Wheeler, Secretary, SEC, May 9, 1986 ("1986 Fund Letter").

[9] Letter from Edward J. Geng, Senior Vice President, FRB–NY, to Eneida Rosa, Branch Chief, Division of Market Regulation, SEC, dated December 12, 1985 ("FRB–NY Letter").

[10] *Id.*, at 2.

[11] *Id.*

[12] *Id.*, 3.

[13] The FRB–NY has been provided with a copy of CBOE's amended proposal, has indicated it was satisfied with the stripping provisions of the amended proposal, and that no further comment would be forthcoming. Telephone conversation between Christopher, McCurdy, FRB–NY and Alden Adkins, SEC.

II. Discussion

The Commission previously has identified the principal purposes of position and exercise limits as: (1) To minimize the potential for mini-manipulations and corners or squeezes of the underlying market; (2) to impose a ceiling on the position an investor with inside corporate or market information can establish through the use of options; and (3) to reduce the possibility for disruption of the options market itself, especially in illiquid options classes.[14] The Commission also previously has indicated that, in establishing positions and exercise limits, the Commission has been careful to balance two competing concerns. On the one hand, limits must be sufficient to prevent investors from disrupting the market for the underlying security by acquiring and exercising a number of options disproportionate to the deliverable supply and average trading volume of the underlying security. On the other hand, limits must not be established at levels that are so low as to discourage participation in the options market by institutions and other investors with substantial hedging needs or to prevent specialists and market makers from adequately meeting their obligations to maintain a fair and orderly market.[15] Finally, the Commission has indicated that it prefers a gradual, evolutionary approach to position and exercise limit increases.[16]

CBOE's current proposal would retain fundamentally the same approach to position and exercise limits for Treasury security options as is currently in effect and approved by the Commission: Limits at 10% specified intervals of underlying amount of the underlying issue, up to a specified ceiling.[17] The Commission notes that there have been no discernible manipulative problems or market disruptions under the current limits.

[14] Securities Exchange Act Release No. 21907 (March 29, 1985), 50 FR 13440 (approving three-tiered position and exercise limits for individual stock options). The Commission thus has indicated that position and exercise limits are not intended primarily to limit the "position, liquidity and operational" risks discussed in the FRB-NY letter.

[15] *Id.* Although covered options writing, as described and employed by the Fund, *supra*, note 8, is designed primarily to increase income and, thus, return, rather than to prevent or offset losses, it is a hedging strategy in the sense that it involves positions on opposite sides of the market that move in offsetting directions.

[16] *Id.*

[17] The Commission approved this approach in initially approving CBOE's Treasury securities options proposal, Securities Exchange Act Release No. 18371 (December 23, 1981), 46 FR 63423, and again in approving the current limits, Securities Exchange Act Release No. 20454 (December 6, 1983), 48 FR 55662.

While the CBOE proposal would raise the ceiling from $400 million to $1.2 billion,[18] the Commission believes that this represents a gradual increase, viewed in light of the recent increases in the size of public issuances of Treasury notes and bonds.[19] The Commission believes, therefore, that CBOE's proposal reflects an approach that is consistent with the current approach to position and exercise limits for Treasury security options, and, particularly when viewed in light of the current size of issues of such securities, adequately serves the regulatory purposes identified above.[20] Furthermore, the Commission believes that CBOE's proposal to account for stripping of the underlying securities is both a necessary[21] and appropriate adjunct to the position and exercise limit rules for Treasury security options.[22]

The Commission also believes that the increasing size and number of funds like Prudential-Bache Government Plus that invest primarily in U.S. government securities,[23] together with the increasing

[18] As described above, CBOE also proposes to narrow the intervals for limits to $100 million from $200 million. While this would result in allowing more positions at or near the 10% ceiling, the 10% ceiling would nonetheless remain. The Commission finds, therefore, that narrowing the intervals as CBOE proposes is appropriate.

[19] As the Fund points out, recent issues of Treasury bonds have been as high as $12 billion; furthermore the smallest such issue since January 1, 1984, has been $3.753 billion; and the median and average size of such issues during this period has been $5.249 billion and 6.147 billion, respectively. Department of Treasury, *Treasury Bulletin*, Table PDO–3, at 25 (1st Quarter 1986). Issues of Treasury notes for this time period ranged from $10.923 billion to $5.377 billion with a median and average of $7.684 billion and $8.08 billion, respectively. *Id.*

[20] While the FRB–NY has indicated that the size of positions allowed under CBOE's proposal raise manipulation concerns, the FRB–NY has not objected to the proposal on that ground and indeed indicated that "presumably exchanges and regulators can prevent manipulation through surveillance and enforcement procedures." Note 9, *supra*. In this connection, the Commission notes that CBOE will continue to employ its existing surveillance and enforcement procedures for Treasury security options position and exercise limits and intermarket manipulations, including large trader reports. The Commission believes these procedures are adequate for the limits proposed under CBOE's proposal.

[21] The Treasury's stripping program recently has resulted in the stripping of as much as 50% of some issues, and thus can cause a substantial diminution in the deliverable supply of the securities underlying CBOE's Treasury security options.

[22] In this connection, the Commission notes that the Fund, in commenting upon CBOE's stripping provisions, indicated that such provisions appear "workable." The 1986 Fund Letter, note 8.

[23] According to the Fund, as of August 1985, the Fund had assets of approximately $2.4 billion in size, and three other similar funds were approximately $2 billion in size. The Fund Letter, *supra* note 4, at 20. As of May 1986, there were a total of 67 active such funds, with total assets of

Continued

size of Treasury bond and note issues, indicate that current limits may be so low as to discourage effective hedging and related uses of Treasury security options by such funds. Thus, the increase in limits proposed by CBOE may facilitate more efficient hedging and other related uses of Treasury security options by such funds.

In sum, there have been no discernible regulatory problems associated with current Treasury security option limits, and the CBOE proposal fundamentally represents a continuation of the current approach to such limits, with the increases proposed being essentially gradual ones relative to the size of recent issues of the underlying securities. Indeed, the CBOE proposal enhances upon the current rule by accounting for stripping. The CBOE proposal also appears to respond to market participants needs for greater limits in this area, and strikes an appropriate overall balance between the needs of market participants and the regulatory purposes position and exercise limits are designed to serve.[24]

For these reasons, the Commission finds that the amended proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of section 6,[25] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[26] the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[27]

Dated: June 4, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13188 Filed 6-10-86; 8:45 am]

BILLING CODE 8010-01-M

approximately $52.153 billion. The assets of the top five such funds ranged from $9.2 billion to $3.5 billion. Data provided by the Investment Company Institute.

[24] The Commission continues to believe that proposals to increase position and exercise limits must be justified and evaluated separately. The Commission thus, has reviewed the proposed exercise limits separately and, as indicated, has concluded that these limits should not raise manipulation problems or increased concern over market disruption in the underlying securities.

[25] 15 U.S.C. 78f (1982).

[26] 15 U.S.C. 78s(b)(1) (1982).

[27] 17 CFR 200.30-3(a)(12) (1985).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated.

June 6, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

ERC International, Inc.
Common Stock, $.05 Par Value (File No. 7-8986)
Regional Financial Shares Investments Fund, Inc.
Common Stock, $0.01 Par Value (File No. 7-8987)
Home Shopping Network
Common Stock, $0.01 Par Value (File No. 7-8988)
Pall Corporation
Class A Stock, $1.00 Par Value (File No. 7-8989)
Wickes Companies
2.50 Series A Convertible Preferred Stock, $0.10 Par Value (File No. 7-8990)
Public Service Enterprise Group Inc.
Common Stock, No Par Value (File No. 7-8991)
Cameron Iron Works, Inc.
Common Stock, $0.208 1/3 Par Value (File No. 7-8992)
Occidential Petroleum Corporation (Delaware)
Common Shares, $.20 Par Value (File No. 7-8993)
Occidential Petroleum Corporation (Delaware)
$14.625 Cumulative Preferred Stock, $1.00 Par Value (File No. 7-8994)
Occidental Petroleum Corporation (Delaware)
$14.00 Cumulative Preferred Stock, $1.00 Par Value (File No. 7-8995)
The Pittson Company (Virginia)
Common Stock, $1.00 Par Value (File No. 7-8996)
Ensourse Inc.
Common Stock, $10.00 Par Value (File No. 7-8997)
Carlisle Companies Incorporated
Common Stock, No Par Value (File No. 7-8998)

These securities are listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 26, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, prusuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13190 Filed 6-10-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23299; File No. SR-PSDTC-86-02]

Self-Regulatory Organizations; Pacific Securities Depository Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change

Pacific Securities Depository Trust Company ("PSDTC"), on May 20, 1986, submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The Commission is publishing this notice to solicit comments on the rule change.

PSDTC's proposed rule change would eliminate withdrawals by participants of oddlot certificates registered to PSDTC's nominee name. Currently, PSDTC allows participants to withdraw oddlot certificates either by withdrawing oddlot certificates in PSDTC's nominee name or by transferring certificate registration into customer or participant name. The proposed rule change would allow withdrawal of oddlots only by transfer requests.

PSDTC states that the proposed rule change is intended to promote prompt and accurate clearance and settlement of securities transactions and to foster cooperation and coordination among persons engaged in the clearance and settlement of securities transactions. PSDTC states that the eliminated procedure is rarely used and that the expense of maintaining an oddlot inventory is not cost justified or operationally efficient.

The rule change has become effective, pursuant to section 19(b)(3)(A) of the Act. The Commission may summarily abrogate the rule change at any time within 60 days of filing if it appears to the Commission that abrogation is

necessary or appropriate in the public interest, for protection of investors, or otherwise in furtherance of the purposes of the Act.

You may submit written comment within 21 days after this Notice is published in the **Federal Register**. Please refer to file No. SR-PSDTC-86-02, and file six copies of your comments with the Secretary of the Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Material on the rule changes, other than material that may be withheld from the public under 5 U.S.C. 552, is available for inspection at the Commission's Public Reference Room at the principal offices of PSDTC.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: June 5, 1986.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13189 Filed 6-10-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

June 5, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Maytag Company
Common Stock, $2.50 Par Value (File No. 8982)
Lowe's Companies, Inc.
Common Stock, $0.50 Par Value (File No. 8983)
Times Mirror Company (The)
Common Stock, No Par Value (File No. 8984)
Tribune Company
Common Stock, No Par Value (File No. 8985)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before June 26, 1986, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Acting Secretary.

[FR Doc. 86-13191 Filed 6-10-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Intent To Remove From Roster of Approved Trustees

Notice is hereby given pursuant to 46 CFR 221.27 that on April 15, 1985, The Southern Ohio Bank, Cincinnati, Ohio, was merged into The Central Trust Company, N.A. The Central Trust Company, N.A. is not on the Roster of Approved Trustees, and has not requested approval to act as Trustee pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

Therefore, pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30, The Southern Ohio Bank is removed from the Roster of Approved Trustees, as of April 15, 1985.

Dated: June 6, 1986.

By Order of the Maritime Administrator.

Murray A. Bloom,

Acting Secretary.

[FR Doc. 86-13163 Filed 6-10-86; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of Applicants for Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes July 14, 1986.

ADDRESS: Commments to: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Buildings, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9621-N	Emergency Technical Services Corp., Schaumburg, IL	49 CFR 172.506(a)(1)	To allow transport of 8 pounds or less of Class A and B explosives in a non-placarded Vehicle. (Mode 1.)
9622-N	Monsanto Co., St. Louis, MO	49 CFR 177.834(i)(2)	To allow unloading of anhydrous hydrogen chloride without an attendant within the required 25 feet of vehicle but instead allow unloading in a special area monitored by TV under specially controlled conditions. (Mode 1.)
9623-N	Atlas Powder Co., Dallas, TX	49 CFR 177.835(c)(3)	To authorize carriage of detonator, Class A explosives in a dromedary compartment mounted directly behind the cab of a road tractor carrying a tank trailer containing either blasting agents or oxidizers. (Mode 1.)
9624-N	FlexCon and Systems, Inc., Lafayette, LA	49 CFR 173.154, 173.164, 173.178, 173.182, 173.234, 173.245b.	To manufacture, mark and sell non-DOT specification collapsible polyethylene-lined, woven polypropylene bulk bags, having a capacity of approximately 2200 pounds each for shipment of certain oxidizer, corrosive and flammable solids. (Modes 1, 2.)
9625-N	Ashland Chemical Co., Dublin, OH	49 CFR 177.848	To ship flammable gases, oxidizers, flammable liquids and corrosive liquids together in an enclosed van and poisonous gases in an open cage together in a specially designed truck. (Mode 1.)

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9626-N	Miller Electric Manufacturing Co., Appleton, WI	49 CFR 177.834(k)	To authorize shipment of heavy welding machines containing a battery, electric storage, wet filled with acid, class as corrosive material excepted from ready access requirements. (Mode 1.)
9627-N	TLC Air, Inc., Addison, TX	49 CFR 172.101, 172.204(d)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
9628-N	Degussa Corp., Teterboro, NJ	49 CFR 173.245(b)	To authorize shipment of cyanuric chloride, classed as a corrosive material, in non-DOT specification flexible intermediate bulk bags of approximately 1,000 pounds capacity. (Modes 1, 2, 3.)
9629-N	Pennwalt Corp., King of Prussia, PA	49 CFR 173.304(b)	To authorize shipment of vinylidene fluoride, compressed gas, n.o.s., classed as a flammable gas, in liquid full DOT Specification cylinders. (Mode 1.)
9630-N	The ALTA Group, Evans City, PA	49 CFR 173.154	To authorize shipment of titanium dichloride, water reactive solid, n.o.s., classed as a flammable solid in a non-DOT specification ASME portable tank. (Mode 1.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC on June 6, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-13198 Filed 6-10-86; 8:45 am]

BILLING CODE 4910-60-M

Applications for Renewal or Modification of Exemptions or Applications To Become Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing an public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATE: Comment period closes June 27, 1986.

ADDRESS: Comments to: Dockets Branch, Research, and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Buildings, 400 7th Street SW., Washington, DC.

Application	Applicant	Renewal of exemption
3004-X	Liquid Air Corp., Walnut, CA	3004
3187-X	PPG Industries, Incorporated, Pittsburgh, PA (See footnote [1]).	3187
3941-X	Aerojet Strategic Propulsion Co., Sacramento, CA.	3941
3941-X	Aerojet Tactical Systems Co., Sacramento, CA.	3941
4734-X	General Electric Co., Waterford, NY	4734
5322-X	San Diego Gas & Electric Co, San Diego, CA.	5322
5704-X	Aerojet General Corp., Sacramento, CA	5704
6016-X	S.J. Smith Co., Inc., Davenport, IA	6016
6071-X	Walter Kidde, Wilson, NC	6071
6518-X	Union Carbide Corp., Danbury, CT	6518
6518-X	Syntex Chemicals Inc., Boulder, CO	6518
6543-X	Airco, The BOC Group, Inc., Murray Hill, NJ.	6543
6610-X	ARCO Chemical Co., Pasadena, TX	6610
6651-X	Enthone, Inc., West Haven, CT	6651
6694-X	Compagnie des Containers Reservoirs, Paris, France.	6694
6772-X	Monsanto Chemical Co., St. Louis, MO	6772
6932-X	Compagnie des Containers Reservoirs, Paris, France.	6932
6971-X	Chem Service, Inc., West Chester, PA	6971
7026-X	Walter Kidde, Wilson, NC	7026
7052-X	DURACELL, Inc., Bethel, CT (See footnote [2]).	7052
7259-X	Exxon Chemical Americas, Houston, TX	7259
7259-X	Stauffer Chemical Co., Westport, CT	7259
7285-X	Compagnie des Containers Reservoirs, Paris, France.	7285
7657-X	Welker Engineering Co., Sugar Land, TX (See footnote [3]).	
7741-X	Bell Aerospace Textron, Buffalo, NY (See footnote [3]).	7741
7767-X	Walter Kidde, Wilson, NC	7767
7823-X	Allied Corp.,	7823
7823-X	Air Products and Chemicals, Inc., Allentown, PA.	7823
8009-X	Pressure Transport, Inc., Austin, TX	8009
8013-X	Air Products and Chemicals, Inc., Allentown, PA.	8013
8017-X	Air Products and Chemicals, Inc., Allentown, PA.	8017
8037-X	Mauser-Werke, GmbH (Mauser Packaging Ltd.), New York, NY (See footnote [4]).	8037
8051-X	Mauser Packaging, Ltd., New York, NY	8051
8091-X	Restor Communications, Inc., Florence, KY.	8091
8125-X	Compagnie des Containers Reservoirs, Paris, France.	8125
8125-X	Ermefer S.A., Geneva, Switzerland	8125
8141-X	Boeing Aerospace Co., Seattle, WA	8141
8162-X	Structural Composites Industries, Inc., Pomona, CA (See footnote [5]).	8162
8431-X	American Hoechst Corp., Somerville, NJ.	8431
8436-X	Pennwalt Corp., Buffalo, NY	8436
8439-X	Walter Kidde, Wilson, NC	8439
8450-X	Atlantic Research Corp., Camden, AR	8450
8458-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	8458
8467-X	Compagnie des Containers Reservoirs, Paris, France.	8467
8723-X	Atlas Powder Co., Dallas, TX (See footnote [7]).	8723
8733-X	ICI Americas, Incorporated, Wilmington, DE.	8733
8741-X	Alpha Aviation, Inc., Dallas, TX	8741
8760-X	Barton Solvents, Inc., Des Moines, IA	8760
8792-X	Digital Equipment Corp., Northborough, MA.	8792
8812-X	The Protectoseal Co., Bensenville, IL	8812
8839-X	Poly Processing Co., Inc., Monroe, LA	8839
8839-X	Poly Cal Plastics, Inc., Monroe, LA	8839
8860-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	8860
8903-X	Teledyne McCormick Selph, Hollister, CA.	8903
8915-X	Airco, The BOC Group, Inc., Murray Hill, NJ.	8915
8915-X	Union Carbide Corp., Danbury, CT	8915
8965-X	Pressed Steel Tank Co., Inc., Milwaukee, WI (See footnote [8]).	8965
8970-X	WR Metals Industries, Inc., Wheat Ridge, CO.	8970
9126-X	Allied Drum Service, Inc., Louisville, KY	9126
9130-X	Bio-Lab, Incorporated, Conyers, GA (See footnote [9]).	9130
9180-X	M&G Tankers Limited, West Midlands, England.	9180
9222-X	Bryson Industrial Services, Inc., Lexington, SC.	9222
9233-X	Diamond Shamrock Chemicals Co., Irving, TX.	9233
9263-X	Liquid Air Corp., Walnut, Creek, CA	9263
9266-X	National Refrigerants, Inc., Radnor, PA	9266
9266-X	Societe Auxiliarie de Transports et d'Industries, Paris, France.	9266
9270-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	9270
9296-X	Honeywell, Inc., Minneapolis, MN	9296
9302-X	Las Vegas, Inc., Las Vegas, NV	9302
9401-X	Arbel-Fauvet-Rail, Paris, France (See footnote [10]).	9401
9402-X	Arbel-Fauvet-Girel, St. Laurent-Balngy France (See footnote [11]).	9402
9480-X	Airco, The BOC Group, Inc., Murray Hill, NJ (See footnote [12]).	9480

Application	Applicant	Renewal of exemption
9606-X	The Ensign-Bickford Co., Simsbury, CT (See footnote [13]).	9606

[1] To renew and modify paragraph 8a to allow replenishment of dry ice.
[2] To authorize shipment of discharged lithium/sulfur dioxide cells and batteries with an open circuit voltage of at least 2 volts per cell.
[3] To manufacture, mark and sell non-DOT specification cylinders identical to those presently authorized except for large capacity for shipment of certain flammable and nonflammable gases.
[4] To renew and reflect part number change.
[5] Modify by permitting shipment of lacquer base and lacquer chips, dry, classed as flammable solid; and an additional fiber drum of 40 liter and 100 liter capacity.
[6] To increase service pressure on FRP cylinders to 4,500 psi, for shipment of certain nonflammable gases.
[7] To authorize shipment of an oxidizer and to approve a polyethylene portable tank for shipment of certain blasting agent and oxidizers.
[8] To increase water capacity of FRP hoop wrapped cylinders from 300 or 350 pounds for shipment of certain flammable and nonflammable gases.
[9] To authorize twelve bottles containing two pounds or less 1-Bromo-3-chloro-5, 5-dimethylhydrantoin in a DOT Specification 12B box not to exceed 24 pounds and to authorize vessel as a mode of transport.
[10] To authorize an additional 20 IMO Type 5 portable tanks identical to those authorized except they will be ASME U stamped and incorporate a modified safety relief device.
[11] To authorize an additional 20 IMO Type 5 portable tanks identical to those authorized except they will be ASME U stamped and incorporate a modified safety relief device.
[12] To authorize a mixture of tetrafluoromethane and oxygen, classed as a nonflammable gas as an additional commodity and to authorize cargo aircraft as additional mode of transportation.
[13] To renew exemption originally issued as an emergency to authorize shipment of more than 110 detonators, Class A explosive, in one inside specially designed packaging.

Application No.	Applicant	Parties to exemption
3630-P	General Chemical Corp., Morristown, NJ.	3630
4453-P	Nitrochem Energy Corp., Biwabik, MN	4453
4453-P	Independent Explosives Co. of Penna., Scranton, PA.	4453
4884-P	Airco, The BOC Group, Inc., Murray Hill, NJ.	4884
5206-P	Nitrochem Energy Corp., Biwabik, MN	5206
6333-P	General Chemical Corp., Morristown, NJ.	6333
6397-P	General Chemical Corp., Morristown, NJ.	6397
6971-P	Accu-Standard, New Haven, CT	6971
7052-P	Eveready Battery Company, Inc., Rocky River, OH.	7052
7052-P	ITT Barton Instruments Co., City of industry, CA.	7052
7498-P	General Chemical Corp., Morristown, NJ.	7498
7876-P	General Chemical Corp., Morristown, NJ.	7876
7943-P	Chem Lab Products, Inc., Ontario, CA	7943
8284-P	General Chemical Corp., Morristown, NJ.	8284
8390-P	General Chemical Corp., Morristown, NJ.	8390
8445-P	Eveready Battery Company, Inc., Rocky River, OH.	8445
8522-P	General Chemical Corp., Morristown, NJ.	8522
8817-P	General Chemical Corp., Morristown, NJ.	8817
8845-P	Goex, Inc., Cleburne, TX	8845
8877-P	General Chemical Corp., Morristown, NJ.	8877
9209-P	General Chemical Corp., Morristown, NJ.	9209
9280-P	General Electric Co., Waterford, NY	9280
9281-P	GOEX, Inc., Clevurne, TX	9281
9456-P	General Electric Co., Waterford, NY	9456
9525-P	Cyanamid Canada, Inc., East Willowdale, Canada.	9525

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on June 5, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-13196 Filed 6-10-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: June 5, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Burea of Alcohol, Tobacco, and Firearms

OMB Number: 1512-0368
Form Number: ATF REC 5230/1
Type of Review: Extension
Title: Tobacco Products Importer or Manufacturer—Records of Large Cigar Wholesale Prices

OMB Number: 1512-0391
Form Number: ATF REC 5210/10
Type of Review: Extension
Title: Tobacco—Record of Disposition of More Than 60,000 Cigarettes in a Single Transaction

Clearance Officer: Robert G. Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco, and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Internal Revenue Service

OMB Number: 1545-0350
Form Number: IRS Form 6561
Type of Review: Extension
Title: Payer Summary of Form W-2P Magnetic Media Pension Information

Clearance Officer: Garrick Shear, (202) 566-6150, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Robert Neal, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Stephen Bashein,

Departmental Reports, Management Office.

[FR Doc. 86-13165 Filed 6-10-86; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 112
Wednesday, June 11, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Federal Deposit Insurance Corporation	1-4
Federal Mine Safety and Health Review Commission	5
National Transportation Safety Board	6
Nuclear Regulatory Commission	7
Tennessee Valley Authority	8
United States International Trade Commission	9

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 1:50 p.m. on Thursday, June 5, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A) Adopt a resolution making funds available for the payment of insured deposits made in The Citizens State Bank of McCracken Kansas, McCracken, Kansas, which was closed by the Kansas State Bank Commissioner on Thursday, June 5, 1986; and

(B) Consider a recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Memorandum and Resolution re:
National Bank and Trust Company of Traverse City, Traverse City, Michigan

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (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 subsection (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B) and (c)(10)).

Dated: June 6, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-13290 Filed 6-9-86; 2:52 pm]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:25 p.m. on Friday, June 6, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt a resolution making funds available for payment of the insured deposits in Security Bank of Glenrock, Glenrock, Wyoming, which was closed by the State Examiner for the State of Wyoming on Friday, June 6, 1986.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matter 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 matter in a meeting open to public observation; and that the matter 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: June 9, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-13291 Filed 6-9-86; 2:53 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 3:30 p.m. on Monday, June 16, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Colonial Thrift and Loan Association, an operating noninsured industrial bank located at 10720 West Washington Boulevard, Culver City, California.

Application for Federal deposit insurance and for consent to merge and establish twenty branches:

Commercial Credit Bank, Baltimore, Maryland, a State nonmember non-bank bank, in organization, for Federal deposit insurance, for consent to merge, under its charter and title, with Commercial Credit Savings and Loan Association, Baltimore, Maryland, a non-federally insured institution, and for consent to establish the twenty existing branches of Commercial Credit Savings and Loan Association as branches of Commercial Credit Bank.

Application for consent to merge and establish three branches:

Citizens Union Bank of Shelbyville, Shelbyville, Kentucky, an insured State nonmember bank, for consent to merge, under its charter and title, with Farmers & Traders Bank, Shelbyville, Kentucky, and for consent to establish the three offices of Farmers & Traders Bank as branches of the resultant bank.

Application for consent to purchase assets and assume liabilities:

The First National Bank of Maryland, Baltimore, Maryland, for consent to purchase certain assets of and assume the liability to pay deposits made in the Annapolis, Bethesda, Forestville and Frederick offices of Baltimore Federal Financial, F.S.A., Baltimore, Maryland, a non-FDIC-insured institution.

Application for consent to purchase assets and assume liabilities and establish one branch:

The Arizona Bank, Phoenix, Arizona, an insured State nonmember bank, for consent to purchase certain assets of and assume the

liability to pay certain deposits made in the Sedona Branch of Arizona Commerce Bank Tucson, Arizona, and for consent to establish that office as a branch of The Arizona Bank.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,534–SR
Indian Springs State Bank, Kansas City, Kansas
Case No. 46,535–SR
Republic Bank of Kansas City, Kansas City, Missouri

Memorandum and resolution regarding amendments to the delegations of authority relating to liquidation activities.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Report of the Director, Division of Accounting and Corporate Services:

Memorandum re:
Investment Management Report March 31, 1986

Discussion Agenda:

Memorandum and resolution regarding postponement of the effective date of the FDIC's Statement of Policy Regarding Disclosure by the FDIC of Statutory Enforcement Actions.

Memorandum and resolution regarding petitions to reconsider certain prohibitions governing securities subsidiaries and affiliates contained in Part 337 of the Corporation's rules and regulations, entitled "Unsafe or Unsound Banking Practices."

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: June 9, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–13392 Filed 6–9–86; 2:54 pm]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:00 p.m. on Monday, June 16, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Memorandums regarding the Corporation's corporate and liquidation activities.

Discussion Agenda:

Application for Federal deposit insurance:

First Republic Thrift & Loan, an operating noninsured bank located at 201 Pine Street, San Francisco, California.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,539–NR
The Farmers and Merchants National Bank of Hennessey, Hennessey, Oklahoma

Memorandums regarding the Corporation's assistance agreements with insured banks.

Personnel actions, regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898–3813.

Dated: June 9, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–13293 Filed 6–9–86; 2:55 pm]

BILLING CODE 6714–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 7, 1986.

TIME AND DATE: 10:00 a.m., Thursday, July 10, 1986.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: To Commission will hear oral argument on the following:.

1. Local Union 5817, etc., UMWA v. Monument Mining Corporation and Island Creek Coal Co., Docket No. WEVA 85–21–C. (Issues include whether the administrative law judge erred in concluding that the operator was not responsible for paying compensation triggered by the acts of an independent contractor.)

TIME AND DATE: Immediately following oral argument.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above listed case.

Any person intending to attend the open hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86–13176 Filed 6–9–86; 10:49 am]

BILLING CODE 6735–01–M

6

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 10:00 a.m., Thursday, June 26, 1986.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing by the Air Transport Association of America regarding the recently completed study on the feasibility of creating a corporation to manage the ATC system.

FOR MORE INFORMATION, CONTACT: H. Ray Smith (202) 382-6525.

Catherine T. Kaputa,

Federal Register Liaison Officer.

June 9, 1986.

[FR Doc. 86-13226 Filed 6-9-86; 10:34 am]

BILLING CODE 7533-01-M

7

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 9, 16, 23, and 30, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 9

Wednesday, June 11

11:00 a.m.
Periodic Meeting with Advisory Panel for the Decontamination of TMI-2 (Public Meeting)

2:00 p.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)

Thursday, June 12.

2:00 p.m.
Briefing on Restart of San Onofre-1 (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of June 16—Tentative

Wednesday, June 18

10:00 a.m.
Discussion/Possible Vote on Safety Goals (Public Meeting)

2:00 p.m.
Briefing on La Crosse Request for an Exemption to Reduce Primary Property Value Insurance (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of June 23—Tentative

Wednesday, June 25

2:00 p.m.
Discussion/Possible Vote on Full Power Operating License for Hope Creek (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of June 30—Tentative

Tuesday, July 1

10:00 a.m.
Discusssion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Wednesday, July 2

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Litigation of Shoreham Emergency Planning Issues" (Public Meeting) *postponed* from June 5 to June 6.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634-1410.

Robert B. McOsker,

Office of the Secretary.

June 5, 1986.

[FR Doc. 86-13227 Filed 6-9-86; 10:35 am]

BILLING CODE 7590-01-M

8

TENNESSEE VALLEY AUTHORITY

(MEETING NO. 1368)

TIME AND DATE: 2:00 p.m. (EDT), Friday, June 13, 1986.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on May 7, 1986.

Discussion Items

1. Environmental/Energy Education Progress.

Action Items

A—Budget and Financing

*A1. Proposed call for early redemption of certain TVA Bonds held by the Federal Financing Bank (FFB).

A2. Adoption of supplemental resolution authorizing 1986 Series C power bonds.

A3. Resolution authorizing the Chairman and other executive officers to take further action relating to issuance and sale of 1986 Series C power bonds.

A4. Modification to 1986 capital budget financed from power proceeds and borrowings—New authorization for purchase and installation of equipment for new cycle and save program (load management control system); and revision of authorization for land acquisition for solid waste storage at Paradise Steam Plant.

B—Purchase Awards

*B1—Req. 52—Coal for Allen Steam Plant.

C—Power Items

C1. Renewal power contract with Milan, Tennessee.

C1. Renewal power contract with Florence, Alabama.

C3. Revision to interim rate arrangements under which electric power would continue to be made available on a temporary basis to distributors of TVA power that have not entered into renewal standard form wholesale power contracts applicable for long-term supply arrangements.

C4. Amendment to Contract TV-54456A with Tennessee Valley Public Power Association (TVPPA) to provide for the assignment of patent rights to TVPPA.

D—Personnel Items

*D1. Recommendations for Trades and Labor Employees Resulting from Trades and Labor Contract Negotiations.

D2. Ratification of commitment letter to Westinghouse Electric Corporation for personal services contract; and approval of personal services contract with Westinghouse Electric Corporation for performance of engineering, construction and operations support services at Sequoyah, Watts Bar, Browns Ferry, and Bellefonte Nuclear Plant, Requested by the Office of Nuclear Power.

D3. Supplement to Personal Services Contract with Westec Services, Inc., Plymouth Meeting, Pennsylvania, providing for additional services in connection with the environmental qualification of TVA's nuclear plants, requested by the Office of Nuclear Power.

D4. Supplement to personal services contract with Digital Engineering, Inc., Huntsville, Alabama, providing for additional services in connection with the environmental qualification evaluation of safety-related electrical equipment at TVA nuclear plants, requested by Office of Nuclear Power.

D5. Supplement to Personal Services Contract with Wyle Laboratories, Huntsville, Alabama, providing for engineering and testing support as needed for the environmental qualification assessment of safety-related equipment at TVA nuclear plants, requested by Office of Nuclear Power.

D6. Supplement to personal services contract with Management Anaylsis Company, San Diego, California, providing for services to TVA in connection with the implementation of the regulatory performance plan for the Browns Ferry Nuclear Plant, requested by the Office of Nuclear Power.

D7. Personal Services Contract with Cataract, Incorporated, Newton, Pennsylvania configuration baseline effort, requested by the Office of Nuclear Power.

E—Property Transactions

E1. Grant of permanent easement to Bear Creek Development Authority for an office building, affecting 1.2 acres of Little Bear Creek Dam Reservation in Franklin County, Alabama—Tract No. XTBCLR-1E.

E2. Lease Agreement with J. Don McCracken, Affecting Approximately 1.5 Acres of Boone Reservoir Land in Washington County, Tennessee, for public commercial recreation purposes—Tract No. XTBR-14L.

E3. Filing of condemnation cases.

F—Unclassified

F1. Supplement to interagency agreement (TV-67169A) with U.S. Department of Energy providing for TVA assistance in project management of environmental policy studies being conducted at the Oak Ridge National Laboratory for DOE and the Environmental Protection Agency.

F2. Supplement to Contract No. TV-60001A between TVA and the Agency for International Development (AID) providing for AID funding for TVA assistance in medium-sized cities in underdeveloped countries committed to conserving energy and natural resources.

F3. Supplement to Contract TV-67038A with U.S. Department of Agriculture, Forest Service, providing for a cooperative research study on Acidic Inputs to High Elevation Forest in the Southeastern United States.

F4. Supplement to Memorandum of Understanding between TVA and International Fertilizer Development Center (TV-39692A) establishing framework for cooperative relationships.

F5. Supplement No. 2 to subagreement No. 39 under memorandum of understanding between TVA and U.S. Department of Energy (Contract TV-48296A) providing for radiant barrier retrofit research—summer experiment.

F6. Designation of the Executive Secretary of the Retirement System as one of the TVA appointees to the Retirement System Board.

*Items approved by individual Board members.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: June 6, 1986.

W.F. Willis,

General Manager.

[FR Doc. 86-13225 Filed 6-9-86; 10:33 am]

BILLING CODE 8120-01-M

9

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, June 18, 1986 at 10:00 a.m.

PLACE: Room 117, 701 E Street NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints:
   a. Certain aircraft carbon disk brakes and replacement carbon disks (Docket Number 1316).
   b. Certain patented cryogenic microtome apparatus (Docket Number 1319).
5. Investigation 731-TA-326(P) (Frozen concentrated Orange Juice from Brazil)—briefing and vote.
6. Items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

Kenneth R. Mason,

Secretary.

June 4, 1986.

[FR Doc. 86-13217 Filed 6-9-86; 9:03 am]

BILLING CODE 7020-02-M

federal register

Wednesday
June 11, 1986

Part II

Environmental Protection Agency

40 CFR Parts 157 and 162

Pesticide Programs; Child Resistant Packaging; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 157 and 162

[OPP-30071A; FRL 2876-4]

Pesticide Programs; Child Resistant Packaging

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule reorganizes and redesignates regulations for child-resistant packaging of pesticides. In addition, it establishes an exemption from the requirement for child-resistant packaging (CRP) for pesticide products in large packages. The exemption replaces previous Agency policy that accepted a labeling statement restricting use to "servicepersons" in lieu of child-resistant packaging for certain pesticide products. The Agency has determined that child-resistant packaging should be required for all products meeting toxicity and residential use criteria, and that an exemption by size is more protective and enforceable than the "serviceperson" concept. EPA expects that the size exemption will limit the accessibility of non-CRP packaged pesticide products to clearly non-residential users while permitting continued unrestricted sale of CRP-packaged products. Compliance dates of 1 year for products released for shipment, and 2 years for products in channels of trade are provided to phase in the use of CRP if required. This final rule reflects comments on proposals issued in the **Federal Register** on January 4, 1984 (49 FR 423) and September 26, 1984 (49 FR 37915).

DATE: This rule will become effective after 60 days of continuous Congressional session from the date of promulgation as provided in FIFRA sec. 25(a)(4). After that period has elapsed, the Agency will issue for publication in the **Federal Register** a notice announcing the effective date of this rule.

FOR FURTHER INFORMATION CONTACT:

By mail: Jean M. Frane, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 1114, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, 703-557-0944.

SUPPLEMENTARY INFORMATION:

I. Background

Section 25(c)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizes the Administrator of EPA to set standards for child-resistant packaging (CRP) of pesticides to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated under FIFRA. Regulations implementing this provision were published in the **Federal Register** of March 9, 1979 (44 FR 13022) under 40 CFR 162.16.

EPA issued in the **Federal Register** of January 4, 1984 (49 FR 423) a proposal to revise its child-resistant packaging regulations to provide an exemption based on size. The proposal resulted directly from a previous proposal published in the **Federal Register** of September 15, 1982 (47 FR 40659), in which the Agency had proposed, among other things, to permit the use of a label statement restricting sale, use and storage to "servicepersons" as an alternative to CRP.

The serviceperson statement alternative was permitted under an Agency policy notice issued in the **Federal Register** of March 3, 1981 (46 FR 15104). This policy, however, was not formally incorporated into EPA's regulations. The term "serviceperson" was defined as a person who "provides a service of controlling pests without delivering any unapplied pesticide to any person so served," and included janitors, pest control operators, maintenance personnel, lawncare and landscaping personnel. In its 1981 policy notice the Agency stated that the serviceperson restriction would be implemented through exercise of prosecutorial discretion, and later, when imposed by regulation, would become a regulatory restriction under FIFRA sec. 3(d)(1)(C)(ii).

In response to its September 15 proposal, the Agency received a number of comments from States indicating that the serviceperson statement was unenforceable because there was no mechanism in Federal or State laws for regulation of servicepersons as a separate category apart from "certified applicators." [1] State commenters argued that the products must be designated as restricted use products and labeled as such. At the same time, industry commenters opposed restricted use classification, asserting that restricted use classification would disadvantage them competitively by limiting the number of persons who could purchase their products.

The Agency was concerned that the possible abuse of the serviceperson statement—its use on products in sizes appropriate for residential use, and distributed and sold in retail outlets catering to household consumers—could allow substantial numbers of non-CRP products into households.

On the basis of these comments and Agency concerns, EPA decided that the serviceperson statement was not an adequate substitute for the use of CRP. The Agency decided not to issue final regulations incorporating the serviceperson statement as an alternative to CRP.

The Agency believes that its objective of protecting children from exposure to harmful toxic pesticides can also be accomplished by requiring the sizes normally distributed and sold to residential users to be in CRP, while exempting larger sizes from the CRP requirement. Accordingly, the Agency's January 4, 1984, proposal contained size cutoffs that EPA believed adequately defined the residential market for the purposes of CRP.

Subsequently, the Agency issued a proposal in the **Federal Register** of September 26, 1984 (49 FR 37915), proposing, with respect to child-resistant packaging of pesticides, to redesignate its regulations in 40 CFR 162.16 as Part 157. The proposal restated the proposed size exemption of January 4, 1984, and proposed a minor conforming recordkeeping requirement. No other changes were proposed.

This final rule encompasses both proposals, and responds to comments received on both proposals. Child-resistent packaging requirements currently codified n § 162.16 are therefore redesignated as 40 CFR Part 157, Subpart B. The reorganization of the September 26 proposal is used in this document.

The Agency received 26 comments on its January 4 proposal for a size exemption for CRP, and 11 comments on its September 26 proposal. EPA also held a public hearing, at which three persons presented oral comments. The principal comments are addressed by topic in this preamble.

[1] FIFRA sec. 3(d)(1)(C) provides that use of a pesticide may be restricted to persons who have received special training in pesticide use. Such persons are trained and certified by States. Restriction to use by certified applicators is enforced primarily by States through regulation of the distribution of restricted use pesticides. In most States dealers and retailers may not sell a restricted use product to anyone who is not a certified applicator.

II. When Child-Resistant Packaging Is Required

Before discussing the comments received on the proposals, a brief discussion of the requirements for CRP is in order. It is apparent that there was some confusion about the requirements for CRP. At least one commenter understood the size exemption to be an additional criterion for CRP rather than an exemption. The Chemical Specialties Manufacturers' Association requested that the Agency provide an explanation of pesticide CRP requirements. The Agency agrees that the CRP criteria in § 157.22 can be clarified, and is making minor revisions to improve clarity and organization.

A pesticide product is required to be distributed and sold in CRP if it meets both the following affirmative criteria:

1. *A toxicity criterion.* If a product is highly or moderately toxic by ingestion, dermal absorption, inhalation, or causes severe irritation or corrosion to the skin or eyes, the product meets the toxicity criterion for CRP. The criteria correspond for the most part to FIFRA Toxicity Categories I and II (products bearing signal words DANGER and WARNING). (The only exception is oral toxicity, which is based on the average weight of a small child, the amount a child could easily ingest, and a safety factor of 3; in this case the requirement for CRP extends into Toxicity Category III.) In most cases, therefore, a product which bears the signal word CAUTION, designating the lower toxicity categories, is not required to be packaged in CRP, because it is not toxic or irritating enough to pose a hazard to a child. However, the Agency may determine, based on other human hazard data, such as accident or use history, that CRP should be required for specific products not meeting the toxicity criteria.

In its September 26, 1984, proposal, the Agency proposed to revise its inhalation criteria. This proposed change is not being made final in this rule. If the Agency promulgates a final rule that revises the inhalation toxicity criteria, § 157.22 will also be revised for consistency.

2. *A residential use site criterion.* Children could reasonably be expected to be present at any residential site. If a product's labeling indicates that the product is intended for use at a residential site, it meets the residential use criterion. The criterion is met if residential use is explicitly recommended on the labeling, or if residential use sites are stated on the labeling (kitchens, bathrooms, gardens, ornamental plants and flowers around the home, swimming pools, etc.), or if the use directions are appropriate for residential sites (for example, dosages given in tablespoons or garden rows). Moreover, a product marketed in a small size (while occasionally intended for commercial or agricultural users) is generally considered by the Agency to be directed at residential users.

A product that is clearly labeled only for agricultural or institutional use and bears no conflicting directions for use that could be interpreted as homeowner-oriented is not required to be in CRP. A product whose label clearly prohibits sale to or use by homeowners or residential users, and whose labeling does not detract from this statement, is not considered to be for residential use.

Using labeling statements as a means of determining whether residential sale and use are intended, however,is not always satisfactory. In the absence of enforceable controls on sale or use of the product, there is no means of assuring that the product is marketed only as stated on the label. A product that is labeled for agricultural use only, but is marketed through retail outlets that primarily serve homeowners cannot be considered totally non-residential in nature, regardless of its labeling.

Similarly, producers of certain specialty products may have very structured marketing strategies which clearly target their products through distinct channels of trade to non-residential users. Such producers may with reasonable certainty consider their products as non-residential and therefore not subject to CRP requirements (See Unit III. 2, Elimination of the Serviceperson Exemption, for further discussion).

The current regulations also provide that a product is not required to be in CRP if it is classified for restricted use or if is exempted. Although these were included in § 157.22 (c) and (d) as "criteria" for CRP, they actually exempt products that would otherwise require CRP because they meet the affirmative toxicity and residential use criteria. Organizational changes have been made to clarify which are criteria for CRP, and which are exemptions from CRP .

In addition, because the definitions of "package" and "residential use," terms necessary to understanding of CRP requirements, were proposed to be located in § 152.3(w) of the September 26 proposal, which is not being promulgated today, those definitions are being incorporated as § 157.21 (c) and (e) of this final rule. One minor modification has been made in the definition of "residential use." At the hearing, a commenter noted that the term "outbuildings" in the definition of residential use has a "broadly understood connotation for various farmstead structures." The commenter stated that the inclusion of the term in the definition was unnecessary, and that it would lead to farm-oriented products being brought under CRP requirements. Although unwilling to discard this terminology entirely, EPA has clarified the definition in the final rule to specify "non-agricultural" outbuildings.

In sum there are two affirmative criteria leading to a requirement for CRP—high toxicity and residential use. When the CRP criteria are met, there are a number of exemptions—toxicity not truly indicative of hazard, restricted use classification, technical factors, and size—that may be applied to remove the requirement. Except for the size exemption, each of these other exemptions is contained in current regulations in essentially the same form. The minor reorganization in today's rule clarifies that some of these exemptions are automatic (§ 157.25(a)), and others may be granted by the Agency on the basis of presentation of arguments and supporting information by the registrant (§ 157.24(b)).

Finally, the final rule provides that the Agency may determine that a product should be required to be packaged in CRP, notwithstanding exemptions provided by § 157.24 based on restricted use, size, or technical factors. In each case, the final rule provides that the Agency will notify the registrant of the requirement and the reasons for imposing CRP. The registrant will have 30 days in which to request a hearing. The scope of any hearing and the procedures that will be followed will be determined on a case-by-case basis, taking into account the nature of the issues in dispute.

III. Elimination of the Serviceperson Exemption

The Agency proposed elimination of the serviceperson statement for two reasons:

1. The serviceperson statement was found to be generally unenforceable in the absence of an accompanying restricted use classification or similar regulatory restriction. In commenting on the Agency's earlier proposal to incorporate the serviceperson statement into its regulations, State regulatory agencies expressed reservations about the enforceability of the provision. Their comments persuaded the Agency that it should not continue to provide an exemption based solely on a serviceperson statement (refer to the final rule on CRP published in the

Federal Register of January 4, 1984 (49 FR 380).

2. The Agency had serious concerns that the serviceperson statement was being used in lieu of CRP on products that were generally available to homeowners. This practice would not only be contrary to the intent of the statement, but might endanger children if products bearing a serviceperson statement instead of CRP were routinely purchased by residential users. Moreover, the practice would undermine the legitimate efforts of companies to comply with CRP requirements. If it is more costly for a company to package in CRP than to label with a serviceperson statement, products bearing the serviceperson statement might also have a competitive edge over similar products offered in CRP. As discussed later in this preamble unit, the results of a survey conducted for the Agency confirm that the Agency's concern is justified.

Six commenters on the Agency's proposal were opposed to eliminating the serviceperson statement; a number of these also offered objections to the alternative of a size exemption.

Only one commenter took exception to the Agency's statement that the serviceperson statement is not enforceable. That commenter argued that the serviceperson statement is enforceable, noting that in California servicepersons must be licensed. EPA agrees that, where servicepersons are licensed by a State, the serviceperson statement would be enforceable. However, although California may require the licensing of some types of servicepersons (the commenter did not specify which types of servicepersons were required to be licensed), all types of servicepersons are not required to be licensed in California, nor in the majority of other States.

The majority of commenters who argued for retention of the serviceperson statement stated that it was effective because of marketing and distribution factors not considered by the Agency. Most expressed the belief that existing systems of marketing and labeling, coupled with the serviceperson statement, are effective in channeling a product to non-residential users. They indicated that the industry channels its products into distinct commercial/institutional/agricultural/residential markets, and that the serviceperson statement, although not enforceable by the Agency in a tangible way, is effective when combined with existing marketing strategies and other factors.

EPA agrees with commenters that marketing factors may play a role in determining whether a product is available for homeowner purchase. EPA is not, however, convinced that, as a general rule, marketing strategies can be universally and solely relied on to assure that products do not reach the hands of homeowners. The Agency's experience in dealing with registration and enforcement demonstrates that registrants generally introduce their products into channels of trade without knowing where they ultimately will be sold. A producer may be aware of the first line of distribution of the product, but as the commercial distance between producer and user increases, the producer can lose the ability to effectively track his product's distribution. Likewise, EPA has no control over products in channels of trade unless products are classified for restricted use.

Several commenters noted that they are convinced that their marketing strategies are structured to assure that their products reach only distinct segments of the user market. EPA agrees that producers of certain specialty products may in fact have very structured marketing strategies which clearly target their products through distinct channels of trade to non-residential users. EPA thinks that such producers may with reasonable certainty consider their products as non-residential and therefore not subject to CRP requirements. However, such producers (and/or distributors if needed) should be prepared to produce relevant sales and distribution records for each product which demonstrate that sales and distributed products are for non-residential use if called upon to do so for inspection by enforcement authorities. These records should demonstrate that the producer and/or his distributors sell the products to non-residential users. This does not mean that the producer must be able to track each container from cradle to grave, but must demonstrate that he can effectively track the product's distribution.

Because of comments favoring the serviceperson statement, however, the Agency did reevaluate whether the serviceperson statement could be retained in an enforceable way. Legally, under FIFRA sec. 3(d)(1)(C)(ii), the Agency could restrict a product's use to servicepersons only; this was the approach the Agency envisioned when it issued its 1981 policy statement. For practical purposes, however, simply making the serviceperson statement a regulatory restriction upon use is very difficult to enforce.

In order to make the serviceperson statement enforceable as a legal restriction under section 3(d)(1)(C)(ii), EPA would also have to impose either serviceperson or reporting requirements upon each distributor of a product from producer to retailer. Either would enable the Agency to monitor distribution and sale of products throughout channels of trade, thereby assuring that products labeled for serviceperson use only were not marketed in residential channels of trade. The Agency considered a serviceperson option under which retailers would have been required to maintain records showing that a serviceperson-limited product was sold only to identifed servicepersons, but rejected it because of the extremely burdensome paperwork it would impose upon retailers. Moreover, this would have duplicated the restricted use scheme already in place. EPA believes such a plan would be opposed by registrants for the same reasons that they oppose a restriction to certified applicators under FIFRA sec. 3(d)(1)(C)(i).

In sum, EPA continues to believe that enforceable separation of residential and non-residential channels of trade under FIFRA can be effected only through restriction to use by certified applicators under FIFRA sec. 3(d)(1)(C)(i) (or a similar regulatory restriction under FIFRA sec. 3(d)(1)(C)(ii)). Industry commenters opposed the latter option, and are likely to oppose the former. The Agency finds that it would be burdensome and impractical to impose the paperwork burdens that the latter would entail. In the absense of restricted use classification, or other enforceable regulatory restrictions, EPA concludes that the serviceperson's statement alone cannot be relied upon to ensure that products do not become available for homeowner use.

As mentioned earlier, the Agency also believed that a number of products were being offered in residential channels of trade bearing the serviceperson statement. To document whether this was occurring, the Agency, through the American Association of Pesticide Control Officials, conducted a survey of retail outlets of various types in a number of States. State enforcement officials were requested to record the smallest size product bearing a serviceperson statement available in each retail establishment surveyed. (The survey also recorded other information about product sizes available for purchase; Unit IV discusses this aspect of the survey in greater detail.) The following Table A shows the results of the survey:

TABLE A.—PERCENT OF ESTABLISHMENTS HAVING SMALL SIZE PRODUCTS BEARING SERVICEPERSON LABELING

	Number of establishments surveyed	Number of establishments having one or more serviceperson products	Percent of establishments with serviceperson products	Percent of establishments at which the smallest size products was within the range listed		
				≤16 fl. oz.	>16–128 fl. oz.	>128 fl. oz.
Liquid other than swimming pool	471	131	27.8	71.8	28.2	0
Liquid swimming pool	116	20	17.2	30.0	70.0	0
				≤16 oz.	>16–80 oz.	>80 oz.
Dry other than swimming pool	471	101	21.4	75.2	18.8	5.9
Dry swimming pool	116	29	25.0	41.4	44.8	13.8

Between 17 and 28 percent of the establishments surveyed (representing all types of retail outlets where pesticides might be available to residential users) sold one or more products bearing a serviceperson statement in a size that the Agency considers clearly to be a consumer size.

Of liquid pool products, every establishment at which a serviceperson product was sold offered a product at 1 gallon or less (in fact all sold a product at less than one-half gallon, but this is not reflected in the table). Of other liquid products, 72 percent of the establishments sold a serviceperson product at 1 pint or less, and the remainder at 1 gallon or less. Dry products show even more dramatic evidence—86 percent of establishments sold dry swimming pool products and 94 percent of the establishments sold other dry products labeled for serviceperson use in sizes of 5 pounds or less.

The survey did not record the total number of products bearing serviceperson labeling, merely the smallest single size of any serviceperson product. Therefore it is not possible to calculate the percentage of serviceperson labeled products being offered in small sizes. The results may reflect the same serviceperson labeled product being offered in a number of retail outlets, which would indicate less of a problem. On the other hand, since only a single product size was recorded for each establishment, it is also possible that a number of additional products bearing serviceperson statements were also offered in sizes greater than that recorded but within the consumer range. If this is true, the problem would be of greater magnitude than indicated.

Several commenters noted that products in small packages are marketed not only to residential users, but also to non-residential users for reasons of efficiency of use, safety, and convenience. A serviceperson statement in these circumstances would be a legitimate use of the statement if, as asserted by the commenters, the products could be marketed exclusively to servicepersons. If this were true, the products should not be offered for general sale in retail establishments such as were surveyed.

It should be remembered that all of the products that are serviceperson labeled meet the toxicity criteria for CRP, and would be required to be in CRP if they did not bear the serviceperson statement. Therefore, the fact that they appear to be widely available in retail outlets in sizes that may be readily purchased by residential users leads the Agency to conclude the the serviceperson statement is being used in ways neither intended nor sanctioned by the Agency's 1981 policy statement.

The Agency accordingly has decided not to continue the serviceperson statement. Unit X of this preamble discusses the timeframes for phasing out the use of the serviceperson statement and, if necessary, packaging products in CRP.

IV. Sizes Exempted

The Agency proposed that pesticide products packaged in certain large sizes be exempted from the requirement of CRP. The sizes proposed were categorized into six pesticide types (insecticide, fungicide, herbicide, rodenticide, antimicrobial, and swimming pool chemical), and by product formulation type (liquid or dry). For liquids, the Agency proposed to exempt sizes that ranged from greater than 1 gallon for an insecticide product to greater than 15 gallons for a swimming pool chemical product. For dry products, the exemption would have ranged from greater than 10 pounds for an antimicrobial product to greater than 100 pounds for a swimming pool product. Based on the comments received and the results of a survey of retail establishments conducted through the American Association of Pesticide Control Officials, the Agency has consolidated the categories of product and revised the size limits of the exemption.

Several commenters asserted that there is no basis for setting different size limits for different pesticide types, except that there was general agreement that swimming pool chemicals are sold in larger quantities to residential users than other pesticides. EPA agrees that a separate size category for each type of pesticide might be confusing and difficult for both compliance and enforcement. Accordingly, the final rule establishes a single category consolidating all product types, except swimming pool products, into a single category. Swimming pool chemicals are retained as a separate category. Sizes are listed both for volume and weight measures.

The majority of commenters supported size limits different from those proposed by the Agency. In general, commenters from industry groups believed that the Agency's proposed limits were too high. A common comment in this respect was that servicepersons often purchase smaller containers for reasons of efficiency, ease of use, and safety. Commenters argued that such products should not be required to be in CRP. Opposite views were taken by groups such as the American Association of Poison Control Centers, which strongly opposed "softening" CRP requirements. These latter groups objected to any exemptions for products of less than 5 gallons.

EPA notes that the sizes defined in this rule were selected because they are those not likely to be available to residential users. The Agency considers it irrelevant that smaller sizes may be generally purchased by servicepersons. Clearly the serviceperson has a greater array of products in all sizes available to him. The fact that he chooses to purchase small sizes does not mean that such sizes are not also available to homeowners, or that CRP should not be required for those sizes. EPA's primary concern is the "crossover" of homeowner purchase into larger sizes rather than the crossover of serviceperson purchase into smaller sizes (which commenters observed). As noted in the proposal, the consequence

of this proposal with respect to servicepersons is that a serviceperson who purchases a small size product may pay a small amount more for the product and would have to open a child-resistant package in order to use it.

With respect to the sizes proposed for the exemption, commenters directed their comments to specific types of products:

1. *Insecticides and rodenticides.* The Agency proposed to exempt products in sizes greater than 1 gallon liquid or 40 pounds solid. No commenters specifically suggested that these limits be lowered, and several commenters implicitly agreed with them by suggesting that other types of products should be brought into conformance with the insecticide/rodenticide limits.

2. *Herbicides and fungicides.* The Agency proposed to exempt products in sizes greater than 5 gallons or 75 pounds. Nine commenters recommended lowering the sizes by various amounts. They cited prohibitive cost, lack of need for large quantities for residential use, and weight of the large size containers as reasons why the proposed sizes were not likely to be purchased by homeowners. The most common suggestions for a size exemption were 1 gallon liquid and 5 pounds solid.

One commenter noted that the proposal did not address products that are mixtures of pesticide types, such as insecticide-fungicide mixtures. Under the proposal, no provision was made for mixtures, and where different size limits were proposed, it would be impossible to know which size cutoff applied to the mixture. The Agency has decided to establish only a single category for all non-swimming pool chemicals, which covers mixtures of these pesticides. Swimming pool chemicals are not usually contained in mixtures with other types of products; therefore the creation of a separate category for swimming pool chemicals should not be problematical in this respect.

3. *Antimicrobial products.* The Agency proposed to exempt products in sizes greater than 5 gallons or 10 pounds. Two commenters specifically addressed antimicrobial products. Both recommended that the size limit be set at 1 gallon, and noted that sizes above these are rarely purchased by consumers for reasons of cost, lack of need for large quantities and weight of the container.

4. *Swimming pool chemicals.* The Agency proposed to exempt swimming pool products in sizes above 15 gallons liquid or 100 pounds solid. Five commenters specifically addressed swimming pool chemicals. Although there was general agreement that homeowners purchase and use swimming pool chemicals in larger quantities than other pesticides, there was little agreement as to what sizes were marketed primarily to homeowners.

With respect to liquid swimming pool chemicals, one commenter supported the 15-gallon liquid cutoff. Another argued that the majority of such chemicals are algaecides and supported a 1-gallon cutoff. A third did not offer any specific figure, but suggested that 15 gallons was too high. One commenter provided extensive calculations of the amount of swimming pool chemical needed for a pool season on the east coast and west coast in support of his argument that 1 gallon liquid should be the maximum for which CRP should be required.

For solids, commenters uniformly believed 100 pounds to be too high. Suggestions ranged from the equivalent of a 2½ gallon container (17–20 pounds) to 40 pounds. Other commenters either did not state a preference or stated that the class of products is not sufficiently well delineated to set a size limit, and that it would depend on the identity of the chemical.

Because of the differences in commenters' views as to the sizes that are generally available to homeowners, as well as the relative paucity of actual data on products in differing channels of trade, the Agency decided to conduct a limited survey to assist in selecting appropriate sizes for exemption. As mentioned earlier, EPA requested the American Association of Pesticide Control Officials (AAPCO), an organization of State pesticide regulatory officials, to conduct a survey of various types of retail establishments in their States. The results of the survey, and a brief summation, entitled "Packaging Size Survey for Pesticide Products Sold in Retail Outlets," is contained in the public comment file, and may be reviewed in Rm. 236, at the address for the information contact.

The purpose of the survey was to identify the sizes of individually registered pesticide products available in retail establishments where homeowners might be expected to purchase pesticides. The survey covered establishments in eight categories—supermarkets and drugstores, hardware stores, garden centers and nurseries, pest control firms, lumberyards and building supply centers, farm supply stores, swimming pool service firms, and all other establishments. AAPCO surveyed 20 establishments in each State.

For each establishment, each separately registered pesticide product was tabulated by size and toxicity category. Toxicity category was recorded because it is necessary to distinguish between products subject to CRP requirements and those not subject. As noted earlier in this preamble, only products bearing the signal words DANGER and WARNING are generally subject to the requirement for CRP. For each product, the survey recorded the Toxicity Category and size(s) offered for sale. Each product was counted once for each size offered for retail sale, regardless of the number of items in stock. A product sold in several sizes was therefore recorded once for each size. Products were merely counted, not recorded by name or registration number, since the Agency was interested primarily in the numbers of products of various sizes available in retail establishments.

As noted in Unit III of this preamble, the survey also recorded, when applicable, the smallest size product bearing a serviceperson statement. This was intended to indicate whether and to what extent the serviceperson statement was being used in lieu of CRP on products that were in small sizes and available to residential users.

Finally, two commenters to the proposal had suggested that a separate category for aerosols be included. EPA agrees, and accordingly the survey recorded the smallest size of aerosol product available at the retail establishment, so that a size limit could be established.

A total of 116 swimming pool establishments and 474 other retail establishments in 31 States were surveyed. Swimming pool products included 594 liquid products and 1,473 dry products. A total of 20,434 liquid and 11,687 dry products were enumerated in all other pesticide categories.

The following Tables B and C show the numbers and percentages of products in various toxicity categories and sizes. Table B shows the results for non-swimming pool products and Table C the results for swimming pool products.

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TABLE B--NUMBERS AND PERCENTAGES OF PESTICIDE PRODUCTS (EXCLUDING SWIMMING POOL PRODUCTS) IN VARIOUS TOXICITY CATEGORIES AND SIZES

LIQUID (Gals.)

SIZE-->	<1	1-<5	5-9	10+	TOTAL
TOX.CAT.		Size cutoff			
DANGER	1734	483	90	22	2329
%	74.5	20.7	3.9	0.9	100.0
WARNING	4059	1007	88	18	5172
%	78.5	19.5	1.7	0.3	100.0
CAUTION	11198	1596	121	18	12933
%	86.6	12.3	0.9	0.1	99.9
TOTAL	16991	3086	299	58	20434
TOTAL DANGER + WARNING	5793	1490	178	40	7501
	77.2	19.9	2.4	0.5	100.0

DRY (Lbs.)

SIZE-->	<2	2-4	5	6-24	25-49	50+	TOTAL
TOX.CAT.					Size cutoff		
DANGER	314	92	39	75	9	25	554
%	56.7	16.6	7.0	13.5	1.6	4.5	100.0
WARNING	669	356	225	134	53	27	1464
%	45.7	24.3	15.4	9.2	3.6	1.8	100.0
CAUTION	6127	1865	626	757	224	70	9669
%	63.4	19.3	6.5	7.8	2.3	0.7	100.0
TOTAL	7110	2313	890	966	286	122	11687
TOTAL DANGER + WARNING	983	448	264	209	62	52	2018
	48.7	22.2	13.1	10.4	3.1	2.6	100.0

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TABLE C--NUMBERS AND PERCENTAGES OF SWIMMING POOL PRODUCTS IN VARIOUS TOXICITY CATEGORIES AND SIZES

LIQUID (Gals.)

SIZE:	<1	1-2.5	>2.5-4	5-7.5	>7.5	TOTAL
TOX.CAT.				Size cutoff		
DANGER	162	60	0	12	11	245
%	66.1	24.5	0	4.9	4.5	100.0
WARNING	39	20	1	6	1	67
%	58.2	29.9	1.5	9.0	1.5	100.1
CAUTION	245	31	0	2	4	282
%	86.9	11.0	0	0.7	1.4	100.0
TOTAL	446	111	1	20	16	594
TOTAL DANGER + WARNING	201	80	1	18	12	312
	64.4	25.6	0.3	5.8	3.8	99.9

DRY (Lbs.)

SIZE:	Up to 4	5-12	13-20	21-34	35-49	50+	TOTAL
TOX.CAT.					Size cutoff		
DANGER	424	427	159	103	56	102	1271
%	33.4	33.6	12.5	8.1	4.4	8.0	100.0
WARNING	45	23	4	0	4	0	76
%	59.2	30.3	5.3	0	5.3	0	100.1
CAUTION	80	38	5	1	2	0	126
%	63.5	30.1	4.0	0.8	1.6	0	100.0
TOTAL	549	488	168	104	62	102	1473
TOTAL DANGER + WARNING	469	450	163	103	63	102	1347
	34.8	33.4	12.1	7.6	4.5	7.6	100.0

Based on the survey results the Agency concludes:

1. For the consolidated category of products that are liquid non-swimming pool chemicals (insecticides, rodenticides, herbicides, fungicides, antimicrobials, and mixtures of these), 5 gallons is an appropriate exemption size. Less than 3 percent of potential CRP products are marketed at 5 gallons or more in the retail establishments surveyed. There is a sharp dropoff in the number of products at 5 gallons suggesting that the majority of products at 5 gallons are generally not available to residential users at the types of establishments surveyed.

Another reason is that CRP is generally available for liquid products up to 5 gallons; any changeover to CRP for products in up to 5-gallon packages should entail little additional cost. Finally, an exemption at 5 gallons and over is consistent with the definition of "household product" adopted by the Consumer Product Safety Commission in 16 CFR 1701.3.

Accordingly, § 157.24(a)(2)(i)(C) exempts from the requirement of CRP all products (meeting the toxicity and use criteria) that are packaged in containers of 5 gallons or greater. Products packaged in containers of less than 5 gallons are required to be in CRP.

2. For the consolidated category of products that are dry or solid non-swimming pool products, there is no sharp cutoff point as there is for liquids, suggesting that packaging in general is much more variable. The exemption size of 50 pounds has been selected. Less than 3 percent of potential CRP products would be exempted by this cutoff point.

This choice is based upon the fact that, in the 25- to 49-pound range, a significant number of products bearing the signal word WARNING (81 percent) were found in hardware stores, lawn and garden centers and building supply/home improvement centers. Thirty percent of products bearing the signal word DANGER in this range were also found in these retail establishments. Because these percentages indicate a significant availability of these toxic products to residential users, the Agency does not believe that a cutoff of 25 pounds would be sufficiently protective for children.

Accordingly, § 157.24(a)(2)(i)(A) exempts from the requirement of CRP products packaged in sizes of 50 pounds or greater. Products packaged in sizes less than 50 pounds (meeting the toxicity and use criteria) must be packaged in CRP.

3. For liquid swimming pool chemicals, a cutoff point at 7.5 gallons is appropriate (7.5 gallons must be in CRP). This size cutoff would exempt less than 4 percent of products subject to CRP by virtue of toxicity and use site. Liquid swimming pool products, like other liquid pesticides, appear to be packaged predominantly in standard sizes such as 1 gallon, 2.5 gallons, and 5 gallons. However, the survey indicates that while less than 3 percent of non-swimming pool products are packaged at 5 gallons and larger, almost 10 percent of swimming pool products are packaged in this same 5-gallon and larger size, and almost 4 percent are packaged in sizes larger than 7.5 gallons.

Accordingly, § 157.24(a)(2)(i)(B) exempts from the requirement of CRP liquid swimming pool products in sizes greater than 7.5 gallons. Products up to and including 7.5 gallons meeting the toxicity and use criteria are required to be in CRP.

4. For dry swimming pool products, there is a wide variety of sizes with no obvious cutoff point. The survey, however, recorded sizes specifically only up to "greater than 50 pounds." The Agency has therefore selected 50 pounds as the cutoff point. Products in sizes of 50+ pounds comprise 7.6 percent of those enumerated in the survey, but the Agency believes that a number of these are products at 100 pounds or greater. In the other categories the Agency selected a cutoff point that would exempt only 3 to 4 percent of the products (and in each of these a cutoff point correlated well with a particular size range in the survey). In the dry swimming pool category, the survey did not record a corresponding 4 percent cutoff. The Agency has therefore selected a 7.6 percent cutoff that will exempt dry swimming pool products at the same level as other dry products.

If the Agency becomes aware that products larger than 50 pounds are routinely being offered for consumer sale (and at least one commenter indicated that this might be the case), it may exercise its authority under § 157.24(a)(2)(iv) to impose CRP on a case-by-case basis. EPA encourages producers who now market products in sizes greater than 50 pounds for residential use to continue to use CRP.

Accordingly, § 157.24(a)(2)(i)(A) exempts from the requirement of CRP dry swimming pool products in sizes of 50 pounds or greater. Products packaged in sizes of less than 50 pounds must be distributed in CRP.

5. For aerosol products, a size cutoff of 2 pounds would be appropriate. Two commenters suggested a size cutoff in this range. One proposed that EPA adopt the Department of Transportation definition for consumer commodity found in 49 CFR 173.1200 (27.7 fluid ounces) and the other suggested 2 pounds. The latter comment also noted that some refillable aerosol containers are used by the service industry and should be exempted. EPA believes that refillable aerosol containers are not sold for residential use, and need not be specifically exempted. No products were found in the survey at larger than 2 pounds.

Accordingly, § 157.24(a)(2)(i)(D) exempts from the requirements of CRP products in sizes of 2 pounds or greater. Products in sizes of less than 2 pounds must be packaged in CRP.

V. Cost

In the proposal, the Agency stated that there would be little cost impact of this proposal because few products would actually have to be newly packaged in CRP, and some large packages might be exempted from the requirement of CRP. The Agency believed that the products that would be exempted by large size would correspond roughly to the products for which a serviceperson statement is currently being used, and that therefore the costs of converting from serviceperson statement to size exemption would be low.

Six commenters who addressed cost all took exception to the Agency's statements. Several cited specific cost increases that would be incurred. One, for example, noted that if CRP is required for his aerosol products, he would have to redesign the shipping cartons to accommodate the larger size CRP. Although he did not specify what size aerosols he was manufacturing, any aerosol at 2 pounds or greater would be exempted under the final rule. A second commenter noted that his product required a special type of dispenser cap. He claimed that the cost of the only CRP available would competitively disadvantage his product with others in the market. EPA notes that, if a special dispenser cap is necessary to the proper use of the product, the applicant may seek a technical feasibility exemption. Section 157.24(b)(3)(iii) provides that one of the factors considered in granting a technical feasibility exemption is the need for special types of packaging for proper use of the product.

A third raised a cost factor associated with the use of returnable embossed plastic containers. The commenter stated that relabeling (i.e., obtaining new containers with the embossed statement deleted) would be costly if the serviceperson statement is phased out over too short a time. The commenter claimed that returnable containers with an embossed serviceperson statement

may be recycled for a period up to 5 years, and that only 20 percent of the containers are replaced each year. He urged that a 5-year phaseout of the statement be allowed. The Agency believes that, in many cases, the serviceperson statement is not actually embossed into the plastic container, but is stickered onto the container (which is acceptable). Therefore, cost associated with phasing out the statement should be minimal. For serviceperson statements that are embossed into the container, the Agency notes that the serviceperson statement may be phased out over a period of time commensurate with reprinting of labels or reordering of containers (such as embossed or silkscreened containers) provided that the product is also packaged in CRP if required. (See Unit X of this preamble.)

Other commenters stated that the Agency erred in assuming that large sizes and serviceperson statements addressed a comparable set of products. There would be a number of products that would have to begin using CRP that previously bore serviceperson labeling. Some commenters also claimed that no CRP was available for their products (e.g. bags, 5- to 15-gallon bung closures). EPA acknowledges that there will be some products that would have to begin using CRP under this size exemption, but believes that: (1) CRP is available for such products; and (2) the available CRP is less costly than in 1981 when CRP requirements were first imposed. The costs of packaging in CRP were addressed in detail in conjunction with the Agency's original CRP regulations in 1979, and in a supplementary analysis conducted in 1982. In those analyses, the Agency stated that the cost of CRP was approximately 3 cents per container for small containers. At the hearing, two commenters confirmed this figure: They stated that their cost differential for CRP for liquid sodium hypochlorite products in gallon containers was 3½ cents per container.

A person who believes that CRP is not available for his product may petition the Agency for a technical feasibility exemption, in accordance with § 157.24(b)(3). However, EPA reiterates that it is not required to consider whether available CRP is adaptable to a particular package type or packaging equipment in order to determine that CRP is technically feasible. Exemptions have been granted only infrequently in the past 4 years.

In sum, EPA acknowledges that some increase in the number of products requiring CRP will result from this rule. CRP is generally believed to be both available and feasible for such products, and the Agency believes the costs to be competitive. Given that these products are toxic and may be purchased by residential users, the Agency believes that any increased costs are outweighed by the additional protection afforded by CRP.

VI. Labeling Statement

The Agency proposed that products exempted because they were packaged in large sizes should be required to bear a label statement advising that the package was not child-resistant. The Agency believed that this would serve as an additional warning if a residential user happened to obtain or sought out the large size container notwithstanding marketing or economic deterrents.

Five commenters addressed the question of advisory labeling for exempted products. Two supported the proposed requirement or generally agreed with the thrust of the argument favoring it. Three commenters were opposed.

One argued that if labeling were sufficient to preclude purchase by homeowners, then CRP itself would be unnecessary. As stated earlier, the Agency's experience with the serviceperson statement (and other labeling statements that purport to limit sale and use) is that labeling may not be sufficient by itself to ensure that a product is sold only as prescribed. If EPA is to ensure that a product is marketed only to certain users, labeling must be coupled with additional enforceable regulatory measures (such as recordkeeping, reporting, or restricted use requirements).

The second argued that, by comparison to the serviceperson statement that the Agency was discontinuing, an advisory statement did not offer the same degree of direction to the purchaser. This may be true, but since the serviceperson statement is being discontinued, comparisons are not pertinent.

Another argued that there was no basis for requiring such a broad labeling requirement for products that the Agency had determined (by exempting them from CRP) were unlikely to be purchased by residential users. The Agency agrees with this comment.

Based on these comments, EPA has reconsidered the need for an advisory statement that packaging is not child-resistant. Since the statement would not be enforceable, and would be used on products highly unlikely to reach residential users, it would offer neither encorcement benefits to the Agency nor useful information to the purchasers of the large size products. EPA has therefore decided not to impose an additional labeling requirement on products exempted from CRP in large sizes.

VII. Non-Complying Packaging

In the preamble to the January 4, 1984, proposal, EPA requested comment on the need for non-complying packaging for the benefit of the elderly and handicapped. The Agency noted that its 1979 position that non-complying packaging is not necessary for pesticides had not changed, and EPA had no plans to provide for non-complying packaging. However, the Agency solicited comment on the matter once again, since the Agency's earlier position was premised in part on lack of perceived need for such packaging. To ensure that the question was brought to the attention of appropriate handicapped and elderly groups, the Agency specifically solicited comments from 15 organizations representing consumers, the elderly, and the handicapped. A list of the organizations contacted is contained in the public comment file in Rm. 236 at the address given for the information contact.

Six comments were received in response to the Agency's solicitation. These were evenly divided among those who supported and those who opposed a non-complying packaging option. Two of the three commenters supporting a non-complying packaging option were industry representatives. The other commenter in support of non-complying packaging was the Arthritis Foundation. Those opposed to non-complying packaging were persons and organizations in the health field (American Association of Poison Control Centers, a physician and a State commission on toxic substances).

Since only one comment supporting non-complying packaging was received from potentially affected groups (the Arthritis Foundation), the Agency concludes that the lack of non-complying packaging for pesticides is not of great concern to these groups. Comments from industry groups arguing the need for non-complying packaging for elderly and handicapped persons were not confirmed by comments from groups representing those persons. In the absence of indications of need or interest from special interest groups, the arguments of the industry are not persuasive.

Accordingly, EPA reiterates its earlier decision not to provide a non-complying packaging option for pesticides. As stated in the proposal, EPA has no plans to implement such a provision.

VIII. Comments on September Proposal

In the **Federal Register** of September 26, 1984 (49 FR 37915), the Agency proposed a comprehensive revision of 40 CFR Part 162, containing its registration and classification procedures. Among these are the procedures for CRP. The only changes in the proposed CRP regulations were a redesignation and reorganization as Part 157 and the addition of a minor recordkeeping change inadvertently omitted in the January 4, 1984, final rule. Because the size exemption had been proposed by the Agency, EPA included it in this second proposal for organization purposes.

In response to the September proposal, the Agency received 11 comments that addressed CRP requirements. Two commenters reiterated their previously submitted comments on the earlier size exemption. Another two commenters raised the same issues as commenters on the earlier size exemption proposal.

Two commenters asserted that the current CRP regulations are null and void because the Agency did not hold a public hearing before putting them into effect. At the time these regulations were proposed, no hearings were requested, and other commenters were satisfied by the Agency's final regulations.

Several comments, however, indicated confusion concerning the CRP regulations now in place. One commenter stated that the proposed regulation failed to consider the use pattern of a pesticide in imposing CRP requirements. The commenter suggested that the regulation offer examples of use patterns which are clearly not covered by CRP requirements, such as metalworking fluids and preservatives for paints. Section 157.22(b) clearly states that the use criterion for CRP is "residential use." Moreover, the Agency does not believe it necessary to include exemplary use patterns that do not require CRP packaging. Those cited by the commenter are clearly non-residential in nature.

A second commenter noted that October 1, 1984, deadline for recertifying that a package was CRP, and commented that it would be impossible to meet this deadline because it was so near. The commenter also assumed that each size of each product would have to be tested according to the Consumer Product Safety Commission (CPSC) test protocol for CRP, and speculated as to the cost of that requirement. The Agency issued a final rule on January 4, 1984, which established the October 1, 1984, deadline, and at the same time established alternative methods to the CPSC test protocol of demonstrating that a package is CRP. Since the October 1, 1984, deadline has now passed, the language in § 157.34 pertaining to when a certification must be submitted has been revised. The October 1, 1984, deadline has been removed, and substitute language specifying that certifications must be submitted at the time of application, or within 6 months of the Agency's final case-by-case determination that CRP is required.

Four commenters suggested that the Agency revise its criteria for requiring CRP: Two of these suggested changes in the toxicity criteria in § 157.22(a) and two in the use criterion in § 157.22(b). Those suggesting changes in the toxicity criteria both suggested that EPA base its requirements upon standards similar to those of the CPSC under the Poison Prevention Packaging Act, which requires consideration of use history and accident data in determining that CRP is necessary.

FIFRA sec. 25(c)(3) authorizes the Administrator of EPA to "establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act) . . . with respect to the package, container, or wrapping in which a pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices . . . ." EPA has adopted standards for CRP which are consistent with those established by the Consumer Products Safety Commission (CPSC) under the Poison Prevention Packaging Act; these are contained in new § 157.32. Section 25(c)(3), however, does not require the Agency to adopt criteria for imposing the CRP requirement that are consistent with those under the Poison Prevention Packaging Act. Further, nothing in section 25(c)(3) suggests that the Agency should await evidence that a pesticide has demonstrated hazard to children (or adults) before requiring the use of CRP. Rather, the requirement for CRP is intended to "protect" children and adults from injury or illness, which the Agency interprets to mean prospectively, not retrospectively. Pesticides are by definition intended to kill or destroy certain organisms, and are thus inherently toxic. The Agency believes that the toxicity criteria set out in § 157.22(a) describe toxicity characteristics of sufficient concern that CRP should routinely be required if such products are available where children may be present. The Agency's reasons for selecting these criteria are set out in its 1979 final rule on CRP, published in the **Federal Register** of March 9, 1979 (44 FR 13022).

Those commenters suggesting revision of the use criterion both noted difficulties with the definition of residential use that encompasses preschools and day care facilities. Both commenters noted that in many cases it is impossible for a producer of a cleaning and maintenance product to segregate products that are intended for strictly institutional use (not requiring CRP) from those that, by virtue of the preschool and day care definition, would be "residential" (requiring CRP). The problem apparently arises because of the possible location of preschool and day care centers in facilities that are otherwise institutional or commercial in nature.

Although EPA acknowledges that preschool and day care facilities in otherwise institutional facilities means that products intended for cleaning and maintenance use will have to be packaged in CRP, it cannot justify removing these areas from its definition of residential. There is no doubt that children may be present in these areas a significant portion of the day. Moreover, there is no assurance that janitorial and maintenance products will be properly stored in locked areas not accessible to children. Nor does the Agency believe that labeling would be adequate to protect against possible hazard, as suggested by the commenters.

In response to these comments suggesting changes in its criteria, the Agency notes that these criteria have been in effect since 1979. Republication of the criteria as part of the September 26 proposal was for the purpose of reorganizing the material, and was not intended to signal that EPA was considering changes to those criteria. EPA has no plans to revise the CRP toxicity or use criteria in the manner proposed by commenters.

In addition, two miscellaneous comments were received:

1. One commenter stated that producers who choose to use CRP voluntarily should not be required to certify (as required by § 157.30) that the packaging meets the standards set out by § 157.32. The commenter stated that a producer cannot always obtain from his packager the supporting data on which to base his certification, and might be discouraged from using CRP if this difficulty cannot be overcome.

EPA does not view the certification of packaging that meets the standards of § 157.32 as onerous. A registrant is not required to obtain the actual test data

upon which his certification is based; there are other bases for certifying CRP to the Agency under § 157.36.

The same commenter suggested, moreover, that unless the consumer is led to believe that the package is CRP through stated or implied claims in labeling or advertising, the registrant should not be required to certify to the Agency. The Agency agrees that if claims of child-resistance are made, the registrant must be held to the standards in § 157.32, and must certify and maintain records. Section 157.30 has been modified to reflect this. A product for which claim of child-resistant packaging is made would be misbranded if the packaging actually does not meet the standards of § 157.32.

In no way does this requirement preclude a manufacturer who is not required to use CRP from using safer packaging that is not CRP. A product which does not meet the toxicity criteria for CRP may be packaged in any manner the registrant desires. EPA discourages registrants in this situation from choosing packaging that resembles CRP, but is not CRP, since the public does not distinguish packaging that is CRP from that which merely appears to be CRP. If packaging appears to be CRP, the purchaser may assume that it offers the protections of CRP and treat the product with less caution, thereby actually increasing the potential hazard.

2. One commenter requested clarification of the timing of the exemption process. He commented that a potential registrant should be able to obtain a determination from the Agency as to whether the product would be exempt from CRP requirements before he applied for registration. He stated that, if marketing a product depended upon exemption from CRP, a preliminary determination on CRP would be advantageous for both the producer and the Agency.

The requirement for CRP is imposed on a product only upon its registration, and is dependent on the Agency's knowledge of the toxicity characteristics and use patterns of the product. The Agency is unable to evaluate a product without having this information provided by the producer, as is required in applying for registration. Additionally, the Agency does not have the resources to devote to determinations of CRP exemption for products that may not be marketed. Finally, EPA believes that there are very few situations in which a product's marketing should be dependent on obtaining an exemption from CRP requirements. As stated earlier, CRP is widely available for the majority of products.

IX. Hearing

Seven commenters in written comments had requested that the Agency hold a hearing on CRP. On May 15, 1985, the Agency held a hearing to receive additional comment on both the January and September proposals. A copy of the transcript of the hearing is contained in the public comment file for each proposal.

At the hearing, three persons presented comments objecting both to current CRP requirements, and to the Agency's proposals. Their objections were similar to those received in written comments on CRP, and EPA believes that they have been adequately considered in promulgating this final rule. However, one commenter appeared to misunderstand the CRP requirements that currently exist. His comments pertained primarily to disinfectant bleach products which he labels and markets for professional uses—food plants, canneries, municipalities, dairies—all of which are clearly non-residential uses, and therefore not subject to CRP requirements.

X. Compliance Schedule

In its January 4, 1984, final rule concerning CRP, the Agency announced its intention of eliminating the use of the serviceperson statement, but permitted its continued use on products during the period until the size exemption rule was promulgated. The preamble to that final rule stated that the Agency would announce in the final rule on the size exemption (this rule) the disposition of products bearing a serviceperson statement.

Accordingly, the Agency's policy is as follows:

1. The compliance date of this rule, as stated in § 157.39, is April 30, 1987, for products released for shipment, and April 30, 1988, for products in channels of trade.

2. As of April 30, 1987, no registrant may release for shipment any product that bears a serviceperson statement in lieu of CRP. As of that date, all products released for shipment must meet the CRP requirements of this rule.

a. Registrants whose products are currently in CRP, and for which certification statements per § 157.34 have been submitted to the Agency, are in compliance with these provisions. No specific action is required for such products.

b. As of April 30, 1987, registrants of products which currently bear a serviceperson statement, but which must be packaged in CRP, must submit a certification statement as required by § 157.34. Submission of a certification statement does not require an amendment to registration.

Registrants in this situation may remove the serviceperson statement at the time of conversion to CRP or afterwards. However, registrants are cautioned that, before April 30, 1987, they should remove the serviceperson statement only when they are prepared to package the product in CRP. Until that date, a product that neither is in CRP nor bears a serviceperson statement would be in violation of the Act.

c. Registrants of products which currently bear a serviceperson statement and which continue to be exempt according to this rule are not required to submit an application for amended registration solely to delete the statement. If an application for amended registration is submitted for other reasons, the applicant would be expected to remove the serviceperson statement at that time. Otherwise the serviceperson statement may be deleted whenever the label is reprinted. A copy of the revised label should be submitted to the Agency at that time for our records.

d. Until April 30, 1987, the Agency will continue to approve applications for new registration of products bearing serviceperson statements, with the express recognition that such products must comply with this rule as of that date. If a certification statement in accordance with § 157.34 is not submitted before registration, a condition of the registration will be the submission of the statement before April 30, 1987. The serviceperson statement is acceptable as an alternative to CRP only until April 30, 1987.

After April 30, 1987, no application for registration will be approved if the product label bears a serviceperson statement.

e. Registrants may submit applications at any time to amend their registrations to clarify the product's non-residential use or to delete residential uses.

f. Registrants are reminded that they are responsible for ensuring that supplemental registrations (distributor products) for which they hold the basic registration are brought into compliance with these requirements.

3. As of April 30, 1988, no product in channels of trade that is required by this rule to be in CRP may bear a serviceperson statement instead of being packaged in CRP. All products must at that time comply with the requirements of this rule. Products may bear the serviceperson statement in addition to being packaged in CRP if the

statement cannot be removed from labels or containers by that date. The mere presence of the serviceperson statement on a product in CRP is not objectionable; however, the Agency expects that registrants will take steps to phase out the serviceperson statement as labels are reprinted or containers reordered.

Products not in compliance with the requirements of this rule will be deemed to be misbranded unde FIFRA section 12(a)(1)(E) and section 2(q)(1)(B).

XI. Statutory Requirements

As required by FIFRA sec. 25, copies of this rule were provided to the Secretary of Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the House Committee on Agriculture. No comments were received from USDA or from either Committee. The FIFRA Scientific Advisory Panel waived its review of this final rule.

XII. Regulatory Review Reqirements

A. Executive Order 12291

Under Executive Order 12291, the Agency must judge whether a rule is "major" and, if so, must prepare a Regulatory Impact Analysis. In preparation for proposal of this rule, the Agency evaluated the proposal against the criteria in the Executive Order and concluded that the rule was not major. Comments received in response to the proposal have not changed the Agency's conclusion. Refer to Unit V of this preamble for a discussion of cost-related comments.

This final rule was submitted to the Office of Management and Budget (OMB) for review as required by E.O. 12291.

B. Regulatory Flexibility Act

This rule was reviewed under the provisions of sec. 3(a) of the Regulatory Flexibility Act, and it was determined that the rule would not have a significant adverse impact on a substantial number of small entities. Comments received on the proposal have not changed the Agency's determination in that respect. I therefore certify that this final rule does not have a significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB Control No. 2070–0052.

List of Subjects in 40 CFR Parts 157 and 162

Administrative practice and procedure, Intergovernmental relations, Labeling, Packaging and containers, Pesticides and pests, Recordkeeping and reporting requirements.

Dated: May 31, 1986.

Lee M. Thomas,

Administrator.

Therefore, 40 CFR Chapter I is amended as follows:

1. By adding Part 157 to read as follows:

PART 157—PACKAGING REQUIREMENTS FOR PESTICIDES AND DEVICES

Subpart A—[Reserved]

Subpart B—Child-Resistant Packaging

Sec.

157.20 General.
157.21 Definitions.
157.22 When required.
157.24 Exemptions.
157.27 Unit packaging.
157.30 Voluntary use of child-resistant packaging.
157.32 Standards.
157.34 Certification.
157.36 Recordkeeping.
157.39 Compliance date.

Authority: 7 U.S.C. 136 through 136y.

Subpart A—[Reserved]

Subpart B—Child-Resistant Packaging

§ 157.20 General.

This subpart prescribes requirements for child-resistant packaging of pesticide products and devices. The requirements are established under the authority of FIFRA section 25(a)(1), which authorizes the Administrator to issue regulations to carry out the purposes of the Act, and FIFRA section 25(c)(3), which authorizes the Administrator to establish standards with respect to the package, container or wrapping in which a pesticide or device is enclosed in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated under the Act.

§ 157.21 Definitions.

Terms used in this subpart shall have the following meanings:

(a) "Appropriate," when used with respect to child-resistant packaging, means that the packaging is chemically compatible with the pesticide contained therein.

(b) "Child-resistant packaging" means packaging that is designed and constructed to be significantly difficult for children under 5 years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time, and that is not difficult for normal adults to use properly.

(c) "Package" or "packaging" means the immediate container or wrapping, including any attached closure(s), in which the pesticide is contained for distribution, sale, consumption, use or storage. The term does not include any shipping or bulk container used for transporting or delivering the pesticide unless it is the only such package.

(d) "Practicable," when used with respect to child-resistant packaging, means that the packaging can be mass produced and can be used in assembly line production.

(e) "Residential use" means use of a pesticide or device:

(1) Directly on humans or pets;

(2) In, on, or around any structure, vehicle, article, surface or area associated with the household, including but not limited to areas such as non-agricultural outbuildings, non-commercial greenhouses, pleasure boats and recreational vehicles; or

(3) In or around any preschool or day care facility.

(f) "Technically feasible," when applied to child-resistant packaging, means that the technology exists to produce the child-resistant packaging for a particular pesticide.

(g) "Unit packaging" means a package that is labeled with directions to use the entire contents of the package in a single application.

§ 157.22 When required.

Unless exempted under § 157.24, a pesticide product must be distributed and sold in child-resistant packaging complying with § 157.32 if it meets both of the following criteria:

(a) *Toxicity criterion.* Based upon testing with an appropriate test species, the product meets any of the following toxicity criteria:

(1) The pesticide has an acute oral LD_{50} of 1.5 g/kg or less;

(2) The pesticide has an acute dermal LD_{50} of 2000 mg/kg or less;

(3) The pesticide has an acute inhalation LC_{50} of 2 mg/liter or less;

(4) The pesticide is corrosive to the eye (causes irreversible destruction of ocular tissue) or causes corneal involvement or irritation persisting for 21 days or more;

(5) The pesticide is corrosive to the skin (causes tissue destruction into the dermis and/or scarring) or causes

severe skin irritation (severe erythema or edema) at 72 hours; or

(6) The pesticide or device has such characteristics that, based upon human toxicological data, use history, accident data or such other evidence as is available, the Agency determines there is serious hazard of accidental injury or illness which child-resistant packaging could reduce; and

(b) *Use criterion.* The product's labeling either directly recommends residential use or reasonably can be interpreted to permit residential use.

§ 157.24 Exemptions.

(a) *General exemptions.* The Agency hereby exempts from the requirement for child-resistant packaging the following classes of products:

(1) *Products classified for restricted use.* (i) A product restricted to use by or under the supervision of a certified applicator is not required to be distributed and sold in child-resistant packaging.

(ii) Notwithstanding the exemption in paragraph (a)(1)(i) of this section, the Agency may require the use of child-resistant packaging for a product classified for restricted use by or under the direct supervision of a certified applicator if the Agency determines that the product poses a risk of serious accidental injury or illness which child-resistant packaging could reduce. If the Agency makes such a determination, it will notify the registrant in writing and provide a short statement of the basis of its determination. The registrant will then have 30 days to request a hearing on the Agency's determination. Thereafter the Agency will decide whether to require the product to be distributed only in child-resistant packaging and will notify the registrant of its decision.

(2) *Products packaged in large sizes.* (i) Except as provided by paragraph (a)(2)(ii) of this section, a product is not required to be in child-resistant packaging if distributed and sold in the following sizes:

(A) If the product is a solid product, regardless of pesticide type, a size of 50 pounds or greater;

(B) If the product is a liquid product intended for use in swimming pools, a size greater than 7.5 gallons by volume;

(C) If the product is a liquid product intended for any other pesticide use, a size of 5 gallons or greater by volume;

(D) If the product is packaged as an aerosol (measured by weight), regardless of pesticide type, a weight of 2 pounds or greater.

(ii) The Agency may require that a product packaged in a size exceeding that listed in paragraph (a)(2)(i) (A) through (D) of this section be distributed and sold only in child-resistant packaging if the Agency determines that the product is, or is intended to be, distributed or sold to homeowners or other members of the general public. If the Agency makes such a determination, it will notify the registrant in writing and provide a short statement of the basis of its determination. The registrant will then have 30 days to request a hearing on the Agency's determination. Thereafter the Agency will decide whether to require the product to be distributed only in child-resistant packaging and will notify the registrant of its decision.

(b) *Exemptions requiring Agency approval.* The Agency may, in accordance with paragraph (b) (1) through (3) of this section, grant an exemption from the requirements of this subpart. An exemption may be withdrawn in accordance with paragraph (b)(4) of this section.

(1) *Requesting an exemption.* A request for an exemption must be submitted to the Agency, and must be accompanied by two copies of the following information:

(i) The name, address, and telephone number of the requester;

(ii) The name and registration number (or file symbol) of the product(s) for which the exemption is requested;

(iii) A description of the package and the size(s) for which the exemption is requested; and

(iv) Documentation supporting the request for exemption, including the length of time for which the exemption is requested.

(2) *Exemption based upon lack of toxicity.* The Agency may grant an exemption from the requirements of this subpart if the registrant or applicant demonstrates to the Agency's satisfaction that the hazards indicated by the toxicity criteria in § 157.22(a) are not indicative of the hazards to man. If granted, an exemption shall apply to other products of substantially similar composition. A notice will be issued in the **Federal Register** stating the nature of and reasons for the exemption.

(3) *Exemption based upon technical factors.* The Agency may grant an exemption from the requirements of this subpart based upon technical considerations. If granted, the exemption will be for a specified length of time, and will apply to other products of substantially similar composition and intended uses. A notice of the granting of an exemption will be issued in the **Federal Register.** In considering whether to grant an exemption, the Agency will consider, among other things, the following:

(i) Whether the toxicity of the product is such that it should not be allowed to be distributed or sold except in child-resistant packaging.

(ii) Whether child-resistant packaging is technically feasible, practicable, or appropriate. An exemption may be granted if the Agency determines that any one of these criteria has not been met.

(iii) Whether the composition or use pattern of the product necessitates a particular form of packaging for proper use.

(iv) Whether child-resistant packaging that is technically feasible, practicable, and appropriate is available for the product or can reasonably be made available to the registrant in sufficient quantities to meet his packaging needs. This determination does not include a consideration of whether the packaging would be adaptable to a registrant's existing package type or packaging equipment.

(v) Whether the registrant has made a timely and good faith effort to obtain child-resistant packaging for the product.

(vi) If child-resistant packaging which is technically feasible, practicable, and appropriate is not yet available, when such packaging is likely to be available.

(4) An exemption may be withdrawn by the Agency at any time if the lack of child-resistant packaging results in serious illnesses or injuries to children. If the Agency determines that an exemption should be withdrawn, it will notify the registrant, stating the basis for its determination. The registrant will then have 30 days to request a hearing on the Agency's determination. Thereafter the Agency will decide whether to withdraw the exemption, and will notify the registrant of its decision.

§ 157.27 Unit packaging.

Pesticide products distributed or sold as an aggregate of one or more unit packages and meeting the criteria of § 157.22 must be distributed or sold in child-resistant packaging either for each unit package or for the outer retail container which contains the unit packages. Child-resistant packaging is not required for both the outer package and the unit packages unless the Agency determines, on a case-by-case basis, that it is necessary for risk reduction.

§ 157.30 Voluntary use of child-resistant packaging.

A registrant whose product is not required to be in child-resistant packaging may distribute or sell his pesticide product in child-resistant packaging. If he does so, that packaging

must meet the standards for child-resistant packaging stated in § 157.32. The registrant must certify to this effect in accordance with § 157.34, and must retain the records required by § 157.36.

§ 157.32 Standards.

(a) *Effectiveness standard.* The child-resistant packaging, when tested by the protocol specified in 16 CFR 1700.20, shall meet the effectiveness specifications in 16 CFR 1700.15(b).

(b) *Compatibility standard.* The child-resistant packaging must continue to meet the effectiveness specifications of paragraph (a) of this section when in actual use as a pesticide container. This requirement may be satisfied by appropriate scientific evaluation of the compatibility of the substance with the child-resistant packaging to determine that the chemical and physical characteristics of the pesticide will not compromise or interfere with the proper functioning of the child-resistant packaging and that the packaging will not be detrimental to the integrity of the product during storage and use.

(c) *Durability standard.* The child-resistant packaging must continue to meet the effectiveness and compatibility standards of paragraphs (a) and (b) of this section for the reasonably expected lifetime of the package, taking into account the number of times the package is customarily opened and closed. This requirement may be satisfied by appropriate technical evaluation based on physical wear and stress factors of packaging, the force required for activation, and other relevant factors.

§ 157.34 Certification.

(a) *General.* (1) The registrant of a pesticide product required to be in child-resistant packaging shall certify to the Agency that the package meets the standards of § 157.32.

(2) Certification must be submitted with each application for new registration, if applicable. If the Agency determines, in accordance with § 157.24(a)(1)(ii), (2)(ii), or (b)(4), that a currently registered product is required to be packaged in child-resistant packaging, a certification must be submitted within 6 months after the Agency finally notifies the registrant of the requirement.

(b) *Contents of certification.* The certification must contain the following information:

(1) The name and EPA registration number of the product to which the certification applies, the registrant's name and address, the date, and the name, title and signature of the company official making the certification.

(2) A statement that the packaging that is being used for the product will meet the standards of § 157.32. The statement, "I certify that the packaging that will be used for this product meets the standards of 40 CFR 157.32," will suffice for this purpose.

§ 157.36 Recordkeeping.

For as long as the registration of a pesticide product required to be in child-resistant packaging is in effect, the registrant must retain the records listed in this section. The registrant must, upon request by the Agency, make them available to Agency representatives for inspection and copying, or must submit them to the Agency.

(a) A description of the package, including a description of:

(1) The container and its dimensions and composition.

(2) The closure or child-resistant mechanism, including the name of its manufacturer and the manufacturer's designation for the closure or the physical working of the child-resistant packaging mechanism.

(b) A copy of the certification statement required by § 157.34.

(c) One of the following types of records verifying that each package for the product is child-resistant:

(1) Test data on the package based on the Consumer Product Safety Commission protocol in 16 CFR 1700.20.

(2) Test data, not conforming to the protocol in 16 CFR 1700.20, or a set of measurements on the package, together with an explanation as to why such data or measurements demonstrate that the package is child-resistant.

(3) Test data, whether or not conforming to the protocol in 16 CFR 1700.20, on a different package, together with an explanation of why such data demonstrate that the package being used is child-resistant.

(4) Written evidence that verifies that testing on the package has been conducted according to the protocol in 16 CFR 1700.20. Written evidence may be one of the following:

(i) A letter or literature from the packaging supplier;

(ii) A letter from the facility that conducted the testing; or

(iii) A specification in the contract between the registrant or applicant and the packaging supplier;

(5) When the container and closure are purchased separately by the registrant:

(i) Information of the kinds described in paragraph (c)(1) through (4) of this section showing that the closure is child-resistant; and

(ii) A written explanation of why the container is child-resistant; and

(iii) Information showing that the closure and container are compatible with each other, and a written explanation of why the resulting package is child-resistant.

(6) A combination of the records listed in paragraph (c)(1) through (5).

(d) Records verifying that the package meets the compatibility and durability standards of § 157.32(b) and (c).

(Approved by the Office of Management and Budget under Control Number 2070-0052.)

§ 157.39 Compliance date.

As of April 30, 1987, all products released for shipment must comply with the requirements of this rule. As of April 30, 1988, all products in channels of trade must comply with the requirements of this rule.

PART 162—[AMENDED]

2. The authority citation for Part 162 continues to read as follows:

Authority: 7 U.S.C. 136a, 136d, 136q, 136s, 136v, and 136w.

§ 162.16 [Removed]

3. By removing § 162.16.

[FR Doc. 86-13031 Filed 6-10-86; 8:45 am]
BILLING CODE 6560-50-M

Federal Register

Wednesday
June 11, 1986

Part III

Department of Housing and Urban Development

Semiannual Agenda of Regulations; Correction

HUD

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. N-86-1591]

Semiannual Agenda of Regulations; Correction

AGENCY: Department of Housing and Urban Development.

ACTION: Correction to semiannual agenda of regulations expected to be issued and under review.

SUMMARY: This notice is a correction to the Department's semiannual agenda of regulations published on April 21, 1986 (51 FR 14036). The below-listed rules and regulations were omitted because of computer error.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulation," issued on February 17, 1981 (46 FR 13193), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory flexibility agenda of rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of "small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12291 and section 605 of the Regulatory Flexibility Act each permit incorporation of the agenda it requires with any other prescribed agenda.

On April 21, 1986, the Department published its semiannual agenda of regulations in compliance with Executive Order 12291 and section 605 of the Regulatory Flexibility Act. However, because of computer error, the below-listed rules and regulations were omitted. Accordingly, this notice corrects FR Doc. 86-5773 published on Monday, April 21, 1986, at 51 FR 14036.

DATED: May 29, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

Office of the Secretary--Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1	24 CFR 0058 Environmental Review Procedures for the Community Development Block Grant, Rental Rehabilitation and Housing Development Grant Programs (S-13-86)	2501-AA39
2	24 CFR 0060 Determination of Wage Rates for Maintenance and Technical Employees of Public Housing Agencies and Indian Housing Authorities (S-5-86; FR-2211)	2501-AA40

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3	24 CFR 0020 Bid Protest Procedures for National Housing Act Contracts (S-9-86; FR 2216)	2501-AA38
4	24 CFR 0024 Implementation of the Equal Access to Justice Act (S-2-86; FR-2156)	2501-AA44
5	24 CFR 0813.106 Amendments to Definition of Income (S-12-86; FR-2184)	2501-AA46

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
6	24 CFR 0042 Uniform Relocation Assistance and Real Property Acquisition (S-11-86; FR-2106)	2501-AA43
7	24 CFR 0941 Technical Amendments to HUD Regulations Required as the Result of New Uniform Relocation Act Regulations (S-4-86; FR-2205)	2501-AA47
8	24 CFR 0900 Transfer of Section 23 Program to the Assistant Secretary for Public and Indian Housing (S-3-86; FR-2181)	2501-AA45

HUD

Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
9	24 CFR 0200 Definition of Master Conditional Commitment (H-15-86; FR 2123)	2502-AD48
10	24 CFR 0203 Single Family Claim Settlements - Waivers of Amounts due Mortgagees or HUD of $50 or Less (H-11-86; FR-2204)	2502-AD50
11	24 CFR 0203.283 Eliminate Payment of a Refund or Distributive Share Payment for MIP Termination Due to Nonconveyance Election of the Mortgagee (FR-2214; H-16-86)	2502-AD51
12	24 CFR 207.32a Eligibility of Mortgages on Existing Properties -- Manufactured Home Parks (H-19-86)	2502-AD46
13	24 CFR 0207.32a Eligibility of Mortgages on Existing Properties - Inspection Fees (H-20-86)	2502-AD47
14	24 CFR 235.361 Recovery of Section 235 Assistance Payments (H-18-86)	2502-AD45
15	24 CFR 0251.207 To Exempt Loans Already Coinsured from the One-Fourth Limitation on Coinsurance of Portfolio Loans (FR 2155; H-2-86)	2502-AD49
16	24 CFR 1710 Land Registration (H-21-86)	2502-AD54

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
17	24 CFR 0207 Requirements for Insurance of Leaseholds on Multifamily Mortgages (H-22-86; FR-2222)	2502-AD53

Office of Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
18	24 CFR 0207.27 Technical Corrections--Provisions Relating to Sec. 223(f)--Full Insurance and Multifamily Coinsurance (H-7-86; FR 2194)	2502-AD52

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
19	24 CFR 0570 Amendments to Community Development Block Grant Regulations; Entitlement Program (CPD-4-86)	2506-AA68

Office of Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
20	24 CFR 0045 OMB Circular A-102, Uniform Requirement for Assistance to State and Local Governments (ADM-1-86, FR-2178)	2535-AA13

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
21	48 CFR 0024 HUD Acquisition Regulation (ADM-3-86)	2535-AA12

HUD

Office of the Inspector General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
22	24 CFR 0044 Implementation of the Single Audit Act of 1984 (IG-1-85; FR-2075)	2508-AA05

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
23	24 CFR 0990 Annual Contributions for Operating Subsidy (P-5-86)	2577-AA38

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of the Secretary (HUDSEC)

1. ● ENVIRONMENTAL REVIEW PROCEDURES FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT, RENTAL REHABILITATION AND HOUSING DEVELOPMENT GRANT PROGRAMS (S-13-86)

Legal Authority: EO 11514; EO 11991; 42 USC 1437(i); 42 USC 4332; 42 USC 5304(f)

CFR Citation: 24 CFR 0058

Legal Deadline: None

Abstract: This rule proposes revisions in the regulations governing the environmental review, decisionmaking and other actions by recipients of HUD assistance under the CDBG, Rental Rehabilitation and Housing Development grant programs. The proposed rulemaking is intended to conform to changes in program regulations that are pending in final rulemaking and solicit comments from the public on revisions to environmental policy so that assistance programs may comply with NEPA, other environmental authorities and HUD legislation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Charles E. Thomsen, Architect, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environment and Energy, 202 755-6611

RIN: 2501-AA39

2. ● DETERMINATION OF WAGE RATES FOR MAINTENANCE AND TECHNICAL EMPLOYEES OF PUBLIC HOUSING AGENCIES AND INDIAN HOUSING AUTHORITIES (S-5-86; FR-2211)

Legal Authority: 42 USC 1437j

CFR Citation: 24 CFR 0060

Legal Deadline: None

Abstract: This rule would codify the Department's policies and procedures for determining or adopting prevailing wage rates under section 12 of the United States Housing Act of 1937. It would 1) establish uniform criteria for determining maintenance wage rates, 2) provide guidance for determining maintenance wage rates in the context of collective bargaining between PHAs/IHAs and employee organizations, 3) outline responsibilities and procedures for ensuring compliance with maintenance wage rate determinations, and 4) provide procedures for determining wages applicable to nonroutine maintenance performed with Comprehensive Improvement Assistance Program funds and construction contracting done with operating funds.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Agency Contact: Richard S. Allan, Department of Housing and Urban Development, Office of the Secretary, Office of Labor Relations, 202 755-5370

RIN: 2501-AA40

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Final Rule Stage

3. ● BID PROTEST PROCEDURES FOR NATIONAL HOUSING ACT CONTRACTS (S-9-86; FR 2216)

Legal Authority: 42 USC 1437; 31 USC 3531

CFR Citation: 24 CFR 0020

Legal Deadline: None

Abstract: This rule would amend the bid protest procedures for National Housing Act Contracts to reflect GAO authority to decide bid protests under the Competition in Contracting Act of 1984 (31 U.S.C. Sections 3551-3556).

Timetable:

Action	Date	FR Cite
ANPRM	07/12/84	
ANPRM Comment Period End	09/10/84	49 FR 28413
Final Action	08/00/86	

Small Entity: Undetermined

Agency Contact: David Anderson, Chairman, Board of Contract Appeals, Department of Housing and Urban Development, Office of the Secretary, 202 755-0132

RIN: 2501-AA38

4. ● IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT (S-2-86; FR-2156)

Legal Authority: 5 USC 504; 28 USC 2412

CFR Citation: 24 CFR 0024

Legal Deadline: None

Abstract: This rule will implement the 1985 amendments to the Equal Access to Justice Act to provide attorney's fees to prevailing parties in actions against the government where the government is unable to show that its conduct is substantially justified.

Timetable:

Action	Date	FR Cite
Final Action	08/00/86	

Small Entity: No

Agency Contact: Grant E. Mitchell, Asst. GC for Fiscal Management & Energy Prog, Department of Housing and Urban Development, Office of the General Counsel, 202 755-6550

RIN: 2501-AA44

5. ● AMENDMENTS TO DEFINITION OF INCOME (S-12-86; FR-2184)

Legal Authority: 12 USC 1701s; 12 USC 1715z-1; 42 USC 1437a

CFR Citation: 24 CFR 0813.106; 24 CFR 0913.106; 24 CFR 0215.21; 24 CFR 0236.3

Legal Deadline: None

Abstract: This rule will add a few categories of payments to those that are excluded from annual income for the Section 8, Public and Indian Housing, Rent Supplement and Section 236 programs. It amends Parts 813, 913, 215 and 236.

Timetable:

Action	Date	FR Cite
Final Action	07/00/86	

Small Entity: No

Additional Information: Contact for Section 8, Rent Supplement and Section 236 Programs:

James J. Tahash

Director, Program Planning Division

Office of Multifamily Housing Management

Office of Housing

(202) 426-3944

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2501-AA46

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

6. ●UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION (S-11-86; FR-2106)

CFR Citation: 24 CFR 0042; 24 CFR 0043

Completed:

Reason	Date	FR Cite
Final Action	02/27/86	51 FR 7010
Final Action Effective	05/01/86	

Small Entity: Not Applicable

Agency Contact: Melvin J. Geffner 202 755-6336

RIN: 2501-AA43

7. ●TECHNICAL AMENDMENTS TO HUD REGULATIONS REQUIRED AS THE RESULT OF NEW UNIFORM RELOCATION ACT REGULATIONS (S-4-86; FR-2205)

CFR Citation: 24 CFR 0941; 24 CFR 0058; 24 CFR 0571; 24 CFR 0850; 24 CFR 0880; 24 CFR 0881; 24 CFR 0882; 24 CFR 0883; 24 CFR 0042

Completed:

Reason	Date	FR Cite
Final Action	02/27/86	51 FR 6911
Final Action Effective	05/01/86	

Small Entity: Not Applicable

Agency Contact: Melvin J. Geffner 202 755-6336

RIN: 2501-AA47

8. ●TRANSFER OF SECTION 23 PROGRAM TO THE ASSISTANT SECRETARY FOR PUBLIC AND INDIAN HOUSING (S-3-86; FR-2181)

CFR Citation: 24 CFR 0900; 24 CFR 0813; 24 CFR 0913; 24 CFR 0800

Completed:

Reason	Date	FR Cite
Final Action	03/21/86	51 FR 9786
Final Action Effective	05/05/86	

Small Entity: No

Agency Contact: Thomas Sherman 202 755-5380

RIN: 2501-AA45

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of Housing (OH)

9. ● DEFINITION OF MASTER CONDITIONAL COMMITMENT (H-15-86; FR 2123)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0200

Legal Deadline: None

Abstract: This proposed regulation is clarifying in nature. It will provide a brief description of the master conditional commitment procedure HUD has in effect in its single family housing programs. Most likely the rule will take the form of a revision of 24 CFR 200.148.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Joseph Emmi, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 426-7212

RIN: 2502-AD48

10. ● SINGLE FAMILY CLAIM SETTLEMENTS - WAIVERS OF AMOUNTS DUE MORTGAGEES OR HUD OF $50 OR LESS (H-11-86; FR-2204)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0203

Legal Deadline: None

Abstract: This proposed rule would authorize the Secretary of HUD to waive any answers of $50 or less determined to be due either the mortgagee or HUD in connection with a single family insurance claim.

In view of the volume of claims paid annually and the administrative costs involved, it is not deemed cost effective to either party to pay claims or collect monies for lenders for amounts of $50 or less.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: S. A. Evans, Director, Office of Finance and Accounting, Department of Housing and Urban Development, Office of Housing, 202 755-6310

RIN: 2502-AD50

11. ● ELIMINATE PAYMENT OF A REFUND OR DISTRIBUTIVE SHARE PAYMENT FOR MIP TERMINATION DUE TO NONCONVEYANCE ELECTION OF THE MORTGAGEE (FR-2214; H-16-86)

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 0203.283; 24 CFR 0203.423

Legal Deadline: None

Abstract: The current regulation at 24 CFR 203.423 allows for payments to mortgagors of distributive shares. HUD intends to revise the regulations not to include payment of a distributive share where the mortgage has been foreclosed and title not conveyed to the Secretary and no claim filed. The Department has determined it is not proper to make such payments when a mortgagor has defaulted on the loan.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Yes

Analysis: Regulatory Flexibility Analysis

Agency Contact: Richard Buchheit, Director, Single Family Servicing Division, Department of Housing and Urban Development, Office of Housing, Office of Insured Single Family Housing, 202 755-6672

RIN: 2502-AD51

12. ● ELIGIBILITY OF MORTGAGES ON EXISTING PROPERTIES -- MANUFACTURED HOME PARKS (H-19-86)

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 207.32a

Legal Deadline: None

Abstract: The current section 223(f) regulations contain no specific references to the eligibility of Manufactured Home Parks. This amendment will add provisions to expand section 223(f) to cover the refinancing for purchase of Manufactured Home Parks.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: William Bornschouor, Insurance Branch, Department of Housing and Urban Development, Office of Housing, 202 755-6223

RIN: 2502-AD46

13. ● ELIGIBILITY OF MORTGAGES ON EXISTING PROPERTIES - INSPECTION FEES (H-20-86)

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 0207.32a

Legal Deadline: None

Abstract: The regulations implementing the section 223(f) program excluded inspection fees for repairs required in the refinancing (or purchase) of projects insured under section 223(f). The program repair limits have been increased substantially however, and this regulatory amendment will provide for collection of an inspection fee to defray increased staff expenses.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: William Bornscheuer, Insurance Branch, Department of Housing and Urban Development, Office of Housing, 202 755-6223

RIN: 2502-AD47

14. ● RECOVERY OF SECTION 235 ASSISTANCE PAYMENTS (H-18-86)

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 235.361

Legal Deadline: None

Abstract: This rule would revise the regulation at 24 CFR 235.361 to more clearly describe who is responsible for overpaid assistance and the manner in which overpaid assistance will be collected from the mortgagor.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

HUD—OH

Proposed Rule Stage

Agency Contact: Richard Buchheit, Director, Single Family Servicing Division, Department of Housing and Urban Development, Office of Housing, 202 755-6672

RIN: 2502-AD45

15. ● TO EXEMPT LOANS ALREADY COINSURED FROM THE ONE-FOURTH LIMITATION ON COINSURANCE OF PORTFOLIO LOANS (FR 2155; H-2-86)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0251.207; 24 CFR 0255.207

Legal Deadline: None

Abstract: This rule would extend the current exemption of fully insured FHA mortgages from the one-fourth of portfolio limitation applicable to portfolio loans coinsured under Parts 251 or 255 by including coinsured FHA loans in that exemption.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: James Hamernick, Director, Office of Insured Multifamily Hsg, Department of Housing and Urban Development, Office of Housing, 202 755-6500

RIN: 2502-AD49

16. ● LAND REGISTRATION (H-21-86)

Legal Authority: 15 USC 1701

CFR Citation: 24 CFR 1710

Legal Deadline: None

Abstract: This rule would adjust the reporting and registering requirements for land registration and adjust the fee payment procedures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: John Weaver, Chief, Land Sales Policy Examination Branch, Department of Housing and Urban Development, Office of Housing, 202 755-6924

RIN: 2502-AD54

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Final Rule Stage

17. ● REQUIREMENTS FOR INSURANCE OF LEASEHOLDS ON MULTIFAMILY MORTGAGES (H-22-86; FR-2222)

Legal Authority: 12 USC 1707

CFR Citation: 24 CFR 0207; 24 CFR 0213; 24 CFR 0221; 24 CFR 0234; 24 CFR 0242

Legal Deadline: None

Abstract: This rule would amend the HUD regulations to permit mortgages on leased land to be eligible for insurance if the lease has a period of not less than ten years to run beyond the maturity date of the mortgage. Current regulations require that such leasehold have a period of not less than 75 years to run from the date the mortgage was executed.

Timetable:

Action	Date	FR Cite
Final Action	09/00/86	

Small Entity: Undetermined

Agency Contact: Linda Cheatham, Director, Technical Support Division, Department of Housing and Urban Development, Office of Housing, 202 426-0035

RIN: 2502-AD53

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

18. ●TECHNICAL CORRECTIONS--PROVISIONS RELATING TO SEC. 223(F)--FULL INSURANCE AND MULTIFAMILY COINSURANCE (H-7-86; FR 2194)

CFR Citation: 24 CFR 0207.27; 24 CFR 0207.32a; 24 CFR 0207.259; 24 CFR 0251; 24 CFR 0255

Completed:

Reason	Date	FR Cite
Final Action	04/17/86	51 FR 13140
Final Action Effective	05/19/86	

Small Entity: No

Agency Contact: James Hamernick 202 755-6500

RIN: 2502-AD52

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

19. ●AMENDMENTS TO COMMUNITY DEVELOPMENT BLOCK GRANT REGULATIONS; ENTITLEMENT PROGRAM (CPD-4-86)

Legal Authority: Yet to be determined

CFR Citation: 24 CFR 0570

Legal Deadline: None

Abstract: This rule will modify the Entitlement Program rules as necessary to implement changes to the authorization statute which are under consideration in the Congress at this time (1-13-86).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Government Levels Affected: Local

Agency Contact: James R. Broughman, Director, Entitlement Cities Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-9267

RIN: 2506-AA68

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Prerule Stage

20. ● OMB CIRCULAR A-102, UNIFORM REQUIREMENT FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTS (ADM-1-86, FR-2178)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 0045

Legal Deadline: None

Abstract: In tandem with the government-wide rule to be issued by OMB, this rule would promulgate standards for the administration of grants to state, local and federally recognized Indian tribal government.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Edward L. Girovasi, Director, Policy & Evaluation Division, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535-AA13

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Proposed Rule Stage

21. ● HUD ACQUISITION REGULATION (ADM-3-86)

Legal Authority: 42 USC 3535(d)

CFR Citation: 48 CFR 0024

Legal Deadline: None

Abstract: The proposed rule would provide for two updates to the HUD Acquisition Regulation to conform to changes in the Federal Acquisition Regulation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Edward L. Girovasi, Jr., Director, Policy & Evaluation Division, Department of Housing and Urban Development, Office of Administration, 202 755-5294

RIN: 2535-AA12

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Inspector General (HUDIG)

Final Rule Stage

22. ● IMPLEMENTATION OF THE SINGLE AUDIT ACT OF 1984 (IG-1-85; FR-2075)

Legal Authority: 31 USC 7501 to 7507

CFR Citation: 24 CFR 0044

Legal Deadline: None

Abstract: This rule would implement the Single Audit Act of 1984 and the accompanying OMB Circular. Under these requirements, States or localities that receive more than $100,000 a year in Federal funds must have an audit for that year. Similarly, States or localities that receive more than $25,000 a year must follow certain audit requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/27/85	50 FR 39083
Final Action	09/00/86	

Small Entity: No

Agency Contact: Steven A. Switzer, Assistant Inspector General for Audit, Department of Housing and Urban Development, Office of the Inspector General, 202 755-6364

RIN: 2508-AA05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of Public and Indian Housing (PIH)

23. ● ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY (P-5-86)

Legal Authority: PL 98-502

CFR Citation: 24 CFR 0990

Legal Deadline: None

Abstract: This rule would amend the operating subsidy rule to respond to new requirements concerning annual single audits for PHAs/IHAs. as required by the Single Audit Act of 1984 and the Department's general regulations on this subject (24 CFR 44) as issued on September 27, 1985.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Government Levels Affected: Local, Federal

Agency Contact: John T. Comerford, Chief, Financial Management Branch, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-1872

RIN: 2577-AA38

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Wednesday
June 11, 1986

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 812, 813, and 882

Shared Housing in the Section 8 Existing Housing Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 812, 813, and 882

[Docket No. R-86-1205; FR-1829]

Shared Housing in the Section 8 Existing Housing Program

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

ACTION: Final rule.

SUMMARY: This rule contains special requirements for shared housing in the Section 8 Certificate programs. In shared housing, an assisted family shares a housing unit (such as a house or an apartment) with the other resident or residents of the unit. Shared housing is designed to provide additional choices in living arrangements for assisted families. The rule gives a Public Housing Agency (PHA) discretion to determine whether to include shared housing in its Certificate program, and to design shared housing assistance to meet local needs. The rule provides procedures to be followed by PHAs that choose to permit shared housing in their Certificate programs, and by owners and families that participate in these arrangements.

The proposed rule in this proceeding dealt with shared housing in a number of additional Section 8 programs. HUD intends to address the method of administering shared housing in these programs in future rulemakings.

EFFECTIVE DATE: Upon expiration of 30 calendar days of continuous session of Congress after publication, but not before further notice of the effective date is published in the **Federal Register**. HUD will publish the effective date notice when necessary contract documents and implementing instructions have been developed. HUD anticipates that this will be no later than mid-September, 1986.

FOR FUTHER INFORMATION CONTACT: Madeline Hastings, Director, Existing Housing Division, Office of Multifamily Housing Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755-6887. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

HUD published a proposed rule on December 7, 1984 (49 FR 48005) entitled, "Shared Housing and Revised Occupancy Policies in the Section 8 and Public Housing Programs." That rule was intended to implement section 211 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181. Section 211 directed HUD to permit assistance in shared housing arrangements in the Section 8 Existing Housing and Moderate Rehabilitation programs for eligible elderly families that choose these living arrangements as a way of meeting their housing needs. The provision also directed HUD to issue minimum habitability standards to ensure that shared housing is decent, safe, and sanitary, taking into account the special circumstances of this type of housing.

Note.—Section 211 uses the definition of "elderly families" contained in section 3(b)(3) of the United States Housing Act of 1937. Section 3(b)(3) defines "elderly families" as families whose heads (or spouses), or whose sole members, are at least 62 years of age, or disabled or handicapped. Use of the term "elderly families" in the preamble refers to persons in all three of these categories.

The proposed rule would have broadened the scope of the shared housing option comtemplated by section 211 by making it available in the New Construction and Substantial Rehabilitation components of the Section 8 program and in the Public and Indian Housing programs, and by allowing eligible non-elderly families to receive assistance in shared housing arrangements. As required by section 211, the proposed rule contained provisions to ensure that shared housing was decent, safe, and sanitary.

The proposed rule was designed to respond to a growth of interest in shared housing. Although section 211 specifically addresses only elderly families, the Department decided that, with the growth of single-parent families and the expanding population of senior adults, it would be good policy to include within the scope of shared housing a greater range of possible living arrangements, including sharing among younger families and various types of intergenerational sharing. The proposed rule embodied the Department's belief that shared housing can provide a way to expand housing options and permit innovative use of assisted housing resources.

Another purpose of the rule was to encourage full use of current housing resources. Toward that end, two-person households—whether composed of a single family or of two sharing individuals—were to be given a preference in occupancy of one-bedroom units in projects that also contained efficiency units.

The major features of the proposed rule were as follows:

- —Shared housing was a voluntary arrangement.
- —The entire unit, including an assisted family's private space, must have met certain quality standards.
- —Income, tenant payment toward rent (based on income), and the total rent (if different) were determined separately for each family sharing a unit, and each family had a separate lease with the owner or PHA.
- —As in established program procedures, the Fair Market Rent and, where applicable, rent reasonableness limits set the maximum total rent that could be paid for the unit. The amount attributable to a family could not exceed its pro rata share of the total rent or the Fair Market Rent for the size unit for which it qualified.
- —The departure of one family affected the tenancy of the remaining family, but with some protections for all.
- —In initial occupancy of a unit in the project-based programs, no preference could be accorded to families interested in shared housing (except with respect to certain one-bedroom units). In the assignment of large units, large families were to be given preference over smaller families that wished to share.

Separation of Shared Housing Rules—Final Rule

Although the proposed rule covered many programs, this final rule covers only the Section 8 Certificate program. During the process of considering the public comments and attempting to develop a comprehensive final rule, the Department concluded that shared housing in the Certificate program is quite different from shared housing in the other Section 8 programs, in which the subsidy is attached to the unit. Rather than delay promulgation of a final rule for the Certificate program while issues pertaining to the other programs were resolved, the Department believes that it is desirable to separate the Certificate program rule from the others, and to publish it first.

The Department believes that most shared housing activity is likely to take place in the Certificate program. This program currently serves 850,000 families, and is more conducive to sharing because of the wide range and variety of units that can be used. In addition, development of a shared housing rule for this program implements part of section 211, which requires HUD to permit shared housing in the Section 8 Existing Housing program, and is most responsive to

section 211's legislative history, which emphasizes the use of single family homes for shared housing arrangements—a type of assisted sharing that is only available through the Certificate program.

The Department plans to develop a final rule to provide for shared housing in the Moderate Rehabilitation program next, since it is the other program mentioned in the statute. Shared Housing also will be included in the final rule for the Housing Voucher program that is now under development. The other Section 8 programs will be covered by a separate final rule. Public and Indian Housing will also be handled separately. Any public comments not considered in this rule will be addressed in later rules, as appropriate.

Types of Shared Housing—Final Rule

In the course of developing the final rule, the Department determined that two distinct types of shared housing arrangements should be permitted. Because an understanding of both of these types is essential to understand the final rule and preamble, they are described at this point in the discussion.

The first type, which was contemplated by the proposed rule, is called "Related Lease Shared Housing," and involves two assisted families sharing a unit under separate leases. Unassisted families (including the housing owner) may also reside in the unit; however, assistance under this type of shared housing is structured so that no assistance is provided for unassisted residents of this unit. This form of shared housing is created when each Certificate holder executes a PHA-approved lease with the owner, and the PHA executes a single Housing Assistance Payments (HAP) contract for the two sharing families. The amount that each family is required to pay for its total housing costs ("total tenant payment") is calculated separately, based upon the family's adjusted income. Similarly, the monthly amount the individual family pays to the housing owner ("tenant rent") and any utility allowance are determined separately for each family. The housing assistance payment to the owner is the amount by which the sum of the monthly contract rents for the two families exceeds the sum of the tenant rents payable to both families.

In this type of shared housing, the PHA may permit a family at the top of the waiting list to select a family with whom to share from a lower position on the waiting list. This type of shared housing is limited to two families, since HUD does not believe that the incidence of sharing arrangements involving more than two families justifies the additional complexity in arranging and administering this form of sharing. The Department expects that common usage of this type of shared housing will include two assisted families that decide to rent a single-family home or an apartment together.

A Related Lease Shared Housing arrangement ends if one family moves out and the remaining family fails to replace the departing family with another assisted family within a certain period of time. When one family moves out, the remaining family must approve any replacement assisted family. As discussed in greater detail later, the final rule contains special provisions for both the landlord and the remaining family where one of the sharing families departs: the landlord can receive a vacancy payment on behalf of the vacated family, and the remaining tenant has a reasonable period in which to find a replacement sharing family or to make other living arrangements, including use of another Certificate to rent a different unit.

The second type of shared housing, which is new in the final rule, is called "Individual Lease Shared Housing." It involves an assisted family sharing a unit with one or more other families. Some or all of the other sharing families may be unassisted (including the housing owner); however, as in the case of Related Lease Shared Housing, the assistance is structured to provide assistance only for the occupancy of the assisted Family in the unit. If some of the other sharing families are assisted under the Certificate program, each of them has a separate lease. As in the normal pattern of assistance in the Certificate program, Individual Lease Shared Housing is created when a Certificate holder executes a PHA-approved lease with an owner, and the PHA executes a HAP contract with the owner.

In Individual Lease Shared Housing, the continued occupancy by an assisted family is governed by the same rules as apply to other Certificate program participants. Replacement of a departed family is not the responsibility of the remaining family or families. Program participants and housing owners are generally treated like other owners and participants in the Certificate program. This includes determinations regarding families' tenant rent and total tenant payment, and other occupancy requirements, and payment of vacancy payments to the owner if an assisted family leaves the unit. The Department expects that common usage of this type of shared housing will include an assisted family renting from an elderly homeowner or an assisted family renting a unit in a sponsored shared housing arrangement.

Sections 882.301–882.330 of the final rule govern both types of shared housing. Section 882.335 contains special requirements for Related Lease Shared Housing.

The primary reason for having two types of shared housing is to encourage the use of the shared housing concept, by making available a wider array of shared housing options. Some tenants may need the incentive to participate in shared housing afforded by the special provisions concerning selection of family with whom to share that a PHA may adopt for its Related Lease Shared Housing program. Some owners may prefer the Related Lease requirements for a remaining sharing family to take prompt action to replace the vacated family or to vacate the unit themselves. Others may feel that these provisions are inappropriate and that the usual Certificate program provisions regarding issuance of Certificates, tenant selection and vacancies are suitable. For example, when an organization that is committed to promoting shared housing manages a building, it may need no special incentives to participate in shared housing. It may take responsibility for replacement of sharing families, assisted or unassisted, as they depart from the unit. There may be many families sharing a large unit in this type of arrangement, and the management may prefer that the different families' occupancy not be interdependent.

Response to Public Comments

The Department received 105 public comments in response to the proposed rule. The majority of the commenters (65) were Public Housing Agencies (PHAs). Advocacy groups for the elderly accounted for 18 comments, and private owners of susidized housing for 12. The remaining commenters were consultants (6), a U.S. Senator, a U.S. Representative, a tenant, and a State administrator of Aid to Families with Dependent Children (a program sponsored by the U.S. Department of Health and Human Services).

Some of the commenters indicated that they had participated in shared housing programs. The programs varied in size from New York State's many options, to more limited experiments in various localities that were carried out with the assistance of consultants who matched applicants with others who wanted to share a unit.

Expressions of general support for shared housing as described in the

proposed rule outweighed general opposition, 29–20. Supporters said the concept of shared housing is desirable as an additional choice for assisted families. Opponents said that a Federal rule on shared housing is unnecessary, because either it would not be workable in a particular locality, or it would inhibit the flexibility now available to local PHAs to provide shared housing tailored to local needs and resources.

The issues that drew the most comment were (1) the scope of the program in terms of family type, structure type, and affected programs; (2) the extent to which the program is voluntary; (3) anticipated administrative difficulties; and (4) the rights of a remaining sharing family. Other issues that were addressed included the effect on waiting lists, the adequacy of Section 8 Fair Market Rents, sharing of bedrooms by different families, and possible program abuses.

1. Scope of Shared Housing Option

Most comments on the scope of the shared housing option fell into four categories. The first supported the Department's expansion of its scope beyond the programs and family types required by the statute: elderly families living in housing assisted under the Section 8 Existing Housing and Moderate Rehabilitation programs. A second group of comments urged HUD to limit shared housing to elderly families to avoid complications they foresaw in permitting it for families with children—e.g., more disputes, higher turnover. A third group supported expanding the scope, but only to include non-elderly families with whom elderly families wished to share. The fourth category of comments suggested that shared housing should be permitted only in single family homes with more than one bedroom. This last category of commenters claimed that this approach is what section 211's legislative history contemplates, and that shared housing in multifamily projects would have a detrimental effect on common areas, such as parking lots, elevators, lobbies, and laundry facilities.

The Department believes that shared housing can benefit not only many elderly families but also many other families, particularly single-parent families. The social support of a shared housing arrangement can be a significant benefit for families of all types, as can the opportunity to enjoy savings in shared household expenses other than rent. It can afford a wider choice of housing types by enabling families who would otherwise have to live in apartments to share single family homes, and may allow them to live in better housing and neighborhoods. With specific reference to elderly families, permitting all eligible families to share increases the options from which elderly families can choose, thereby making the benefits of shared housing more accessible to them. Thus, the final rule continues the proposed rule's approach of permitting shared housing as an option for all Certificate program participants.

Some increase in tenant disputes, and perhaps even tenant turnover, is possible in shared housing. This possibility is implicit in any form of shared housing arrangement. The Department, however, can find no basis to assume that these problems are greater where the sharing involves families with children. In any event, the Department does not anticipate significantly increased problems as a result of permitting shared housing for families with children, since families with children generally will be entering shared housing only as a result of a voluntary decision to share a unit with a particular family. To the extent these problems cause concern for individual PHAs, they are free to take steps (such as pre-lease counseling) to reduce their incidence, or they may limit the types of sharing arrangements that may be assisted.

In addition, the Department does not expect that permitting families with children to share a unit will impose new and unreasonable burdens on a building's common areas, since the housing quality standards for shared housing contains a number of restrictions on the number of occupants in a unit. Thus, § 882.109(q)(3) requires that (1) the entire unit provide adequate space and security for all occupants (whether assisted or unassisted); (2) each unit have private space for the sole use of the assisted family, consisting of at least one bedroom for each family and for each two persons in the family; (3) each unit have common space appropriate for shared use by the occupants; and (4) no unit have more than 12 occupants. (The number of children permitted in a particular size unit might well be fewer in a shared arrangement than in a non-shared arrangement, since children of different families may not be required to share a bedroom, whereas children in the same family may.) These requirements should help minimize any adverse effects upon the building (including common areas) and the neighborhood in which assisted sharing families live. Moreover, since Certificate holders can rent any qualifying unit in the PHA's jurisdiction, generally a concentration of assisted families in one structure is not likely, and a concentration of sharing families with children is even less so.

It is true, as some of the commenters asserted, that the legislative history for section 211 stresses the use of shared housing for single family dwelling units. (See H.R. Rep. No. 123, 98th Cong., 1st Sess. 47 (1983).) The statute itself, however, contains no similar limitation. Consistent with the legislative history, the rule clearly permits sharing in this type of housing. The Department does not believe, however, that, this legislative history in any way prevents the Department from using its discretion under section 211 to make the benefits of shared housing available in all types of housing.

Finally, it should be noted that the rule gives PHAs discretion to determine whether to include shared housing in their Certificate programs and if they do, to design their shared housing programs to meet local needs. Thus, PHAs are free (consistent with applicable requirements) to design programs that are as broad or narrow as they deem appropriate for their jurisdictions. If, for example, there is a scarcity of large units to serve the needs of large families, a PHA could limit its Related Lease Shared Housing program to units of one and two bedrooms. This PHA discretion should help allay commenters' concerns about the feasibility or desirability of particular aspects of shared housing in a given community.

2. Voluntary Nature

Public sentiment varied on whether PHAs and housing owners should be able to refuse to participate in shared housing. Several commenters thought PHAs and owners should be able to refuse to participate at all, limit their participation to a certain number of units or a certain program, and discontinue the availability of shared housing at a later point. Commenters pointed to an apparent discrepancy between the proposed rule preamble's assertion that participation was voluntary, and provisions in the rule requiring a PHA to inform Section 8 Certificate holders of the availability of the shared housing option and the obligation of the PHA and owner to offer a remaining family an appropriate size unit in any project under its control. A few commenters, on the other hand, insisted that PHAs should be *required* to offer the shared housing option, on grounds that this is necessary to achieve the statutory objective of permitting shared housing as an option for tenants.

The Department wishes to emphasize that under the final rule, shared housing is voluntary for each of the three parties involved: the PHA, the housing owner, and the assisted tenant. First, the Department believes that PHAs should not be required to offer shared housing. There are a number of factors that affect the feasibility and desirability of shared housing in a particular locality, including local codes and ordinances, demographic characteristics, nature of the housing stock, and composition of the waiting list. Decisions about whether to offer assisted shared housing at all and if so, whether it should be limited to certain units, types of units, sharing arrangements, or otherwise, are appropriately left to the discretion of the local PHA. The final rule makes clear PHAs' discretion in this regard. As a technical matter, the final rule amends § 882.209(c)(9) of the proposed rule to make clear that PHAs are required to brief Certificate holders about their shared housing programs only if they have one. It should also be noted that although PHAs are free to change or eliminate their participation in shared housing, they must continue to administer any outstanding shared housing contracts in accordance with applicable program requirements.

This conclusion is entirely consistent with the great amount of discretion that PHAs have traditionally been given in the administration of their local housing programs. Indeed, one of the major policies of the U.S. Housing Act of 1937 is "to vest in local public housing agencies the maximum amount of responsibility in the administration of their housing program . . . " (Section 2 of the 1937 Act.) The Department has reviewed section 211 of the 1983 Act and its legislative history, and can discern no congressional intent to alter this traditional PHA role. In the Department's view, the statutory requirement that HUD "permit" shared housing arrangements is fully satisfied by making the shared housing option available to PHAs.

Shared housing is also voluntary for landlords and prospective shared housing tenants. In this respect, each is generally treated the same as other, non-sharing participants in the Certificate program. Certificate holders who want to live in shared housing arrangements generally have the same "finders-keepers" rights as all other program families to locate qualifying housing of their choice, with or without a sharing family. Housing owners have the same rights and responsibilities to lease to tenants that meet their selection criteria. As under the usual rules for the Certificate program, an owner indicates its choice to participate by executing an appropriate Housing Assistance Payments contract with the PHA and a lease with the family.

After further consideration, HUD has decided to delete the proposed requirement that an owner or PHA offer a remaining sharing family a unit of appropriate size within projects under its control (after the other sharing family has vacated the unit). This change will bring the shared housing component of the Certificate program in line with the regular Certificate program, in which a family that wishes to move is simply given a new Certificate (but see section 5C below, concerning denial of a Certificate to a family that initially was given a Certificate based on its willingness to share a unit and that seeks another Certificate soon thereafter).

3. Administrative Problems

PHAs complained that administering a shared housing program would subject them to additional administrative work. They claimed that shared housing would require two leases, and would result in more disputes to mediate and higher turnover, with relocation associated with each moveout.

Some aspects of operating a shared program may increase PHA's administrative work. In other respects, however, PHAs will have fewer responsibilities under shared housing. The Department does not believe that the net effect of administering shared housing will result in a significant increase in PHAs' administrative work. In the shared housing component of the Certificate program, each family will have its own Certificate and lease. This is the usual practice in the Certificate program, and will not cause PHAs new administrative responsibilities. The number of leases is dependent on the number of assisted families, not the number of units involved.

On the other hand, shared housing will result in fewer administrative tasks for PHAs. In the type of shared housing (Related Lease Shared Housing) likely to be used when an organization that sponsors shared housing is not involved, the number of units the PHA must inspect, and the number of potential landlords with whom the PHA must deal, will be halved. Similarly, in this type of shared housing, there will be just one housing assistance contract for the two assisted families occupying a shared unit, thus reducing the number of contracts that would be used if each family were housed separately.

It is true that sharing families may have more disputes that they bring to the PHA for mediation. To a large extent, as noted earlier, this is a necessary concommitant of the shared housing concept. The role the PHA decides to play in inter-family disputes, however, is up to the PHA. Also as noted earlier, there may also be higher turnover among sharing families. This too is inherent in shared housing arrangements. The rule is clear, however, that the sole PHA "relocation" responsibility on turnover is issuance of another Certificate at the family's request, thus enabling the family to locate another unit in the local housing market. This is the same responsibility that PHAs have under the regular Certificate program. Finally, since the decision whether to participate in shared housing (and if so, to what extent) is left to each PHA, the PHA can take these differences in administrative burden into consideration before deciding whether to engage in shared housing arrangements and if so, how to structure the program.

Another concern of PHAs was the anticipated complexity of determining appropriate treatment for the sharing families in such matters as treatment of security deposits, assignment of responsibility for damages, removing only one tenant, splitting utility deposits, and responsibility of one sharing family when the other fails to pay its share of the utilities. Issues pertaining to security deposits, including their size, permissible uses, return to the tenants, and remedies if insufficient, are generally handled in the same way as in the regular Certificate program. If money is owed by the tenant for rent or damages under the lease, and the security deposit is insufficient, or if the owner did not impose one, the owner can claim reimbursement from the PHA, under § 882.112(d), in an amount not exceeding the lesser of the amount owed the owner or two months' contract rent (less the amount of security deposit that the owner collected or could have collected).

The proposed rule would have amended this section to provide that the maximum damage reimbursement would be two months' contract rent for the sharing family that left the unit. The final rule does not contain this amendment. Under the shared housing model contemplated by the proposed rule, which is analogous to Related Lease Shared Housing in the final rule, there would have been one contract rent for the two sharing families. To determine the "contract rent for the vacating family," as proposed in the rule, would have required a proration of the total contract rent. In its effort to

simplify the mechanics of assisted shared housing, the Department has provided in the final rule that each assisted family in Related Lease Shared Housing has its own contract rent. As noted earlier, each assisted family in Individual Lease Shared Housing has its own contract rent. This brings assisted shared housing in line with the regular Certificate program (see § 882.112(d)), and produces the same result as the proposed rule, without its necessity for additional, complicated calculations when one sharing family vacates the unit.

On the question of assigning responsibility for tenant damages when one family moves, PHAs would follow the usual procedures for the inspection of a unit after a family vacates the unit. If notice is given before a family vacates the unit, the PHA may seek to arrange to inspect the unit in the presence of both families to determine damage to shared spaces and assign responsibility. Damage in each family's private space usually would be the responsibility of that family.

Since each family has a separate lease in a shared housing arrangement, the owner terminates a family's tenancy by judicial process under State and local law, just as for any other assisted tenancy under the Certificate program. As in the Certificate program for non-sharing families, the PHA has no role with respect to termination of the assisted family's tenancy. The grounds for termination of tenancy of an assisted family in shared housing are the same as for any other family assisted under the Section 8 Certificate program. (See discussion below on replacement of a vacating family in this type of shared housing.)

The rule is silent on the nature of one family's responsibility if another family fails to pay its share of utilities and on how utility deposits should be split. Families will be entering shared arrangements on a voluntary basis, and agreements on splitting tenant-paid utilities and utility deposits are part of that voluntary, private agreement between or among the families occupying the unit. Although in units with tenant-paid utilities, utility payments are made by the tenant and not by the owner, the owner is free to ascertain, before leasing to sharing families, that the families have reached agreements on such points, with full awareness of the amount of the PHA-determined utility allowance for each assisted family.

Several commenters suggested that housing counselors would be needed to screen and match tenants and to counsel them on their responsibilities. The commenters asked who would pay for this counseling. The rule does not require the use of housing counselors. In many localities, shared housing counseling organizations already exist. In other cases, particularly where there is strong public interest in shared housing, PHAs may choose to develop screening, matching, or counseling programs. Funds may be available for this purpose from private or public sources, including excess Section 8 operating reserves or Community Development Block Grant funds. PHAs may choose, however, to leave matching issues to Certificate holders who want to participate in shared housing arrangements.

Section 3 of the U.S. Housing Act of 1937 authorizes a person to live with an "elderly family" if the person is determined under regulations of the Secretary to be essential to the care and well being of the "elderly family." This "essential person" has been labelled a "live-in aide" in the proposed rule. A question with respect to this person was raised by PHAs and owners: how to determine when two elderly persons living together are two families, one family, or one family plus a live-in aide. Proposed § 813.106(b) specified that a live-in aide must be determined to be essential to the care and well-being of an "elderly family" member, but could not be related to, or obligated for the support of, a family member.

In response to public comment, the final rule does not automatically exclude a relative from serving as a live-in aide, but in addition to being essential to the care and well-being and not being obligated for support of a family member, it requires (in § 813.102) that an individual seeking live-in aide status not be living in the unit except to provide the necessary supportive services. Thus, a relative or other individual may serve as a live-in aide if he or she would not be living in the unit except in that capacity. The Department believes that this approach strikes a reasonable balance between permitting relatives and others to act as live-in aides and ensuring that this privilege is not subject to abuse.

Another commenter stated that the need for live-in aide should be determined by a medical doctor, rather than by the PHA. The Department does not believe that the rule should require PHAs to rely on a physician's finding that live-in aide is necessary. PHAs are free to seek a medical certification, however, if they believe it desirable.

As a technical matter, the final rule adds a definition of "live-in aide" to both Parts 812 and 813, and uses it in the definition of "elderly families" in each Part. The final rule also mends § 813.106 to make clear that live-in aide's income is excluded from the elderly family's income for purposes of determining the family's total tenant payment. It should be noted that, as distinguished from other changes made in this rulemaking, this change will affect all the Section 8 programs.

The definition of Elderly Family found in the existing regulations (§§ 812. and 813.102) is taken directly from section 3(b)(3) of the U.S. Housing Act of 1937. The determination whether a particular arrangement constitutes one family or two independent elderly families sharing a unit is the kind of determination that traditionally has been left to the broad discretion of the PHA. In the case of shared housing, PHAs would apply the same standards for determining whether individuals constitute one or more families as they do for the regular Certificate program.

4. Replacement of Vacating Family—Related Lease Shared Housing

Many PHAs expressed concern about the proposed rule's provision giving a remaining assisted family only 60 days to find a replacement for a departed family before terminating assistance. Some PHAs urged that the period be changed to 120 days, to correspond to the length of time a PHA may give a Certificate holder who is seriously looking for housing—60 days, plus one 60-day extension (at the option of the PHA). The commenters urged that the "replace or move" requirement be changed to be less disruptive to the remaining tenant, in order to encourage tenants to participate in shared housing.

The proposed rule contained special provisions governing the departure of one family from assisted shared housing. Proposed § 882.114(c) provided that within 60 days after the family's departure, the remaining family would have to take one of the following steps. (1) Find a replacement family, (2) arrange with the owner to reduce the contract rent to the level for the unit size for which the remaining family is eligible, (3) move to a smaller unit in another of the owner's or PHA's projects, (4) obtain a Certificate and move to a smaller unit with assistance, or (5) move to another unit without assistance. If the remaining family failed to find a replacement family or execute a new lease for the unit within the 60-day period, the proposed rule specified that the family's tenancy would terminate. The proposed rule also would have required the owner or PHA to offer the family any suitable unit within its control (*i.e.*, any unit that it owns or

manages), and provided that the owner would receive a payment on behalf of the departed family, equal to 80 percent of its share of the contract rent.

As noted earlier, the final rule permits two types of shared housing—Related Lease Shared Housing and Individual Lease Shared Housing. In Individual Lease Shared Housing, the departure of an assisted family from the unit does not affect continuation of assistance payments for any other assisted family living in the unit. The rules for the regular Certificate program generally govern the rights and responsibilities of assisted families and owners in this type of shared housing. In Related Lease Shared Housing, however, if one family leaves the unit, the other's tenancy may be affected.

The final rule's treatment of Related Lease Shared Housing arrangements retains the basic thrust of the proposed rule—if one of the sharing families vacates the unit, the other must try to find a replacement sharing family within a set period of time, or housing assistance in that unit will end. The final rule does, however, make a few minor changes to the proposed rule. The period is the remainder of the month in which one family vacates plus the following calendar month, which is equal to the time during which vacancy payments are payable in the regular Certificate program and equal to the time during which vacancy payments are payable for the vacant part of the unit under this final rule. The assistance contract will terminate at the end of that period unless the gross rent for the assisted families' tenancy is at or below the Fair Market Rent (FMR) for a unit appropriate to the size and composition of the remaining family. (See § 882.315(b)(4).) This makes clear that the contract will end unless the rent for the unit is reasonable for occupancy by the remaining family alone. The Department believes that the approach adopted in the final rule strikes an appropriate balance among the interests of the remaining family, the owner, and the Department.

The final rule clearly states the remaining Family's rights and responsibilities. The lease will specify that the remaining family must promptly locate another family that wants to occupy the unit as a successor sharing family and that is acceptable to the owner. The lease will also provide that failure to comply with this requirement will be a serious violation of the lease. Such a violation of the lease can result in termination of the family's tenancy. The Department believes it important that the remaining family understand that it has a contractual responsibility to the owner to find a successor family after turnover in the unit. The family will be informed of this aspect of the program and its right to obtain another Certificate in these circumstances at the briefing of Certificate-holders (§ 882.209(c)(9)). Thus, both the family and the owner will be aware that subsidized occupancy will terminate, and tenancy itself may terminate, if the family is unable to replace a departing sharing family in the time allowed under the program.

The Department has decided not to increase the amount of the traditional vacancy payments or their duration in Related Lease Shared Housing because the Department wants to keep the program as similar to the regular Certificate program as possible, for consistency, ease of administration, and cost containment. Therefore, the vacancy payments in both types of shared housing will be 80 percent of the Contract Rent for the sharing family that vacated the unit, as in the proposed rule and current § 882.105(b). The full housing assistance payment on behalf of the remaining sharing family will continue.

Finally, in response to a question from a commenter, as under the normal rules of the Certificate program, there is no provision for HUD to pay the costs of any move that a remaining family decides to make. A remaining family that must move will be issued, in accordance with the normal Certificate program rules, a new Certificate with which it may establish assisted tenancy in another unit.

5. Waiting List

The proposed rule provided that when one sharing family vacated the unit, one of the options available to the remaining family would have been to accept as a replacement, a family on the waiting list that had expressed a willingness to share. If there was no one on the list willing to share, the proposed rule would have allowed the remaining family to find any other qualified family that wanted to do so. These provisions would have permitted PHAs to give special treatment in finding replacement families to those that indicated a desire to share, irrespective of their place on the waiting list and in some cases, regardless of whether they were on the waiting list at all.

The final rule retains the concept of according special treatment to families interested in sharing, but makes a number of modifications to the proposed rule's approach. The Department believes that the interdependence of the tenancies of assisted sharing families in Related Lease Shared Housing makes it desirable to provide PHAs flexibility to design procedures and requirements to help match assisted families. Therefore, the final rule gives PHAs discretion to develop special procedures to help families that want to participate in Related Lease Shared Housing find potential sharing families, but does not provide such procedures for Individual Lease Shared Housing. However, the final rule eliminates the provision in the proposed rule permitting a Certificate to be issued to an applicant family not on the waiting list, on the basis of its desire to share. Rather, in accordance with § 882.209(a)(7) of the current rules, any applicant family must be on the waiting list in order to be issued a Certificate.

The final rule provides that PHAs must specify their policies for administering shared housing in their administrative plans. The policies for Related Lease Shared Housing may be designed to facilitate the initial pairing of families for assistance, or the replacement of a sharing family that has left the unit.

A. *Use of Waiting Lists.* The PHA may permit a Certificate holder or family that is seeking a replacement sharing family, to locate a family with which to share a unit from among applicants on the waiting list. The PHA may develop procedures for use of the list for this purpose, including limits on the numbers of applicants that a family may review and their place on the list.

The Department believes that these provisions give PHAs needed flexibility in matching assisted families in Related Lease Shared Housing. Given the close day-to-day contact among sharers and the interdependency of their tenancies, PHAs may find it important from a programmatic standpoint to ensure that sharing families have the right "chemistry." Letting families do their own matching, without restriction based on waiting list order, may help reduce the incidence of turnover and foster a smoothly functioning program. In addition, PHAs may find that limiting the choices of families with whom a family can share a unit to applicants according to their order on the waiting list, program participants, and Certificate holders, may involve such a lengthy matching process, frequently involving total strangers, that many families may be discouraged from participating in Related Lease Shared Housing at all.

The final rule extends the special treatment provisions to include the initial pairing of families for assistance. Given the discretionary nature of these provisions and the fact that there is

equal need for wise pairing both at the initiation of sharing and after turnover, the Department believes that giving PHAs this added tool makes good sense.

One PHA commented that waiting lists are not maintained in a way that would permit selection of a family based on its willingness to share a unit. While this may be true now, if a PHA decides to select families on this basis, it may modify its management procedures accordingly.

B. *Targeting of Certificates.* The final rule provides that if a PHA issues a Certificate on the basis of an applicant family's willingness to share a unit with a particular family, the applicant family must use the Certificate for a unit with that family. This requirement applies both to the initial pairing of families and the replacement of a family that has left a unit. Where a Certificate is issued on this basis, the restriction contained in § 882.209(a)(4)(iii)(A) (forbidding a selection preference based on the identity or location of the housing that is proposed to be occupied by an applicant), and the "Finders-Keepers" policy under § 882.103, do not apply to the initial use of these targeted Certificates. However, if the family later wants to move to another dwelling unit with continued participation in the PHA's program, the "Finders-Keepers" policy applies, and the family may select a dwelling in any area where the PHA is not legally barred from entering into contracts.

These provisions are designed to ensure that the first use of a Certificate issued on the basis of a willingness to share a unit with a particular family is in fact used with that family. Without these restrictions, a family that received a Certificate ahead of its place on the waiting list would be able to use the Certificate to obtain an assisted unit for its sole occupancy. This provision is responsive to one commenter's fear that a family could abuse the program by going to the top of the waiting list and receiving a Certificate based on its expressed interest in sharing, and then use the Certificate to establish a non-sharing assisted tenancy.

C. *Penalty for Early Turnover.* Section 882.335(a)(2)(iii) of the final rule requires a PHA to deny a Certificate under § 882.209(m)(1) and return a family to the waiting list, if the family was issued a Certificate on the basis of its willingness to share a unit, but then requests, within 12 months of issuance of the initial Certificate, a new Certificate to move to another dwelling unit with continued participation in the PHA's program. The rule *permits* the PHA to give the same treatment to a family first given a Certificate to share with another family if it requests another Certificate *after* 12 months of issuance of the first Certificate. In these situations, the family is returned to the place of the waiting list that the family would have had if it had not agreed to share a unit.

This provision is also intended to prevent abuse to the special treatment available for those who receive a Certificate on the basis of an expressed desire to share a unit. Without this provision, a PHA could be powerless to prevent a family whose indication of willingness to share may have been less than genuine, from sharing for a brief period and then requesting another Certificate to move to a non-sharing unit. This provision is also responsive to the commenter mentioned earlier that expressed fear that affording special treatment could lead to abuse. The revised rule imposes a significant penalty to deter "share and run" practitioners.

Finally, § 882.310(b)(2) of the final rule prevents PHAs from setting aside or otherwise restricting the use of Certificates to shared housing purposes (except in the case of targeting Certificates, mentioned earlier). This is intended to ensure that participation in shared housing remains voluntary with applicants for housing assistance.

6. Fair Market Rents

Several commenters stated that higher FMRs should be established for shared housing units in order to make the option more attractive to owners. Others advocated higher FMRs for shared housing arrangements sponsored by organizations in, for example, a large single family home.

The Department does not consider it appropriate to provide greater assistance, via the mechanism of higher FMRs, for a sharing arrangement than would be available to a single family that would qualify for the same size unit. The Department believes that the final rule already provides adequate incentives for owners, including sponsors of shared housing arrangements, to participate in shared housing, and considers the provision of additional assistance to be wasteful of scarce housing resources.

7. Bedroom Sharing

Commenters argued both sides of the issue of whether different families should share bedrooms. Some opposed the idea in the case of two individuals sharing a one-bedroom unit. Others believed that different families should be permitted to share bedrooms, assuming the age and sex of children are appropriate.

Commenters who opposed sharing of one-bedroom units based their objections on lack of space. The Housing Quality Standards in the final rule provide that only two individuals can share a one-bedroom unit. The Department believes that this is responsive to the commenters' concern. In any event, PHAs are free to decide whether their programs should include the sharing of one-bedroom units and if so, what amount of space is adequate. In addition, if PHAs permit these living arrangements, the ultimate decision on whether to share a one-bedroom unit will be up to the potential sharers—a decision which, as discussed earlier, is a voluntary one, based on the families' personal preferences.

While a policy permitting children of different families to share a bedroom could provide more efficient use of space, the Department believes that this advantage is outweighed by the problems it could create. The restriction against this type of sharing in the Section 8 program will help prevent over-concentration of children—a concern expressed by several commenters. It will also help ensure that families have sufficient private space, and will make the calculation of each family's share of utility allowances and the accountability for each family's share of damage to the unit.

Finally, a commenter pointed out a technical discrepancy in the proposed rule: in the case of a shared one-bedroom unit, there is no "private space" for each of the two families, as required in the definition of "shared housing." This technical problem has been corrected by revising the definition of shared housing to recognize the omission of private space in one-bedroom units. (It should be noted that Independent Group Residences (IGRs) operated under Part 882 are not considered shared housing, and therefore are not covered by the definition of shared housing.)

8. Miscellaneous

A few commenters recommended that a woman with children be allowed to receive assistance under the Certificate program in the home of her parents. Commenters note that permitting this arrangement would allow grandparents to provide needed babysitting, and that the Food Stamp program recognizes that a home may contain more than one family whose members are related to each other.

The Department believes that it is not appropriate to provide rental assistance on behalf of any person who lives in a unit with an owner-occupant who is a

relative. When a family lives in a home owned by a relative, it is often true that the owner would permit the family to live there at no or nominal rent. If Federal housing assistance is available for an eligible family in the home of a relative, the owner who might otherwise charge the family a nominal rent might charge the family a market rate rent since the bulk of the increase would come from the Government, and not the assisted family. It would be extremely difficult to prevent such a practice, by permitting assistance only where the owner would not otherwise allow the family to reside for a nominal rent, because it would require a PHA to ascertain the motivation of each owner proposing to lease to an applicant family. Family ties might also hamper the willingness of an assisted family to insist on such program requirements as the provision of decent, safe and sanitary housing conditions. Consequently, the final rule retains the prohibition on providing assistance to a family in a unit shared with a related owner.

A few commenters expressed concern that the proposed rule would not prohibit a single mother from receiving Section 8 assistance when sharing housing with her boyfriend in a home he owned. If these people lived as a family unit, the commenters mentioned two ways in which it would be an abuse of the definition of family. First, one "family" member's income would not be included in family income; and second, one "family" member would have his ownership of real property subsidized by other "family" members at the expense of the government. One suggested solution was to prohibit unrelated single persons of the opposite sex from sharing a unit.

It should be noted that PHAs have discretion to determine the scope of shared housing in their Certificate programs. PHAs are free, therefore, to fashion their programs to meet local needs and requirements. The Department does not believe it appropriate to impose additional restrictions in this area.

New Subpart

Since the revisions to the Certificate program to accommodate shared housing are substantial, and need not affect the operation of the program for non-sharers, the final rule places most of the special shared housing provisions in a new Subpart C of Part 882. This separation of the shared housing provisions recognizes that shared housing is a separate component of the overall program, as is the program of special assistance for manufactured home owners under Subpart F. PHAs and owners that do not participate in shared housing will find it unnecessary to consult the new Subpart.

Findings and Certifications

An environmental assessment is not required under the National Environmental Policy Act of 1969, 42 U.S.C. 4332, since the Section 8 Existing Housing program is categorically excluded from the environmental review requirement under HUD regulations implementing that Act (24 CFR 50.20(d)).

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

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because it gives more flexibility to living arrangements permitted in an existing program, but imposes no major requirements on tenants, housing owners or public housing agencies.

This rule was listed under the Office of the Secretary as sequence number 796 in the HUD Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036, 14047), under Executive Order 12291 and the Regulatory Flexibility Act.

The information collection requirements contained in §§ 882.310(b) and 882.335(a) of this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0123.

The Catalog of Domestic Assistance Number is 14.156, Lower Income Housing Assistance Program (Section 8).

List of Subjects

24 CFR Part 812

Low and moderate income housing, Rent subsidies.

24 CFR Part 813

Grant programs—housing and community development, Rent subsidies, Utilities.

24 CFR Part 882

Grant programs—housing and community development, Low and moderate income housing, Manufactured homes, Rent subsidies.

Accordingly, 24 CFR Parts 812, 813, and 882 are amended as follows:

PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS

1. The authority citation for Part 812 is revised to read as set forth below and any authority following any section in Part 812 is removed:

Authority: Sec. 3, United States Housing Act of 1937 (42 U.S.C. 1437a); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. Section 812.2 is revised to read as follows:

§ 812.2 Definitions.

Disabled person. A person under a disability, as defined in section 223 of the Social Security Act (42 U.S.C. 423) or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970 (42 U.S.C. 2691 (*7*)).

Displaced person. A person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.

Elderly family. A Family whose head or spouse (or sole member) is an Elderly, Disabled, or Handicapped Person. It may include two or more Elderly, Disabled, or Handicapped Persons living together, or one or more of these Persons living with one or more Live-in Aides.

Elderly person. A person who is at least 62 years of age.

Family. "Family" includes but is not limited to—

(a) An Elderly Family or Single Person as defined in this Part,

(b) The remaining member of a tenant family, and

(c) A Displaced Person.

Handicapped person. A person having a physical or mental impairment that—

(a) Is expected to be of long-continued and indefinite duration,

(b) Substantially impedes the person's ability to live independently, and

(c) Is of such a nature that this ability could be improved by more suitable housing conditions.

Live-in aide. A person who resides with an Elderly, Disabled, or Handicapped Person or Persons and who—

(a) Is determined to be essential to the care and well-being of the Person(s);

(b) Is not obligated for the support of the Person(s); and

(c) Would not be living in the unit except to provide the necessary supportive services. (See § 813.106(d) for treatment of a Live-on Aide's income.)

Single person. A person who lives alone or intends to live alone, and who does not qualify as an Elderly Family or a Displaced Person or as the remaining member of a tenant family.

PART 813—DEFINITION OF INCOME, INCOME LIMITS, RENT AND REEXAMINATION OF FAMILY INCOME FOR THE SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM AND RELATED PROGRAMS

3. The authority citation for Part 813 continues to read as follows:

Authority: Secs. 3, 8, and 16, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437f, 1437n); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

4. Section 813.102 is amended by adding definitions of Live-in Aide and Shared Housing, and by revising the definitions of Contract Rent, Disabled Person, Elderly Family, Gross Rent, Utility Allowance, and Utility Reimbursement, to read as follows:

§ 813.102 Definitions.

* * * * *

Contract rent. The total amount of rent specified in the Housing Assistance Payments (HAP) Contract as payable to the owner by the Family, and by HUD or the PHA on the Family's behalf. In the case of the rental of only a manufactured home space, Contract Rent is the total rent specified in the HAP Contract as payable by the PHA and the Family to the Owner for rental of the space, including fees or charges for management and maintenance services with respect to the space, but excluding utility charges for the manufactured home. In the case of a cooperative, Contract Rent means charges under the occupancy agreement between the members and the cooperative.

* * * * *

Disabled person. A person under a disability, as defined in section 223 of the Social Security Act (42 U.S.C. 423) or in section 102 of the Developmental Disabilities Services and Facilities Construction Amendments of 1970 (42 U.S.C. 2691(/)).

Elderly family. A Family whose head or spouse (or sole member) is an Elderly, Disabled, or Handicapped Person. It may include two or more Elderly, Disabled, or Handicapped Persons living together, or one or more of these Persons living with one or more Live-in Aides.

* * * * *

Gross rent. The total montly cost of housing an eligible Family, which is the sum of the Contract Rent and any Utility Allowance. In the case of rental of only a manufactured home space, Gross Rent also includes the Family's monthly payment to amortize the purchase price of the manufactured home.

* * * * *

Live-in aide. A person who resides with an Elderly, Disabled, or Handicapped Person or Persons and who—

(a) Is determined to be essential to the care and well-being of the Person(s);

(b) Is not obligated for the support of the Person(s); and

(c) Would not be living in the unit except to provide the necessary supportive services.

(See § 813.106(d) for treatment of a Live-in Aide's income.)

* * * * *

Shared housing. A housing unit occupied by two or more families, consisting of common space for shared use by the occupants of the unit and (except in the case of a shared one-bedroom unit) separate private space for each assisted Family. Part 882, Subpart C, of this Chapter contains special requirements for Shared Housing in the Section 8 Certificate program.

* * * * *

Utility allowances. If the cost of utilities (except telephone) and other housing services for an assisted unit is not included in the Contract Rent, but is the responsibility of the Family occupying the unit, an amount equal to the estimate made or approved by HUD under applicable sections of these regulations (see 24 CFR Parts 880, 881, 882, 883, 884, and 886) of the monthly costs of a reasonable consumption of these utilities and other services for the unit by an energy-conservative household of modest circumstances, consistent with the requirements of a safe, sanitary, and healthful living environment. In the case of Shared Housing, the amount of the Utility Allowance for an assisted Family is calculated by multiplying the Utility Allowance for the entire unit by the ratio derived by dividing the number of bedrooms in the assisted Family's private space by the number of bedrooms in the entire unit. (In the case of an assisted individual sharing a one-bedroom unit with another person, the amount of the Utility Allowance for the assisted individual is ½ the Utility Allowance for the entire unit.)

Utility reimbursement. The amount, if any, by which the Utility Allowance exceeds the Family's Total Tenant Payment.

* * * * *

5. Section 813.106 is amended by redesignating paragraph (d)(3) as (d)(4), and by adding a new paragraph (d)(3), to read as follows:

§ 813.106 Annual income.

* * * * *

(d) * * *

(3) Income of a Live-in Aide, as defined in § 813.102; and

* * * * *

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

6. The authority citation for Part 882 continues to read as follows:

Authority: Secs. 3, 5, and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

7. The Table of Contents is amended by removing the title "Subpart C—[Reserved]" and inserting the following:

Subpart C—Shared Housing in the Certificate Program

Sec.
882.301 Applicability, scope, and purpose.
882.302 Definitions.
882.305 Types of shared housing and applicable requirements.
882.310 PHA administration of shared housing.
882.315 Occupancy of shared housing unit.
882.320 Initial contract rent.
882.325 Contract rent adjustments.
882.330 Tenant rent and total tenant payment.
882.335 Special requirements for related lease shared housing.

8. Section 882.102 is amended by removing the definition of Unit; and by adding definitions of Common Space, Occupancy Standards, Private Space, Related Lease Shared Housing, and Shared Housing, and revising the definition of Contract Rent, to read as follows:

§ 882.102 Definitions.

* * * * *

Common space. As defined in Subpart C of this Part.

* * * * *

Contract rent. As defined in Part 813 of this Chapter.

* * * * *

Occupancy standards. Standards that the PHA establishes for determining the number of bedrooms for Families of different sizes and composition.

* * * * *

Private space. As defined in Subpart C of this Part.

* * * * *

Related lease shared housing. As defined in Subpart C of this Part.

* * * * *

Shared housing. As defined in Part 813 of this Chapter.

* * * * *

§ 882.106 [Amended]

9. In the definition of Resident Assistant in § 882.102, the reference to "882.106(c)" is removed and "882.106(d)" substituted in its place.

10. Paragraph (b) of § 882.103 is revised to read as follows:

§ 882.103 "Finders-Keepers" policy.

* * * * *

(b) The PHA may not, either in the provision of assistance to any Family in finding a unit or by any other action, directly or indirectly reduce any Family's opportunity to choose among the available units in the housing market. The provisions of this section apply to all Certificate holders, except as provided in §§ 882.209(a)(4)(ii)(B), 882.209(a)(4)(iii)(B), and 882.335(a)(2)(i).

* * * * *

11. Section 882.105 is amended by removing the word "he" in paragraphs (b) (2) introductory text and (3) and, replacing it with the words "the Owner"; by removing the word "his" in paragraph (b)(2)(ii), and replacing it with "the Owner's"; and by revising paragraph (a) to read as follows:

§ 882.105 Housing assistance payments to owners.

(a) *General.* Housing Assistance Payments must be paid to an Owner for the unit under Lease by an eligible Family, in accordance with the Contract. The PHA will pay any Utility Reimbursement to the Family as an additional Housing Assistance Payment. If the Family and the utility company consent, the PHA may pay the Utility Reimbursement jointly to the Family and the utility company, or directly to the utility company.

* * * * *

12. Section 882.106 is amended by redesignating paragraph (d) as paragraph (e); by redesignating paragraphs (c)(2) and (c)(3) as paragraphs (d) (1) and (d)(2), respectively; by adding a paragraph heading for paragraph (d) to read "*Independent Group Residences.*"; by redesignating paragraph (c) (4) as paragraph (c)(2); by revising the heading of paragraph (c) to read "*Congregate Housing.*"; by removing the last sentence of new paragraph (c)(2); by adding a new paragraph (d)(3); and by adding new paragraphs (f) and (g), to read as follows:

§ 882.106 Contract rents.

* * * * *

(d) * * *

(3) In determining the reasonableness of the rents, consideration shall be given to the presence or absence of common (rather than private) cooking, dining and sanitary facilities, and to the provision of special amenities or of maintenance or management services.

* * * * *

(f) *Shared Housing.* See § 882.320.

(g) *Other services—exclusion from Contract Rent.* The Contract Rent may not include the cost of providing supportive services, housekeeping or laundry services, furniture, food, or the cost of serving food.

13. Section 882.109 is amended by adding a new paragraph (g), to read as follows:

§ 882.109 Housing quality standards.

* * * * *

(q) *Shared Housing.* (1) *Applicability of housing quality standards to entire unit.* The entire unit must comply with the Performance Requirements and Acceptability Criteria, as provided in paragraphs (a) and (b) of this section and in paragraphs (d) through (l) of this section.

(2) *Facilities available for Family.* The facilities available for the use of each assisted Family in Shared Housing under the Family's Lease must include (whether in the Family's Private Space or in the Common Space) a living room, sanitary facilities in accordance with paragraph (a), and food preparation and refuse disposal facilities in accordance with paragraph (b).

(3) *Space and security.*—(i) *Inapplicability of paragraph (c).* Paragraph (c) of this section does not apply to Shared Housing.

(ii) *Performance requirement.* The entire unit must provide adequate space and security for all its occupants (whether assisted or unassisted). The total number of occupants in the unit may not exceed 12 persons. Each unit must contain Private Space containing at least one bedroom for each assisted Family, plus Common Space for shared use by the occuupants of the unit. The Private Space for each assisted Family must contain at least one bedroom for each two persons in the Family. (The two preceding sentences do not apply to the case of two individuals sharing a one-bedroom unit. However, in that situation, no other persons may occupy the unit.) Common Space must be appropriate for shared use by the occupants. If any members of the Family are physically handicapped (as of the time of lease approval), the unit's Common Space and the Family's Private Space must be accessible and usable by them.

(iii) *Acceptability criteria.* The unit must contain a living room, a kitchen, bathroom(s), and bedroom(s). Persons of opposite sex, other than husband and wife or very young children, may not be required to occupy the same bedroom. Exterior doors and windows accessible from outside the unit must be lockable.

14. Section 882.110 is amended by adding a new paragraph (g), to read as follows:

§ 882.110 Types of housing.

* * * * *

(g) (1) Housing assistance may not be provided on behalf of a housing Owner. However, assistance may be provided on behalf of a member of a cooperative.

(2) An Owner of housing assisted under the Section 8 Certificate program may not be an occupant of an assisted dwelling unit, except for assistance on behalf of a member of a cooperative or as provided in § 882.315(a)(2) (unassisted occupancy by an Owner of Shared Housing).

15. Section 882.116(k) is revised to read as follows:

§ 882.116 Responsibilities of the PHA.

* * * * *

(k) Payment of housing assistance payments, including any Utility Reimbursement.

* * * * *

16. Section 882.118 is revised by redesignating paragraph (a)(4) as paragraph (a)(5); by adding after the words "dwelling unit" in paragraph (a)(5), the words "(or, in the case of Shared Housing, the portion thereof)"; and by adding a new paragraph (a)(4), to read as follows:

§ 882.118 Obligations of the Family.

(a) * * *

(4) In Related Lease Shared Housing, notify the Owner and PHA when one Family learns of the other Family's vacancy or prospective vacancy, in accordance with § 882.335(c)(1)(i).

* * * * *

§ 882.207 [Amended]

17. The parenthetical statement in the introductory paragraph of § 882.207 is amended by adding after the word

"families", the words "and assistance for Shared Housing, if applicable".

18. Section 882.209 is amended by revising paragraph (b)(2) and by adding a new paragraph (c)(9), to read as follows:

§ 882.209 Selection and participation.

(b) * * *

(2) The PHA will enter on the Certificate the smallest number of bedrooms consistent with the PHA's Occupancy Standards. The Standards must provide for the minimum commitment of housing assistance payments while avoiding overcrowding, and must be consistent with the applicable housing quality standards. The PHA will grant exceptions from the standards, if it determines exceptions are justified by the relationship, age, sex, health, or handicap of Family members, or other individual circumstances. For a Family renting a unit with a larger or smaller number of bedrooms than stated on the Certificate, see § 882.209(i).

* * * * *

(c) * * *

(9) If the PHA has a Shared Housing program, the elements of the program, including—

(i) Any assistance that the PHA may provide Families in finding Shared Housing, or in finding Families with which a unit may be shared;

(ii) Information about the effect of departure of one Family on the other Family in Related Lease Shared Housing; and

(iii) The availability of another Certificate under §§ 882.209(m) and 882.335(a)(2)(ii), if the Shared Housing arrangement terminates.

* * * * *

19. A new Subpart C is added, to read as follows:

Subpart C—Shared Housing in the Certificate Program

§ 882.301 Applicability, scope, and purpose.

(a) *General.* (1) This Subpart C contains special requirements for Shared Housing in the Section 8 Certificate program. In Shared Housing, an assisted Family shares a housing unit (such as a house or an apartment) with the other resident or residents of the unit. Shared Housing is designed to provide additional choices in living arrangements for assisted Families. This Subpart gives a PHA discretion to determine whether to include Shared Housing in its Certificate program and to design the Shared Housing component to meet local needs and circumstances. This Subpart provides procedures to be followed by PHAs that choose to permit assistance in Shared Housing, and by Owners and Families that participate in these arrangements.

(2) Subpart C implements section 211 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, as it pertains to the Section 8 Certificate program. Section 211 amended section 8 of the United States Housing Act of 1937, by requiring HUD to permit assistance in shared housing arrangements in the Section 8 Existing Housing and Moderate Rehabilitation programs for eligible Elderly Families. That provision also directed HUD to issue minimum habitability standards to ensure that shared housing is decent, safe, and sanitary, taking into account the special circumstances of this type of housing. As a matter of discretion, HUD has expanded the scope of Shared Housing to permit all eligible Families, not just Elderly Families, to participate in Shared Housing, and thus benefit from this type of living arrangement.

(b) *Eligible units.* Units in structures of various types may be used for Shared Housing, including single family houses and multifamily buildings. The unit must satisfy the housing quality standards in § 882.109. Manufactured homes for which assistance is provided under Subpart F are not eligible for Shared Housing.

§ 882.302 Definitions.

In addition to the definitions set forth in §§ 812.2, 813.102 and 882.102, the following apply:

Common space. Space available for use by the assisted Family(ies) and other occupants of the unit. (See the housing quality standards in § 882.109(q).)

Individual lease shared housing. The type of Shared Housing in which the PHA enters into a separate HAP Contract for each assisted Family residing in a Shared Housing unit.

Private space. The portion of the dwelling unit that is for the exclusive use of an assisted Family. (See the housing quality standards in § 882.109(q).)

Related lease shared housing. The type of Shared Housing in which the PHA enters into a single HAP Contract for two assisted Families residing in a Shared Housing unit.

Shared housing. As defined in Part 813 of this chapter. Shared Housing must meet the housing quality standards in § 882.109(q).

Sharing family. In Related Lease Shared Housing, one of the two Families assisted under the HAP Contract.

§ 882.305 Types of shared housing and applicable requirements.

(a) Shared Housing types. There are two types of Shared Housing authorized under this Subpart C: Individual Lease Shared Housing and Related Lease Shared Housing. Sections 882.310–882.330 govern both types of Shared Housing. Section 882.335 contains special requirements for Related Lease Shared Housing.

(b) *Applicable requirements.* Except as modified by this Subpart C, the requirements of Subpart A and B of this Part apply to Shared Housing.

§ 882.310 PHA administration of shared housing.

(a) *PHA election.* A PHA is not required to permit use of Shared Housing in its Section 8 Certificate program. If the PHA decides to permit Shared Housing, it may elect to permit use of Individual Lease Shared Housing or Related Lease Shared Housing, or both. At any time, a PHA may change a decision to include Shared Housing in its program, or change the type(s) of Shared Housing included in its program. However, the PHA must continue to administer, in accordance with applicable requirements, any Shared Housing Contracts that it has executed.

(b) *Administrative plan.* (1) If the PHA decides to permit Shared Housing in its program, or to change or discontinue Shared Housing, it must submit an amendment to its administrative plan for HUD approval.

(2) The administrative plan must state the type(s) of Shared Housing included in the PHA's program and the PHA's policies for operating Shared Housing. The plan may contain policies providing for special treatment in the issuance and use of Certificates to facilitate, in the case of Related Lease Shared Housing, the initial pairing of Families for assistance or the replacement of a Shared Family that has left the unit (see § 882.335(a)). The plan may not contain policies providing for special treatment in the issuance and use of Certificates in Individual Lease Shared Housing. Except for restrictions on the initial use of Certificates in the case of Related Lease Shared Housing (see § 882.335(a)(2)(i), the plan may not set aside Certificates for, or otherwise restrict the use of Certificates to, Shared Housing.

(Information collection requirements contained in paragraph (b) of this section have been approved by the Office of Management and Budget under control number 2502–0123.)

§ 882.315 Occupancy of a shared housing unit.

(a) *Who may share a unit.* (1) Persons who are not assisted under the Section 8 Certificate program may reside in a Shared Housing unit.

(2) Except for a one-bedroom unit, an Owner of a Shared Housing unit may reside in the unit, and a resident Owner may enter into a Contract with the PHA. However, housing assistance may not be provided on behalf of the Owner. An assisted person may not be related to a resident Owner.

(3) One or more Families assisted under Individual Lease Shared Housing may reside in a Shared Housing unit, if the unit meets the housing quality standards contained in § 882.109(q).

(4) Only two Families may be assisted in a unit under Related Lease Shared Housing.

(5) A PHA may not execute Contracts for Individual Lease Shared Housing and for Related Lease Shared Housing with respect to the same unit.

(b) *Size of unit and Family space.* (1) The number of bedrooms in the Private Space of an assisted Family may be less than the number stated on the Family's Certificate. However, the PHA may not approve a Lease or execute a Contract for Shared Housing unless the unit, and the portion of the unit available for use by the assisted Family under its Lease, meet the housing quality standards under § 882.109.

(2) Residents of the unit may share its Common Space. However, persons other than members of the assisted Family may not use the Family's Private Space.

(3) The PHA must issue a participant Family a new Certificate, assist the Family in locating another unit, and terminate the Contract in accordance with its terms, if the portion of the unit available for use by the assisted Family under its Lease, is not Decent, Safe, and Sanitary because of an increase in Family size, or a change in Family composition after PHA approval of the Lease.

(4) The PHA must issue a participant Family a new Certificate, assist the Family in locating another unit, and terminate the Contract in accordance with its terms, if all of the following apply:

(i) The number of bedrooms in the Family's Private Space is larger than appropriate under the Occupancy Standards in effect when the PHA approved the Lease (or the current Occupancy Standards, if higher). (The PHA must notify the family that exceptions to the Occupancy Standards may be granted and of the circumstances in which the PHA will grant an exception.);

(ii) The current Fair Market Rent (or higher rent approved by the PHA in accordance with § 882.106(a) (3) or (4)) for a unit with the number of bedrooms appropriate for the Family under the Occupancy Standards in effect when the PHA approved the Lease (or the current Occupancy Standards, if higher), is less than the Family's Gross Rent; and

(iii) An acceptable unit is found that is available for the Family's occupancy.

(5) Sections 882.209(i) and 882.213 do not apply to Shared Housing.

§ 882.320 Initial contract rent.

(a) *General.* The maximum initial Gross Rent and Contract Rent for Shared Housing will be determined in accordance with § 882.106, as modified by this section.

(b) *Fair Market Rent limitation.* The PHA applies the Fair Market Rent limitation in § 882.106(a), by not permitting the initial Gross Rent for a Family to exceed the Pro Rata Portion of the published Fair Market Rent for the entire unit.

(c) *Rent reasonableness limitation.* The PHA applies the rent reasonableness limitation in § 882.106(b), by taking the following actions for determining rent under each Shared Housing Contract:

(1) Certifying that the Contract Rent for a Family does not exceed the Pro Rata Portion of a reasonable rent for the entire unit, as determined under the standards in § 882.106(b)(1)(i);

(2) Certifying that the Contract Rent for a Family does not exceed rents currently being charged by the Owner for comparable unassisted units; and

(3) Following the requirements of §§ 882.106 (b)(2) and (b)(3).

(d) *Limit on each Family's Gross Rent.* In addition to the Fair Market Rent and rent reasonableness limits in paragraphs (c) and (d) of this section, the Gross Rent for each assisted Family may not exceed the current Fair Market Rent (or higher rent approved by the PHA in accordance with § 882.106(a) (3) or (4)) for a unit with the number of bedrooms stated on the Family's Certificate.

(e) *Proration.* For purposes of this section, the "Pro Rata Portion" is calculated by multiplying the amounts specified in paragraphs (b) and (c) of this section by a ratio derived by dividing the number of bedrooms in the Private Space available for occupancy by an assisted Family by the total number of bedrooms in the unit. For example, for an assisted Family entitled to occupy three bedrooms of a five-bedroom unit, the ratio would be ⅗. In the special case of two individuals sharing a one-bedroom unit, the ratio for the assisted Family is ½.

§ 882.325 Contract rent adjustments.

The Contract Rent for a Family will be adjusted in accordance with § 882.108(a), using the annual adjustment factor for the rent for the entire unit. The adjustment may not result in an adjusted Contract Rent under a Shared Housing Contract that exceeds the rent reasonableness limitation applied in accordance with § 882.320(c) at the time of adjustment.

§ 882.330 Tenant rent and total tenant payment.

The Total Tenant Payment and Tenant Rent for each Family are determined in accordance with Part 813 of this Chapter, based on the Family's Income.

§ 882.335 Special requirements for related lease shared housing.

(a) *Administrative plan.* (1) In the case of Related Lease Shared Housing, the administrative plan may contain policies providing for special treatment in the issuance and use of Certificates to facilitate the initial pairing of Families for assistance or the replacement of a Sharing Family that has vacated the unit.

(2) The administrative plan may permit a Certificate-holder, or a Sharing Family that is seeking to replace a Sharing Family that has vacated the unit, to locate a Family with which to share a unit from among applicants on the waiting list, who will then be issued a Certificate. The PHA may prescribe procedures for the use of the waiting list for this purpose, including limits on the number of applicants the Family may review and their place on the list.

(i) The PHA must require an applicant Family that is issued a Certificate on the basis of its willingness to share a unit with a particular Family to use the Certificate for occupancy of a unit with that Family under a Contract for Related Lease Shared Housing. Where a Certificate is issued to a Family on this basis, the restriction contained in § 882.209(a)(4)(iii)(A) (forbidding a selection preference based on the identity or location of the housing that is proposed to be occupied by an applicant), and the "Finders-Keepers" policy under § 882.103, do not apply to the initial use of the Certificate. However, if the Family later wants to move to another dwelling unit with continued participation in the PHA's program (see § 882.209(m)(1)), § 882.103 applies and the Family may select a dwelling unit in any area where the PHA is not legally barred from entering into Contracts.

(ii) If an applicant Family is intially issued a Certificate on the basis of its willingness to share a unit with a Family under a Contract for Related Lease Shared Housing, the PHA may not issue a new Certificate under § 882.209(m)(1) to the Family within 12 months of issuance of the initial Certificate, and the PHA must return the Family to the waiting list. The PHA may, at its discretion, deny such a Family's request for a new Certificate made 12 months or later after the issuance of the initial Certificate, and return the Family to the waiting list as an applicant for participation in the program. Under either of these circumstances, the position on the waiting list to which the Family is to be returned, is the place the Family would have had if it had not been given the initial Certificate.

(b) *Procedure to Establish Related Lease Shared Housing.* (1) To establish Related Lease Shared Housing, the two Families to be assisted must jointly request PHA approval of the proposed Leases, in accordance with § 882.209(e)(2).

(2) The request for PHA approval of the Leases must specify the proposed initial Contract Rent for occupany by each Family. The PHA may not approve the Leases or enter into a Contract with the Owner, unless the proposed Contract Rent and Gross Rent for each Family is approvable (see § 882.320).

(3) The PHA may not approve Leases for Shared Housing unless it has first inspected the unit and determined that the housing complies with housing quality standards for Shared Housing, as established by the PHA in accordance with § 882.109 (see § 882.209(h)).

(4) (i) The Leases for each of the Sharing Families must be approved by the PHA, and must be in accordance with the requirements of § 882.209(j)(1) and this section. The PHA may specify provisions (in addition to, and consistent with, provisions required by HUD) for inclusion in Shared Housing Leases.

(ii) The Leases must provide that if one Sharing Family vacates the unit the remaining Family must promptly locate another Family that wants to occupy the unit as a Sharing Family and that is acceptable to the Owner. Failure to comply with this requirement constitutes a serious violation of the Lease.

(iii) The Lease for a successor Sharing Family must be approved by the PHA, and must be in accordance with the requirements of this paragraph.

(5) After the PHA approves the Leases for the initial Sharing Families and copies of both executed Leases have been furnished to the PHA, the PHA will execute a single Contract for the two Families. The Contract must be in the form that HUD prescribes for Related Lease Shared Housing. (For provisions on approval or disapproval of Leases and execution of required documents, see §§ 882.209 (k) and (l).) A new Contract will not be entered into when a successor Sharing Family executes a Lease.

(6) The Contract must specify the beginning date of the Contract term, and the Leases for the initial Sharing Families assisted under the Contract will both begin on that date.

(c) *Vacancies.* (1)(i) A Sharing Family must immediately notify the Owner and the PHA when it learns that the other Sharing Family plans to vacate, or has vacated, the unit.

(ii) The Owner must immediately notify the PHA upon learning that a Sharing Family plans to vacate, or has vacated, the unit.

(2) If one of the Sharing Families vacates the unit, but the other Family remains in occupancy, the following requirements apply:

(i) If the remaining Sharing Family wants to continue to receive assistance under the Contract, it must try to find a successor Sharing Family acceptable to the Owner. The PHA will approve the Lease between the Owner and the successor Sharing Family, in accordance with paragraph (b) of this section. The PHA may not approve the Lease of a successor Sharing Family, unless the remaining Sharing Family agrees to occupancy by the successor Family.

(ii) The Contract will automatically terminate at the end of the calendar month after the calendar month in which the Sharing Family vacated the unit, unless the Owner and a successor Sharing Family execute a Lease approved by the PHA for a term beginning not later than the first day after the Contract would otherwise have terminated.

(iii) If there is a successor Sharing Family, the Contract Rent for the successor Sharing Family will be the same as the Contract Rent that would have been payable for the Family it is replacing. If the successor Sharing Family is not in occupancy for a full calendar month at the beginning of its occupancy, the Contract Rent for the month must be prorated in accordance with HUD requirements.

(iv) The PHA will issue the remaining Sharing Family a new Certificate, upon request, in accordance with § 882.209(m)(1), consistent with paragraph (a)(2) of this section.

(3) If a Sharing Family vacates the unit, the Owner will receive the housing assistance payments due under the Contract for the Family for that part of the month in which the Family vacates the unit as the Family's portion of the unit is vacant. For the next month, if the Family's portion of the unit continues to remain vacant, the Owner will receive a housing assistance payment equal to 80 percent of the Contract Rent for the Family that vacated the unit. However, if the Owner collects any of the Family's share of the rent for this period, the payment must be reduced to an amount which when added to the Family's payment, does not exceed 80 pecent of the Contract Rent for the Family. Any excess must be reimbursed to the PHA.

(d) *Termination of assistance for Sharing Family.* The Contract will terminate if the PHA terminates assistance to either Sharing Family as provided by § 882.210, including termination for failure of a Sharing Family to submit required evidence of citizenship or eligible alien status in accordance with § 812.5. The PHA must notify the Owner of Contract termination, and the Contract will terminate at the end of the calendar month after the calendar month in which the PHA gives the notice to the Owner. The PHA will issue the remaining Sharing Family another Certificate in accordance with § 882.209(m)(1), consistent with paragraph (a)(2) of this section.

(Information collection requirements contained in paragraph (a) of this section have been approved by the Office of Management and Budget under control number 2502-0123)

§ 882.605 [Amended]

20. In § 882.605(a), the words "and (d)" are added after "882.106(c)".

Dated: June 5, 1986.

Silvio J. DeBartolomeis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

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June 11, 1986

Part V

Panama Canal Commission

35 CFR Part 257

Enforcement of Nondiscrimination on the Basis of Handicap in Commission Programs; Notice of Proposed Rulemaking

PANAMA CANAL COMMISSION

35 CFR Part 257

Enforcement of Nondiscrimination on the Basis of Handicap In Panama Canal Commission Programs

AGENCY: Panama Canal Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to certain programs or activities conducted by Panama Canal Commission.

DATES: To be assured of consideration, comments must be in writing and must be received on or before October 9, 1986. Comments should refer to specific sections in the regulation.

ADDRESSES: Comments should be sent to either of the following individuals: Mr. Michael Rhode, Jr., Office of the Secretary, Panama Canal Commission, Suite 550, 2000 L Street NW., Washington, DC 20036 (tel. no. 202–634–6441 TDD) or Mr. John L. Haines, Jr., General Counsel, Panama Canal Commission, APO Miami 34011 (tel. no. 011–507–52–7511).

Comments received will be available for public inspection in the Office of the Secretary, Suite 550, 2000 L Street NW., Washington, DC. They may be obtained at the above address. Copies of this notice are available on tape for those with impaired vision.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Rhode, Jr., Office of the Secretary, Panama Canal Commission, Suite 550, 2000 L Street, NW., Washington, DC. 20036 or Mr. John L. Haines, Jr., General Counsel, Panama Canal Commission, APO Miami 34011.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this proposed rule is to provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), as it applies to certain programs and activities conducted by Panama Canal Commission. As amended by the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Sec. 119, Pub. L. 95–602, 92 Stat. 2982), section 504 of the Rehabilitation Act of 1973 states that:

> No otherwise qualified handicapped individual in the United States, . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, the Developmental Disabilities Act of 1978. Copies of any proposed regulation shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date on which such regulation is so submitted to such committees.

The substantive nondiscrimination obligations of the agency, as set forth in the proposed rule, are identical, for the most part, to those established by Federal regulations for programs or activities receiving Federal financial assistance. *See* 28 CFR Part 41 (section 504 coordination regulation for federally assisted programs). This general equivalence is in accord with the intention expressed by supporters of the 1978 amendment during debate on the floor of the House of Representatives that the Federal Government should have the same obligations under section 504 as recipients of Federal financial assistance. 124 Cong. Rec. 13,901 (1978) (remarks of Rep. Jeffords); 124 Cong. Rec. E2668, E2670 (daily ed. May 17, 1978) (remarks of Rep. Jeffords); 124 Cong. Rec. 13,897 (remarks of Rep. Brademas); 124 Cong. Rec. at 38,552 (remarks of Rep. Sarasin).

This regulation is based on a prototype prepared by the Department of Justice under Executive Order 12250 (45 FR 72995, 3 CFR, 1980 Comp., p. 298), and has been reviewed by the Department of Justice. This regulation has also been reviewed by the Equal Employment Opportunity Commission under Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206).

This regulation is not a major rule within the meaning of Executive Order 12291 (46 FR 13193, 3 CFR, 1981 Comp., p. 127) and, therefore, a regulatory impact analysis has not been prepared.

This regulation does not have an impact on small entities and is not, therefore, subject to the Regulatory Flexiblity Act (5 U.S.C. 601–612).

Section-by-Section Analysis

Section 257.101 Purpose.

Section 257.101 states the purpose of the proposed rule, which is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Development Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973, to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

Section 257.102 Application.

The proposed regulation applies to all programs or activities conducted by the agency except for programs or activities conducted outside the United States which do not involve handicapped persons in the United States.

Section 257.103 Definitions.

"Agency." For purposes of this regulation "agency" means the Panama Canal Commission.

"Assistant Attorney General." "Assistant Attorney General" refers to the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids." "Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in and enjoy the benefits of the agency's programs or activities. The definition provides examples of commonly used auxiliary aids. Although auxiliary aids are required explicity only by § 257.160(a)(1), they may also be necessary to meet other requirements of the regulation.

"Complete complaint." The definition of "complete complaint" enables the agency to determine the beginning of its obligation to investigate a complaint. *See* § 257.170(d).

"Facility." The definition of "facility" is similar to that in the section 504 coordination regulation for federally assisted programs, 28 CFR 41.3(f), except that the phrase "or interest in such property" has been deleted and the phrase "rolling stock or other conveyances" has been added. The phrase, "or interest in such property," is deleted, because the term "facility" as used in this regulation, refers to structures and not to intanglible property rights. It should, however, be noted that the regulation applies to all programs and activities conducted by the agency involving handicapped persons in the United States, regardless of whether the facility in which they are conducted is owned, leased, or used on some other basis by the agency. The term "facility" is used in §§ 257.149, 257.150 and 257.170(f).

"Handicapped person." The definition of "handicapped person" is identical to the definition appearing in the section 504 coordination regulation for federally assisted programs. 28 CFR 41.31.

"Qualified handicapped person." The definition of "qualified handicapped person" is a revised version of the

definition appearing in the section 504 coordination regulation for federally assisted programs 28 CFR 41.32.

Paragraph (1) deviates from existing regulations for federally assisted programs because of intervening court decisions. It defines "qualified handicapped person" with regard to any program under which a person is required to perform services or to achieve a level of accomplishment. In such programs a qualified handicapped person is one who can achieve the purpose of the program without modifications in the program that would result in a fundamental alteration in its nature. This definition reflects the decision of the Supreme Court in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979). In that case, the Court ruled that a hearing-impaired applicant to a nursing school was not a "qualified handicapped person" because her hearing impairment would prevent her from participating in the clinical training portion of the program. The Court found that, if the program were modified so as to enable the respondent to participate (by exempting her from the clinical training requirements), "she would not receive even a rough equivalent of the training a nursing program normally gives." Id. at 410. It also found that "the purpose of [the] program was to train persons who could serve the nursing profession in all customary ways," id. at 413, and that the respondent would be unable, because of her hearing impairment, to perform some functions expected of a registered nurse. It therefore concluded that the school was not required by section 504 to make such modifications that would result in "a fundamental alteration in the nature of the program." Id. at 410.

We have incorporated the Court's language in the definition of "qualified handicapped person" in order to make clear that such a person must be able to participate in the program offered by the agency. The agency is required to make modifications in order to enable a handicapped applicant to participate, but is not required to offer a program of a fundamentally different nature. The test is whether, with appropriate modifications, the applicant can achieve the purpose of the program offered; not whether the applicant could benefit or obtain results from some other program that the agency does not offer. Although the revised definition allows exclusion of some handicapped people from some programs, it requires that a handicapped person who is capable of achieving the purpose of the program must be accommodated, provided that the modifications do not fundamentally alter the nature of the program.

The agency has the burden of demonstrating that a proposed modification would constitute a fundamental alteration in the nature of its program or activity. Furthermore, in demonstrating that a modification would result in such an alteration, the agency must follow the procedures established in § 257.150(a) and § 257.160(d), which are discussed below, for demonstrating that an actiion would result in undue financial and administrative burdens. That is, the decision must be made by the agency head in writing after consideration of all resources available for the program or activity and must be accompanied by an explanation of the reasons for the decision. If the agency head determines that an action would result in a fundamental alteration, the agency must consider options that would enable the handicapped person to achieve the purpose of the program but would not result in such an alteration.

"Qualified handicapped person" is defined for purposes of employment in 29 CFR 1613.702(f), which is made applicable to this part by § 257.140(2) of this rule.

For programs or activities that do not fall under the first two paragraphs, paragraph (3) adopts the existing definition of "qualified handicapped person" with respect to services in the coordination regulation for programs receiving Federal financial assistance. 28 CFR 41.32(b). Under this definition, a qualified handicapped person is a handicapped person who meets the essential eligibility requirements for participation in the program or activity.

"Section 504." This definition makes clear that, as used in this regulation, "section 504" applies only to programs or activities conducted by the agency and not to programs or activities to which it provides Federal financial assistance.

Section 257.110 Self-evaluation.

The agency shall conduct a self-evaluation of its compliance with section 504 within one year of the effective date of this regulation. This process shall include consultation with interested persons, including consultation with handicapped persons or organizations representing handicapped persons. The self-evaluation requirement is present in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance. 28 CFR 41.5(b)(2). Experience has demonstrated the self-evaluation process to be a valuable means of establishing a working relationship with handicapped persons that promotes both effective and efficient implementation of section 504.

Section 257.111 Notice.

Section 257.111 requires the agency to disseminate sufficient information to employees, applicants, participants, beneficiaries, and other interested persons to apprise them of rights and protections afforded by section 504 and this regulation. Methods of providing this information include, for example, the publication of information in handbooks, manuals, and pamphlets that are distributed to the public to describe the agency's programs and activities; the display of informative posters in service centers and other public places; or the broadcast of information by television or radio.

Section 257.130 General prohibitions against discrimination.

Section 257.130 is an adaptation of the corresponding section of the section 504 coordination regulation for programs or activities receiving Federal financial assistance. 28 CFR 41.51.

Paragraph (a) restates the nondiscrimination mandate of section 504. The remaining paragraphs in § 257.130 establish the general principles for analyzing whether any particular action of the agency violates this mandate. These principles serve as the analytical foundation for the remaining sections of the regulation. Whenever the agency has violated a provision in any of the subsequent sections, it has also violated one of the general prohibitions found in § 257.130. When there is no applicable subsequent provision, the general prohibitions stated in this section apply.

Paragraph (b) prohibits overt denials of equal treatment of handicapped persons. The agency may not refuse to provide a handicapped person with an equal opportunity to participate in or benefit from its program simply because the person is handicapped. Such blatantly exclusionary practices often result from the use of irrebuttable presumptions that absolutely exclude certain classes of disabled persons (e.g., epileptics, hearing-impaired persons, persons with heart ailments) from participation in programs or activities without regard to an individual's actual ability to participate. Use of an irrebuttable presumption is permissible only when in all cases a physical condition by its very nature would prevent an individual from meeting the essential eligibility requirements for participation in the activity in question. The Department of Justice has said, for

example, in the prototype regulations that it would be permissible to exclude without an individual evaluation all persons who are blind in both eyes from eligibility for a license to operate a commercial vehicle in interstate commerce; but it may not be permissible to disqualify automatically all those who are blind in just one eye.

Section 504, however, prohibits more than just the most obvious denials of equal treatment. It is not enough to admit persons in wheelchairs to a program if the facilities in which the program is conducted are inaccessible. Paragraph (b)(1)(iii), therefore, requires that the opportunity to participate or benefit afforded to a handicapped person be as effective as that afforded to others. The later sections on program accessibility (§§ 257.149, 257–150 and 257.151 and communications (§ 257.160) are specific applications of this principle.

Despite the mandate of paragraph (d) that the agency administer its programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons, paragraph (b)(1)(iv), in conjunction with paragraph (d), permits the agency to develop separate or different aids, benefits, or services when necessary to provide handicapped persons with an equal opportunity to participate in or benefit from the agency's programs or activities. Paragraph (b)(1)(iv) permits different or separate aids, benefits, or services to be provided to handicapped persons only when necessary to ensure that the aids, benefits, or services are as effective as those provided to others. Even when separate or different aids, benefits or services would be more effective, paragraph (b)(2) provides that a qualified handicapped person still has the right to choose to participate in the program that is not designed to accommodate handicapped persons.

Paragraph (b)(1)(v) prohibits the agency from limiting a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving any aid, benefit, or service.

Paragraph (b)(3) prohibits the agency from utilizing criteria or methods of administration that deny handicapped persons access to the agency's programs or activities. The phrase "criteria or methods of administration" refers to official written agency policies and the actual practices of the agency. This paragraph prohibits both blatantly exclusionary policies or practices and nonessential policies and practices that are neutral on their face, but deny handicapped persons an effective opportunity to participate.

Paragraph (b)(4) specifically applies the prohibition enunciated in § 257.130(b)(3) to the process of selecting sites for construction of new facilities or existing facilities to be used by the agency. Paragraph (b)(4) does not apply to construction of additional buildings at an existing site.

Paragraph (b)(5) prohibits the agency, in the selection of procurement contractors, from using criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

Paragraph (c) provides that programs conducted pursuant to Federal statute or Executive order that are designed to benefit only handicapped persons or a given class of handicapped persons may be limited to those handicapped persons.

Section 257.140 Employment.

Section 257.140 prohibits discrimination on the basis of handicap in employment. Courts have held that section 504, as amended in 1978, covers the employment practices of Executive agencies. *Gardner* v. *Morris*, 752 F.2d 1271, 1277 (8th Cir. 1985); *Smith* v. *U.S. Postal Service*, 742 F.2d 257, 259–260 (6th Cir. 1984); *Prewitt* v. *U.S. Postal Service*, 662 F.2d 292, 302–304 (5th Cir. 1981). *Contra McGuinness* v. *U.S. Postal Service*, 752 F.2d 410, 413–414 (9th Cir. 1985).

Courts uniformly have held that in order to give effect to section 501 of the Rehabilitation Act, which covers Federal employment, the administrative procedures of section 501 must be followed in processing complaints of employment discrimination under section 504. *Smith*, 742 F.2d at 262, *Prewitt*, 662 F.2d at 304.

Accordingly, § 257.140 (Employment) of this rule adopts the definitions, requirements, and procedures of section 501 as established in regulations of the Equal Employment Opportunity Commission (EEOC) at 29 CFR Part 1613. (It should be noted, however, that section 501 and 29 CFR Part 1613 apply not only to handicapped persons in the United States but also to the employment of U.S. citizens outside the United States.) In addition to this section, § 257.170(b) of this regulation specifies that the agency will use the existing EEOC procedures to resolve allegations of employment discrimination. Responsibility for coordinating enforcement of Federal laws prohibiting discrimination in employment is assigned to the EEOC by Executive Order 12067 (43 FR 28967, 3 CFR, 1978 Comp., p. 206). Under this authority, the EEOC establishes government-wide standards on nondiscrimination in employment on the basis of handicap.

Section 257.149 Program accessibility: Discrimination Prohibited.

Section 257.149 states the general nondiscrimination principles underlying the program accessibility requirements of §§ 257.150 and 257.151.

Section 257.150 Program accessibility: Existing facilities.

This regulation adopts the program accessibility concept found in the existing section 504 coordination regulation for programs or activities receiving Federal financial assistance (28 CFR 41.56 through 41.58), with certain modifications. Thus, § 257.150 requires that the agency's program or activity, when viewed in its entirety, be readily accessible to and usable by handicapped persons. The regulation also makes clear that the agency is not required to make each of its existing facilities accessible [§ 257.150(a)(1)]. However, § 257.150, unlike 28 CFR 41.56 and 41.57, places explicit limits on the agency's obligation to ensure program accessibility [§ 257.150(a)(2), (a)(3)].

Paragraph (a)(2) generally codifies case law that defines the scope of the agency's obligation to ensure program accessibility. This paragraph provides that in meeting the program accessibility requirement the agency is not required to take any action that would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. A similar limitation is provided in § 257.160(d). This provision is based on the Supreme Court's holding in *Southeastern Community College* v. *Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, and on the Court's statement that section 504 does not require modifications that would result in "undue financial and administrative burdens." 442 U.S. at 412. Since *Davis*, circuit courts have applied this limitation on a showing that only one of the two undue burdens would be created as a result of the modification sought to be imposed under section 504. See also, *Dopico* v. *Goldschmidt*, 687 F.2d 644 (2d Cir. 1982); *American Public Transit Association* v. *Lewis*, 655 F.2d 1272 (D.C. Cir. 1981) (cited as *APTA*). In *APTA* the United States Court of Appeals for the District of Columbia Circuit applied the *Davis* language and invalidated the section 504 regulations of the Department of Transportation. The court in *APTA* noted "that at some

point a transit system's refusal to take modest, affirmative steps to accommodate handicapped persons might well violate section 504. But DOT's rules do not mandate only modest expenditures. The regulations require extensive modifications of existing systems and impose extremely heavy financial burdens on local transit authorities." 655 F.2d at 1278.

The inclusion of paragraph (a)(3) is an effort to conform the agency's regulation implementing section 504 to the Supreme Court's interpretation of the statute in *Davis* as well as to the decisions of lower courts following the *Davis* opinion. This paragraph acknowledges, in light of recent case law, that in some situations, certain accommodations for a handicapped person may so alter an agency's program or activity, or entail such extensive costs and administrative burdens that the refusal to undertake the accommodations is not discriminatory. The failure to include such a provision could lead to judicial invalidation of the regulation or reversal of a particular enforcement action taken pursuant to the regulation.

This paragraph, however, does not establish an absolute defense; it does not relieve the agency of all obligations to handicapped persons. Although the agency is not required to take actions that would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens, it nevertheless must take any other steps necessary to ensure that handicapped persons receive the benefits and services of the federally conducted program or activity.

In determining under § 257.150 whether the financial and administrative burdens on the agency are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with section 257.150(a) would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burden rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head and must be accompanied by a written statement of the reasons for reaching that conclusion. It is our view that compliance with § 257.150 would in most cases not result in undue financial and administrative burdens on the agency. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 257.170.

Paragraph (b)(1) sets forth a number of means by which program accessibility may be achieved, including redesign of equipment, reassignment of services to accessible buildings, and provision of aides. In choosing among methods, the agency shall give priority consideration to those that will be consistent with provision of services in the most integrated setting appropriate to the needs of handicapped persons. Structural changes in existing facilities are required only when there is no other feasible way to make the agency's program accessible. The agency may comply with the program accessibility requirement by delivering services at alternate accessible sites or making home visits as appropriate.

Paragraphs (c) and (d) establish time periods for complying with the program accessibility requirement. As currently required for federally assisted programs by 28 CFR 41.57(b), the agency must make any necessary structural changes in facilities as soon as practicable, but in no event later than three years after the effective date of this regulation. Where structural modifications are required, a transition plan shall be developed within six months of the effective date of this regulation. Aside from structural changes, all other necessary steps to achieve compliance shall be taken within sixty days.

Section 257.151 Program accessibility: New construction and alterations.

Overlapping coverage exists with respect to new construction under section 504, section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), and the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). Section 257.151 provides that those buildings that are constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered to be readily accessible to and usable by handicapped persons in accordance with 41 CFR 101–19.600 through 101–19.607. This standard was promulgated pursuant to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157). We believe that it is appropriate to adopt the existing Architectural Barriers Act standard for section 504 compliance because new and altered buildings subject to this regulation are also subject to the Architectural Barriers Act and because adoption of the standard will avoid duplicative and possibly inconsistent standards.

Existing buildings leased by the agency after the effective date of this regulation are not required to meet the new construction standard. They are subject, however, to the requirements of § 257.150.

Section 257.160 Communications.

Section 257.160 requires the agency to take appropriate steps to ensure effective communication with personnel of other Federal entities, applicants, participants, and members of the public. These steps shall include procedures for determining when auxiliary aids are necessary under § 257.160(a)(1) to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, the agency's program or activity. They shall also include an opportunity for handicapped persons to request the auxiliary aids of their choice. This express choice shall be given primary consideration by the agency (§ 257.160(a)(1)(i)). The agency shall honor the choice unless it can demonstrate that another effective means of communication exists or that use of the means chosen would not be required under § 257.160(d). That paragraph limits the obligation of the agency to ensure effective communication in accordance with *Davis* and the circuit court opinions interpreting it. (See discussion above, of § 257.150(a)(3).) Unless not required by § 257.160(d), the agency shall provide auxiliary aids at no cost to the handicapped person.

In determining whether financial and administrative burdens of compliance with § 257.160 are undue, all agency resources available for use in the funding and operation of the conducted program or activity should be considered. The burden of proving that compliance with § 257.160 would fundamentally alter the nature of a program or activity or would result in undue financial and administrative burdens rests with the agency. The decision that compliance would result in such alteration or burdens must be made by the agency head and must be accompanied by a written statement of the reasons for reaching that conclusion. It is our view that compliance with § 257.160 would in most cases not result in undue financial and administrative burdens on the agency. Any person who believes that he or she or any specific class of persons has been injured by the agency head's decision or failure to make a decision may file a complaint under the compliance procedures established in § 257.170.

In some circumstances, a notepad and written materials may be sufficient to permit effective communication with a hearing-impaired person. In many circumstances, however, they may not

be, particularly when the information being communicated is complex or exchanged for a lengthy period of time (e.g., a meeting) or where the hearing-impaired applicant or participant is not skilled in spoken or written language. Then, a sign language interpreter may be appropriate. For vision-impaired persons, effective communication might be achieved by several means, including readers and audio recordings. In general, the agency intends to make clear to the public (1) the communications services it offers to afford handicapped persons an equal opportunity to participate in or benefit from its programs or activities, (2) the opportunity to request a particular mode of communication, and (3) the agency's preferences regarding auxiliary aids if it can demonstrate that several different modes are effective.

The agency shall ensure effective communication with vision-impaired and hearing-impaired persons involved in hearings conducted by the agency. Auxiliary aids must be afforded where necessary to ensure effective communication at the proceedings. If sign language interpreters are necessary, the agency may require that it be given reasonable notice prior to the proceeding of the need for an interpreter. Moreover, the agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature [§ 257.160(a)(1)(ii)]. For example, the agency need not provide eye glasses or hearing aids to applicants or participants in its programs. Similarly, the regulation does not require the agency to provide wheelchairs to persons with mobility impairments.

Paragraph (b) requires the agency to provide information to handicapped persons concerning accessible services, activities, and facilities. Paragraph (c) requires the agency to provide signs at inaccessible facilities that direct users to locations with information about accessible facilities.

Section 257.170 Compliance procedures.

Paragraph (a) specifies that paragraphs (c) through (l) of this section establish the procedures for processing complaints other than employment complaints. Paragraph (b) provides that the agency will process employment complaints according to procedures established in existing regulations of the EEOC (29 CFR Part 1613) pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

The agency is required to accept and investigate all complete complaints [§ 257.170(d)]. If it determines that it does not have jurisdiction over a complaint, it shall promptly notify the complainant and make reasonable efforts to refer the complaint to the appropriate entity of the Federal Government [§ 275.170(e)].

Paragraph (f) requires the agency to notify the Architectural and Transportation Barriers Compliance Board upon receipt of a complaint alleging that a building or facility subject to the Architectural Barriers Act or section 502 was designed, constructed, or altered in a manner that does not provide ready access to and use by handicapped persons.

Paragraph (g) requires the agency to provide to the complainant, in writing, findings of fact and conclusions of law, the relief granted if noncompliance is found, and notice of the right to appeal [section 257.170(g)]. One appeal within the agency shall be provided [section 257.170(i)]. The appeal will not be heard by the same person who made the initial determination of compliance or noncompliance [§ 257.170(i)].

Paragraph (l) permits the agency to delegate its authority for investigating complaints to other Federal agencies. However, the statutory obligation of the agency to make a final determination of compliance or noncompliance may not be delegated.

List of Subjects in 35 CFR Part 257

Blind, Civil rights, Deaf, Disabled, Discrimination against handicapped, Equal employment opportunity, Federal buildings and facilities, Handicapped, Nondiscrimination, Physically handicapped.

For the reasons set forth in the preamble, 35 CFR Chapter I is proposed to be amended as follows:

Dated: February 12, 1986.

D.P. McAuliffe,

Administrator.

A new Part 257 is added to read as follows:

PART 257—ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY PANAMA CANAL COMMISSION

Sec.

257.101 Purpose.
257.102 Application.
257.103 Definitions.
257.104—257.109 [Reserved]
257.110 Self-evaluation.
257.111 Notice.
257.112—257.129 [Reserved]
257.130 General prohibitions against discrimination.
257.131—257.139 [Reserved]
257.140 Employment.
257.141—257.148 [Reserved]
257.149 Program accessibility: Discrimination prohibited.
257.150 Program accessibility: Existing facilities.
257.151 Program accessibility: New construction and alterations.
257.152—257.159 [Reserved]
257.160 Communications.
257.161—257.169 [Reserved]
257.170 Compliance procedures.
257.171—257.999 [Reserved]

Authority: 29 U.S.C. 794

§ 257.101 Purpose.

The purpose of this part is to effectuate section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, which amended section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the United States Postal Service.

§ 257.102 Application.

This part applies to all programs or activities conducted by the agency except for programs or activities conducted outside the United States which do not involve handicapped persons in the United States.

§ 257.103 Definitions.

For purposes of this part, the term—

"Agency" means the Panama Canal Commission.

"Assistant Attorney General" means the Assistant Attorney General, Civil Rights Division, United States Department of Justice.

"Auxiliary aids" means services or devices that enable persons with impaired sensory, manual, or speaking skills to have an equal opportunity to participate in, and enjoy the benefits of, programs or activities conducted by the agency. For example, auxiliary aids useful for persons with impaired vision include readers, materials in Braille, audio recordings, and other similar services and devices. Auxiliary aids useful for persons with impaired hearing include telephone handset amplifiers, telephones compatible with hearing aids, telecommunication devices for deaf persons (TDD's), interpreters, notetakers, written materials, and other similar services and devices.

"Complete complaint" means a written statement that contains the complainant's name and address and describes the agency's actions in sufficient detail to inform the agency of the nature and date of the alleged violation of section 504. It shall be signed by the complainant or by

someone authorized to do so on his or her behalf. Complaints filed on behalf of classes or third parties shall describe or identify (by name, if possible) the alleged victims of discrimination.

"Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, rolling stock or other conveyances, or other real or personal property.

"Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment. As used in this definition, the phrase:

(1) "Physical or mental impairment" includes—

(i) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or

(ii) Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" includes functions such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means—

(i) Has a physical or mental impairment that does not substantially limit major life activities but is treated by the agency as constituting such a limitation;

(ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or

(iii) Has none of the impairments defined in subparagraph (1) of this definition but is treated by the agency as having such an impairment.

"Qualified handicapped person" means—

(1) With respect to any covered agency program or activity under which a person is required to perform services or to achieve a level of accomplishment, a handicapped person who meets the essential eligibility requirements and who can achieve the purpose of the program or activity without modifications in the program or activity that the agency can demonstrate would result in a fundamental alteration in its nature;

(2) With respect to employment, a handicapped person who meets the definition set forth in 29 CFR 1613.702(f), which is made applicable to this part by § 257.140; and

(3) With respect to any other covered program or activity, a handicapped person who meets the essential eligibility requirements for participation in, or receipt of benefits from, that program or activity.

"Section 504" means section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794)), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93–516, 88 Stat. 1617) and the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 (Pub. L. 95–602, 92 Stat. 2955). As used in this part, section 504 applies only to programs or activities conducted by Executive agencies and not to federally assisted programs.

§§ 25.104–257.109 [Reserved]

§ 257.110 Self-evaluation.

(a) The agency shall, within one year of the effective date of this part, evaluate, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons, its current policies and practices, and the effects thereof, that do not or may not meet the requirements of this part, and, to the extent modification of any such policies and practices is required, the agency shall proceed to make the necessary modifications.

(b) The agency shall, for at least three years following completion of the evaluation required under paragraph (a) of this section, maintain on file and make available for public inspection—

(1) A list of the interested persons consulted;

(2) A description of areas examined and any problems identified; and

(3) A description of any modifications made.

§ 257.111 Notice.

The agency shall make available to employees, applicants, participants, beneficiaries, and other interested persons such information regarding the provisions of this part and its applicability to the programs or activities conducted by the agency, and make such information available to them in such manner as the agency head finds necessary to apprise such persons of the protections against discrimination assured them by section 504 and this regulation.

§§ 257.112–257.129 [Reserved]

§ 257.130 General prohibitions against discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

(b)(1) The agency, in providing any aid, benefit, or service may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap—

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others; or

(v) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) The agency may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) The agency may not, directly or through contractual or other arrangements, utilize criteria or methods of administration for the purpose or effect of which would—

(i) Subject qualified handicapped persons to discrimination on the basis of handicap; or

(ii) Defeat or substantially impair accomplishment of the objectives of a program or activity with respect to handicapped persons.

(4) The agency many not, in determining the site or location of a facility, make selections the purpose or effect of which would—

(i) Exclude handicapped persons from, deny them the benefits of, or otherwise subject them to discrimination under any program or activity conducted by the agency; or

(ii) Defeat or substantially impair the accomplishment of the objectives of a program or activity with respect to handicapped persons.

(5) The agency, in the selection of procurement contractors, may not use criteria that subject qualified handicapped persons to discrimination on the basis of handicap.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by Federal statute or Executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by Federal statute or Executive order to a different class of handicapped persons is not prohibited by this part.

(d) The agency shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

§§ 257.131–257.139 [Reserved]

§ 257.140 Employment.

No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity conducted by the agency. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR Part 1613, shall apply to employment in federally conducted programs or activities.

§§ 257.141–257.148 [Reserved]

§ 257.149 Program accessibility: Discrimination prohibited.

Except as otherwise provided in § 257.150 no qualified handicapped person shall, because the agency's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the agency.

§ 257.150 Program accessibility: Existing facilities.

(a) *General.* The agency shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not—

(1) Necessarily require the agency to make each of its existing facilities accessible to and usable by handicapped persons; or

(2) Require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 257.150(a) would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action would result in such an alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens that would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity.

(b) *Methods*—(1) *General.* The agency may comply with the requirements of this section through such means as redesign of equipment, reassignment of services to accessible buildings, assignments of aides to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities, use of accessible rolling stock, or any other methods that result in making its programs or activities readily accessible to and usable by handicapped persons. The agency is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. The agency, in making alterations to existing buildings, shall meet accessibility requirements to the extent compelled by the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), and any regulations implementing it. In choosing among available methods for meeting the requirements of this section, the agency shall give priority to those methods that offer programs and activities to qualified handicapped persons in the most integrated setting appropriate.

(c) *Time period for compliance.* The agency shall comply with the obligations established under this section within sixty days of the effective date of this part except that where structural changes in facilities are undertaken, such changes shall be made within three years of the effective date of this part, but in any event as expeditiously as possible.

(d) *Transition plan.* In the event that structural changes to facilities will be undertaken to achieve program accessibility, the agency shall develop, within six months of the effective date of this part, a transition plan setting forth the steps necessary to complete such changes. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the transition plan shall be made available for public inspection. The plan shall, at a minimum—

(1) Identify physical obstacles in the agency's facilities that limit the accessibility of its programs or activities to handicapped persons;

(2) Describe in detail the methods that will be used to make the facilities accessible;

(3) Specify the schedule for taking the steps necessary to achieve compliance with this section, and if the time period of the transition plan is longer than one year, identify steps that will be taken during each year of the transition period;

(4) Indicate the official responsible for implementation of the plan; and

(5) Identify the person or groups with those assistance the plan was prepared.

§ 257.151 Program accessibility: New construction and alterations.

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of the agency shall be designed, constructed, or altered so as to be readily accessible to and usable by handicapped persons. The definitions, requirements, and standards of the Architectural Barriers Act (42 U.S.C. 4151–4157), as established in 41 CFR 101–19.600 to 101–19.607, apply to buildings covered by this section.

§§ 257.152–257.159 [Reserved]

§ 257.160 Communications.

(a) The agency shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public.

(1) The agency shall furnish appropriate auxiliary aids where necessary to afford a handicapped person an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the agency.

(i) In determining what type of auxiliary aid is necessary, the agency shall give primary consideration to the requests of the handicapped person.

(ii) The agency need not provide individually prescribed devices, readers for personal use or study, or other devices of a personal nature.

(2) Where the agency communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used.

(b) The agency shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) The agency shall provide signs at a primary entrance to each of its inaccessible facilities, directing users to a location at which they can obtain information about accessible facilities. The international symbol for accessibility shall be used at each primary entrance of an accessible facility.

(d) This section does not require the agency to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where agency personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the agency has the burden of proving that compliance with § 257.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the agency head after considering all agency resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such alteration or such burdens, the agency shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, handicapped persons receive the benefits and services of the program or activity.

§§ 257.161–257.169 [Reserved]

§ 257.170 Compliance procedures.

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of handicap in programs or activities conducted by the agency.

(b) The agency shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR Part 1613 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) Responsibility for implementation and operation of this section shall be vested in the Director of Equal Opportunity.

(d) The agency shall accept and investigate all complete complaints for which it has jurisdiction. All complete complaints must be filed within 180 days of the alleged act of discrimination. The agency may extend this time period for good cause.

(e) If the agency receives a complaint over which it does not have jurisdiction, it shall promptly notify the complainant and shall make reasonable efforts to refer the complaint to the appropriate government entity.

(f) The agency shall notify the Architectural and Transportation Barriers Compliance Board upon receipt of any complaint alleging that a building or facility that is subject to the Architectural Barriers Act of 1968, as amended (42 U.S.C. 4151–4157), or section 502 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 792), is not readily accessible to and usable by handicapped persons.

(g) Within 180 days of the receipt of a complete complaint for which it has jurisdiction, the agency shall notify the complainant of the results of the investigation in a letter containing—

(1) Findings of fact and conclusions of law;

(2) A description of a remedy for each violation found; and

(3) A notice of the right to appeal.

(h) Appeals of the findings of fact and conclusions of law or remedies must be filed by the complainant within 90 days of receipt by the complainant of decision required by § 257.170(g). The agency may extend this time for good cause.

(i) Timely appeals shall be accepted and processed by Administrator of the Panama Canal Commission.

(j) The agency shall notify the complainant of the results of the appeal within 60 days of the receipt of the request. If the agency determines that it needs additional information from the complainant, it shall have 60 days from the date it receives the additional information to make its determination on the appeal.

(k) The time limits cited in paragraphs (g) and (j) of this section may be extended with the permission of the Assistant Attorney General.

(l) The agency may delegate its authority for conducting complaint investigations to other Federal agencies, except that the authority for making the final determination may not be delegated.

§§ 257.171–257.999 [Reserved]

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Reader Aids

Federal Register

Vol. 51, No. 112

Wednesday, June 11, 1986

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

19747-19816.....2
19817-20244.....3
20245-20436.....4
20437-20606.....5
20607-20792.....6
20793-20952.....9
20953-21130.....10
21131-21322.....11

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5496.....19817
5497.....19819
5498.....20953
5499.....21131

5 CFR

Proposed Rules:
294.....20833
351.....21177

7 CFR

26.....20643
52.....20437, 21133
54.....21134
272.....20793
273.....20793
301.....21136
400.....20245
417.....20246
908.....20645
915.....20955
1006.....20446
1007.....20446
1011.....20446
1012.....20446
1013.....20446
1046.....20446
1093.....20446
1094.....20446
1096.....20446
1097.....20955
1098.....20446
1099.....20446
1136.....19821
1772.....19822
1951.....20465

Proposed Rules:
907.....20664
908.....20664
1065.....19846

8 CFR

100.....19824
103.....19824
204.....20794

9 CFR

Proposed Rules:
92.....20834
145.....20790
147.....20790
151.....19846

10 CFR

Proposed Rules:
810.....20978

12 CFR

265.....19825
330.....21137
622.....21138
623.....21138

Proposed Rules:
330.....20978
709.....19848

13 CFR

108.....20764, 20781
111.....20247
115.....20922
121.....20795
122.....20248

14 CFR

21.....20797
25.....20249
39.....20249-20251
71.....19825, 20801, 20802
97.....20956

Proposed Rules:
21.....20301
39.....19848, 19849, 20304-20308, 20495
71.....20834, 21178
73.....21179
75.....20978
91.....20979

15 CFR

377.....20252
385.....20467, 20468
399.....20467, 20468
981.....20958

16 CFR

13.....20469, 20803
303.....20803, 20807
455.....20936

Proposed Rules:
13.....20498, 20500, 20835
435.....20991

17 CFR

1.....21149
5.....21149
31.....21149
230.....20254

Proposed Rules:
240.....20504

18 CFR

410.....20960

19 CFR

4.....21152
6.....21152
10.....20810
24.....21152
111.....21152
123.....21152

145 21152
178 20810

20 CFR

395 20470
404 21156
416 21156
Proposed Rules:
10 20736
601 20991
655 20516

21 CFR

81 20786
82 20786
430 20262
442 20262
510 ..... 19826, 19828
522 20646
558 19828
740 20471
Proposed Rules:
20 19851
182 19851
186 19851
201 19853
314 20310

22 CFR

41 21157
42 21157
51 20475
510 20961
Proposed Rules:
508 20524

23 CFR

658 20817
Proposed Rules:
655 ..... 20840, 21180

24 CFR

13 19829
15 20476
201 21159
203 21159
207 20264
220 20264
221 20264
234 21159
236 20264
246 20264
251 20264
255 20264
511 20220
812 21300
813 21300
882 21300
Proposed Rules:
510 20312
570 20312

25 CFR

63 21160
64 21160
67 21160
68 21160
71 21160
72 21160
74 21160
77 21160

26 CFR

1 ..... 20274, 20480
602 20646

27 CFR

4 20480
Proposed Rules:
9 19853-19856

28 CFR

16 ..... 20274, 20276, 21161
544 21114

29 CFR

Ch. XXV 21163

30 CFR

402 20961
935 20818
944 20965
Proposed Rules:
250 20993
256 20993
901 ..... 19858, 20841
917 21184
931 20843

32 CFR

754 19830
806b 20277

33 CFR

81 20820
100 20821
117 20482
162 20823
Proposed Rules:
100 ..... 20534, 20844
165 20845
181 20993
183 20993

34 CFR

75 ..... 20823, 21163
79 20823
230 20825
231 20825
280 20414
682 20422
690 20422
Proposed Rules:
76 20408
653 20408

35 CFR

Proposed Rules
257 21314

36 CFR

211 19830
228 20825
Proposed Rules:
1 19858
3 19858
59 21124
72 21124

38 CFR

21 20827
Proposed Rules:
17 20846
21 20846

39 CFR

111 19831

40 CFR

52 ..... 19834-19836, 20284, 20285, 20646, 20967
60 ..... 20286, 20648, 21164
61 20648
81 ..... 20285, 20969
122 ..... 20426, 20828
157 21276
162 21276
180 ..... 21172, 21173
280 20418
300 21054
403 ..... 20426, 20828
704 19839
Proposed Rules:
52 20994
180 21186-21189
257 20671
261 19859
300 ..... 21099, 21109
721 21190

41 CFR

101-26 20828

42 CFR

Proposed Rules:
36 21118
53 20995
405 ..... 19970, 20435
412 ..... 19970, 20435

44 CFR

64 20971
Proposed Rules:
9 20535
220 20995
222 20315

45 CFR

1177 20483
1178 20974
Proposed Rules:
304 20673

46 CFR

160 20650
Proposed Rules:
31 20847
61 20847
71 20847
91 20847
167 20847
169 20847
189 20847
572 20535

47 CFR

Ch. I 20975
0 20289
1 20290
21 ..... 19839, 20290
25 20975
73 ..... 19841, 19842, 20291, 20292, 20650, 20975, 21174
74 19839
78 19839
94 19839
97 21175
Proposed Rules:
67 21000
73 ..... 19863, 19864, 20315-20317, 20674-20676, 21194, 21195
97 20676

48 CFR

Ch. 7 (App. B, C, F, G, H) 20651
25 20976
232 20651
252 20651
501 21175
702 20651
731 20651
752 20651
5242 19842
5252 19842
PHS 301 20485
PHS 304 20485
PHS 305 20485
PHS 306 20485
PHS 314 20485
PHS 315 20485
PHS 323 20485
PHS 333 20485
PHS 335 20485
PHS 336 20485
PHS 352 20485
PHS 380 20485
Proposed Rules:
1 20238
15 20238
30 20238
35 20238
52 20238
53 20238
230 19864
232 19865
253 19864
528 21195
552 21195

49 CFR

1 20831
192 20294
195 ..... 20294, 20976
1047 20976
1241 19844
Proposed Rules:
171 19866
172 19866
173 19866
174 19866
176 19866
177 19866
178 19866
179 19866
192 19878
571 20536

50 CFR

91 20977
402 19926
611 ..... 20297, 20652
630 20297
661 ..... 19844, 21175
671 19845
672 ..... 20659, 20832, 21176
675 20652
Proposed Rules:
20 20677
642 20847
651 20850
654 21001

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List June 10, 1986