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Federal Register

Friday
October 17, 1986

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

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THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: November 18 at 9:30 a.m.

WHERE: National Archives Theater, 8th and Pennsylvania Avenue NW., Washington, DC

RESERVATIONS: Laurice Clark, 202–523–3419.

NEW YORK, NY.

WHEN: December 5 at 10:00 a.m., Room 305A, 26 Federal Plaza, New York, NY

RESERVATIONS: Arlene Shapiro or Stephen Colon, New York Federal Information Center, 212–264–4810.

PITTSBURGH, PA.

WHEN: December 8 at 1:30 p.m.,

WHERE: Room 2212, William S. Moorehead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA

RESERVATIONS: Kenneth Jones or Lydia Shaw
Pittsburgh: 412–644–3456
Philadelphia: 215–597–1707, 1709

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Presidential Documents

Title 3—

The President

Proclamation 5552 of October 15, 1986

National Institutes of Health Centennial Year

By the President of the United States of America

A Proclamation

The National Institutes of Health, which began as a one-room laboratory at the Marine Hospital on Staten Island in 1887, has become the world's foremost biomedical research center. Its investigators are at the forefront of discoveries that contribute to better health for mankind.

The National Institutes of Health provides ongoing leadership in a unique relationship among government, academia, industry, and voluntary organizations. In addition to conducting investigations in its own laboratories, the NIH supports the activities of non-Federal scientists in universities, medical schools, hospitals, and other public, private, and voluntary research institutions. It plays a crucial role in training our Nation's biomedical research scientists and fosters biomedical communication throughout our country and abroad. The NIH facilitates international assemblies of scientists and promotes the exchange of scientists and scientific information between the United States and other countries.

The efforts of biomedical scientists have contributed to bringing our Nation's death rate to an all-time low. Survival rates have improved for patients with seven of the ten major forms of cancer. The death rate for cardiovascular diseases has declined more rapidly than has that for all other causes of death combined. New methods of hypertension control have reduced the incidence of stroke. Dramatic progress has taken place in prevention of blindness through laser technology and in the understanding and treatment of genetic diseases.

Achievements such as these have been recognized internationally by the awarding of Nobel Prizes to four NIH scientists and to 81 recipients of NIH grant support.

Despite the significant improvements in health over the past century, many health-related mysteries remain. The National Institutes of Health will continue to play a vital role in solving these problems. The NIH is opening exciting new opportunities at nearly every level of biomedical research, and our Nation is proud of this great institution and its accomplishments.

The Congress, by Senate Joint Resolution 395, has designated the period beginning October 1, 1986, through September 30, 1987, as the "National Institutes of Health Centennial Year" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the year beginning October 1, 1986, as the National Institutes of Health Centennial Year. I call upon the people of the United States to observe this occasion with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of October, 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 eleventh.

Ronald Reagan

[FR Doc. 86-23678
Filed 10-16-86; 10:17 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5553 of October 15, 1986

National Forest Products Week, 1986

By the President of the United States of America

A Proclamation

The greatness of our Nation is paralleled by the greatness of our forests. By providing food, water, shelter, fuel, and the raw materials for thousands of products, the forests sustained the pioneers, provided for our Nation's growth, and assisted in our defense. Today our country, and indeed the entire world, continues to need the products of our forests to meet social, economic, and industrial demands.

We have been blessed with an abundance of natural resources, and we have the responsibility to be good stewards of our land. Throughout our history, when people have cared for the forests, using them wisely and replenishing them in a timely way, the forests and the Nation alike have prospered.

A forest is a wondrous environment, with an amazing number of checks and balances that maintain its vitality. Human intervention by knowledgeable, caring people benefits forest productivity. Advances brought about through research and implemented by professional land managers have significantly increased the productivity of our forested lands.

Evidence that productive forests benefit the people is all around us. Wood is an essential component of the houses we live in, the furniture we sit on, the newspapers we read, and countless other products we use every day. The jobs generated by processing forest products are an important part of our economic prosperity. The water most of us use is generated and purified by forest ecosystems, and forests provide essential habitats for fish and wildlife. Additionally, the recreation opportunities afforded by forests provide visitors with rejuvenating experiences and help fuel thousands of business enterprises that cater to our recreation needs. In short, proper use of our forest resources can significantly increase the economic, social, and environmental wealth and strength of our Nation.

To promote greater awareness and appreciation of the many benefits of our forests to our Nation's well-being, the Congress, by Public Law 86–753 (36 U.S.C. 163), has designated the week beginning on the third Sunday in October of each year as "National Forest Products Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 19, 1986, as National Forest Products Week and urge that all Americans express their appreciation for our Nation's forests through suitable activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of October, 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 eleventh.

Ronald Reagan

[FR Doc. 86–23679
Filed 10–16–86; 10:18 am]
Billing code 3195–01–M

Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 68

Fees for Federal Rice Inspection Services

AGENCY: Federal Grain Inspection Service. USDA.[1]

ACTION: Final rule.

SUMMARY: This final rule maintains the current level of fees for Federal rice inspection services. The Federal Grain Inspection Service (FGIS or Service) will not increase fees for Federal rice inspection services as proposed. The Service has determined that an increase in these fees is not necessary at the time in view of the best information available including recent cost and revenue figures. FGIS, however, will establish, as proposed, a fee to cover the cost of performing milling yield in rough rice and brown rice for processing when requested as one single factor and for total oil and free fatty acid analysis for brown rice for processing and milling rice. In addition, miscellaneous changes are made to the fee schedules for clarity.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Staff, USDA, FGIS, Room 1661, South Building, 1400 Independence Avenue SW., Washington, DC 20250; telephone (202) 382–1738.

[1] The authority to exercise the functions of the Secretary of Agriculture contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) concerning inspection and standardization activities related to grain and similar commodities and products thereof has been delegated to the Administrator, Federal Grain Inspection Service (7 U.S.C. 75a; 7 CFR 68.2(e)).

SUPPLEMENTARY INFORMATION:

Executive Order 12291

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

Regulatory Flexibility Act Certification

Mr. David R. Galliart, Acting Administrator, FGIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the rice inspection services do not meet the requirements for small entities. In addition, FGIS is directed and authorized by statute to recover the cost of providing rice inspection services, as nearly as practicable.

Final Action

In the July 21, 1986, **Federal Register** (51 FR 26161) FGIS proposed increases in the fees for Federal rice inspection services performed under the Agricultural Marketing Act of 1946. Two comments were received regarding the proposal from two industry trade organizations. Both comments opposed the proposed fee increases.

One commenters suggested that FGIS review its operating budget and reduce fixed overhead costs. In addition, that commenter indicated that the increased fees would reduce demand for official inspection services and thereby create larger revenue shortfalls. The second commenter believed that a fee increase was not needed at this time. This commenter noted that the decline in request for inspection services during the first four months of calendar year 1986 was temporary. It was noted that with the implementation of a new marketing loan program on April 15, 1986, rice exports were increasing and would do so dramatically. Section 602 of the Food Security Act of 1985 (Pub. L. 88–198) did amend the Agricultural Act of 1949 (7 U.S.C. 1441(i)) to provide, effective April 15, 1986, for a marketing loan for the 1985 crop of rice.

FGIS continually monitors its cost, revenue, and operating reserve levels to assure that there are sufficient resources for the Services' operations. FGIS has continued to reduce staffing levels, to identify and implement furlough leave situations, and other cost-saving measures in an effort to provide cost-effective quality services. While the level of fees may affect the demand for service especially in a voluntary program, section 203(h) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(h)) provides for the collection of fees that as nearly as practicable cover the costs of the services rendered.

When the proposal was published, the period form April 1, 1985 through March 31, 1986, included the most current one-year figures available. It was the basis for projecting the FGIS budget for fiscal year 1987 revenue levels. When revenues were compared with costs, there was a slight positive margin. However, an analysis of the first six-month period of fiscal year 1986 (October 1, 1985–March 31, 1986) indicated that costs were exceeding revenues reflecting a trend which might eliminate the margin. FGIS believed that this trend would continue and would deplete the program's operating reserve. Accordingly, FGIS proposed a fee increase for rice inspection services which would maintain the Service's operating reserve at a three month level.

However, an analysis of rice inspection costs and revenues through July 31, 1986, the latest accumulative monthly figures for fiscal year 1986 to date reveals a small positive margin indicating that requests for FGIS rice inspection services are increasing. In addition, the months of August and September have historically been positive revenue producing months. Accordingly, FGIS projects that the fiscal year 1986 rice inspection revenues will exceed costs. After reviewing the best information available including recent cost and revenue figures, FGIS will not at this time increase fees for Federal rice inspection services. FGIS will, however, closely monitor its cost and revenue figures and will propose revisions to the inspection fees, as deemed appropriate.

FGIS is establishing, as proposed, a fee of $18.00 to cover the cost of performing the milling yield in rough rice and brown rice for processing when requested as a single factor. A fee of $28.00 is established for performing total oil and free fatty acid analysis for brown rice for processing and milled rice, in response to the industry's needs.

In addition, as proposed, a new footnote 3 is being added for clarity to § 68.42(b), Table 2, to cover those other services not specified in Table 2. The fees for these services are based on the noncontract hourly rate listed in Table 1. Also, footnote 2 of Table 2 is revised to reflect the new address for the Board of Appeals and Review.

List of Subjects in 7 CFR Part 68

Administrative practice and procedure, Agricultural commodities, Rice, Export.

Accordingly, 7 CFR Part 68 is amended as follows:

PART 68—REGULATIONS AND STANDARDS FOR INSPECTION AND CERTIFICATION OF CERTAIN AGRICULTURAL COMMODITIES AND PRODUCTS THEREOF

1. The authority citation for Part 68 continues to read as follows:

Authority: Secs. 202–208, 60 Stat. 1087, as amended (7 U.S.C. 1621 *et seq.*).

2. Section 68.42b is amended by revising Table 2 as follows:

§ 68.42b Fees for certain Federal rice inspection services.

* * * * *

TABLE 2.—UNIT RATES

Service [1] [3]	Rough rice	Brown rice for processing	Milled rice
Inspection for quality (per lot, sublot, or sample inspection)	$23.00	$20.00	$14.30
Factor analysis for any single factor (per factor):			
(a) Milling yield, per sample	18.00	18.00	—
(b) All other factors, per factor	8.60	8.60	8.60
Total oil and free fatty acid	—	28.00	28.00
Interpretive lines samples[2]			
(a) Milling degree (pr set)	—	—	60.00
(b) Parboiled light (per sample)	—	—	15.00
Extra copies of certificates (per copy)	3.00	3.00	3.00

[1] Fees apply to determinations (original or appeals) for kind, class, grade, factor analysis, equal to type, milling yield, or any other quality designation as defined in the U.S. Standards for Rice or applicable instructions, whether performed singly or combined at other than the point of service.

[2] Interpretive line samples may be purchased from the U.S. Department of Agriculture, Federal Grain Inspection Service, Field Management Division, Board of Appeals and Review, USDA, FGIS Technical Center, 10383 North Executive Hills Boulevard, Kansas City, MO 64030.

[2] Interpretive line samples also are available for examination at selected FGIS field offices. A list of field offices may be obtained from the Deputy Director, Field Management Division, USDA, FGIS, Washington, DC 20250. The interpretive line samples illustrate the lower limit for milling degrees only and the color limit for the factor "Parboiled Light" rice.

[3] Fees for other services not referenced in Table 2 will be based on the noncontract hourly rate listed in Table 1.

Dated: September 23, 1986.

D.R. Galliart,

Acting Administrator.

[FR Doc. 86–23547 Filed 10–16–86; 8:45 am]

BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 531; Lemon Regulation 530, Amendment 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 252,500 cartons during the period October 19 through October 25, 1986, and increases the quantity of lemons that may be shipped during the period October 12 through October 18, 1986, to 280,000 cartons. Such action is needed to balance the supply of fresh lemons with demand for such periods, due to the marketing situation confronting the lemon industry.

EFFECTIVE DATES: Regulation 531 (§ 910.831) is effective for the period October 19 through October 25, 1986, and the amendment (§ 910.830) is effective for the period October 12 through October 18, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statues have small entity orientation and compatibility.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1986–87. The committee voted by telephone on October 13, 1986, and met publicly on October 14, 1986, at Redlands, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports that the lemon market is active and lemon demand and prices have shown improvement. The increase in the current week's allotment was recommended due to the improvement in the lemon market which resulted in inadequate allotment to meet lemon demand.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, or postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling to lemons. Handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing Agreements and Orders, California, Arizona, and Lemons.

PART 910—[AMENDED]

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.831 is added to read as follows:

§ 910.831 Lemon Regulation 531.

The quantity of lemons grown in California and Arizona which may be handled during the period October 19, 1986, through October 25, 1986, is established at 252,500 cartons.

3. Section 910.830 is revised to read as follows:

§ 910.830 Lemon Regulation 530.

The quantity of lemons grown in California and Arizona which may be handled during the period October 12, 1986, through October 18, 1986, is established at 280,000 cartons.

Dated: October 15, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-23674 Filed 10-16-86; 9:08 am]

BILLING CODE 3410-02-M

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7 CFR Parts 916, 917, 919, 920, 926, 930, 932, 948, 958, 981 and 993

Authorization of Expenses and Assessment Rates for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates under Marketing Orders 916, 917, 919, 920, 926, 930, 948, 958, 981, and 993 for the respective 1986–87 fiscal year for each order. Marketing Orders 916 and 932 expenses are amended for the 1985–86 fiscal year. Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: March 1, 1985–February 28, 1986 (amended § 916.224), March 1, 1986–February 28, 1987 (§§ 916.225, 917.244, 917.245, 917.246); July 1, 1986–June 30, 1987 (§§ 919.225, 948.295, 958.230 and 981.335); August 1, 1986–July 31, 1987 (§§ 920.202, 993.337); April 1, 1986–March 31, 1987 (§ 926.226); May 1, 1986–April 30, 1987 (§ 930.216); January 1, 1986–December 31, 1986 (amended § 932.220).

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Department Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

It is estimated that approximately 275 handlers of California nectarines, 608 handlers of California pears, plums, and peaches, 32 handlers of Colorado peaches, 76 handlers of California kiwifruit, 14 handlers of California Tokay grapes, 70 handlers of Michigan and other states cherries, 7 handlers of California olives, 72 handlers of Colorado Area II potatoes, 23 handlers of Idaho-Oregon onions, 70 handlers of California almonds, and 16 handlers of California dried prunes, will be subject to regulation during the course of the current season and that the great majority of these firms may be classified as small entities.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective dates until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the assessment rate for a particular fiscal year shall apply to all assessable commodities handled from the beginning of such year. To enable the committees to meet current fiscal obligations, approval of the expenses is necessary without delay. Handlers have been apprised of the provisions and effective dates specified in this final rule. It is found that the specified expenses and assessment rates will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Parts 916, 917, 919, 920, 926, 930, 932, 948, 958, 981, and 993

Marketing agreements and orders, Nectarines (California), Pears, Plums, Peaches (California), Peaches (Colorado), Kiwifruit (California), Tokay grapes (California), Tart cherries (Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, Maryland), Olives (California), Potatoes (Colorado), Onions (Idaho-Oregon), Almonds (California), Dried prunes (California).

1. The authority citation for 7 CFR Parts 916, 917, 919, 920, 926, 930, 932, 948, 958, 981, and 993 continues to read as follows:

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

New §§ 916.225, 917.244, 917.245, 917.246, 919.225, 920.202, 926.226, 930.216, 948.295, 958.230, 981.335, and 993.337 are added and §§ 916.224 and 932.220 are amended as follows (the following sections prescribe the annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 916—NECTARINES GROWN IN CALIFORNIA

§ 916.224 [Amended]

Section 916.224 is amended by changing $2,701,668 to $2,707,093.

§ 916.225 Expenses and assessment rate.

Expenses of $2,583,897 by the Nectarine Administrative Committee are authorized, and an assessment rate of $0.16 per No. 22D standard lug box of nectarines is established for the fiscal year ending February 28, 1987. Unexpended funds from the 1985–86 fiscal year may be carried over as a reserve.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

§ 917.244 Expenses and assessment rate.

Expenses of $1,704,964 by the Plum Commodity Committee are authorized, and an assessment rate of $0.19 per No. 22D standard lug box of plums is established for the fiscal year ending February 28, 1987. Unexpended funds from the 1985–86 fiscal year may be carried over as a reserve.

§ 917.245 Expenses and assessment rate.

Expenses of $2,173,062 by the Peach Commodity Committee are authorized and an assessment rate of $0.16 per No. 22D standard lug box of peaches is established for the fiscal year ending February 28, 1987. Unexpended funds from the 1985–86 fiscal year may be carried over as a reserve.

§ 917.246 Expenses and assessment rate.

Expenses of $863,053 by the Pear Commodity Committee are authorized and an assessment rate of $0.20 per No. 29B special lug box of pears is established for the fiscal year ending February 28, 1987. Unexpended funds may be carried over as a reserve.

PART 919—PEACHES GROWN IN MESA COUNTY, COLORADO

§ 919.225 Expenses and assessment rate

Expenses of $1 000 by the Administrative Committee are authorized, and an assessment rate of $0.01 per bushel of peaches is

established for the fiscal year ending June 30, 1987.

PART 920—KIWIFRUIT GROWN IN CALIFORNIA

§ 920.202 Expenses and assessment rate.

Expenses of $299,311 by the Kiwifruit Administrative Committee are authorized and an assessment rate of $0.0525 per 7½ pound tray or equivalent is established for the fiscal year ending July 31, 1987. Unexpended funds may be carried over as a reserve.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

§ 926.226 Expenses and assessment rate.

Expenses of $111,032 by the Tokay Industry Committee are authorized, and an assessment rate of $0.16 per 23 pound lug of grapes is established for the fiscal year ending March 31, 1987. Unexpended funds may be carried over as a reserve.

PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

§ 930.216 Expenses and assessment rate.

Expenses of $136,132 by the Cherry Administrative Board are authorized, and an assessment rate of $1.00 per ton of cherries delivered for processing is established for the fiscal year ending April 30, 1987. Unexpended funds from the 1985–86 fiscal year may be carried over as a reserve.

PART 932—OLIVES GROWN IN CALIFORNIA

§ 932.220 [Amended]

Section 932.220 is amended by changing $2,309,350 to $2,318,235.

PART 948—IRISH POTATOES GROWN IN COLORADO

§ 948.295 Expenses and assessment rate.

Expenses of $37,495 by the Colorado Area II Potato Committee are authorized, and an assessment rate of $0.016 per hundredweight of assessable potatoes is established for fiscal period ending June 30, 1987. Unexpended funds may be carried over as a reserve.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

§ 958.230 Expenses and assessment rate.

Expenses of $710,000 by the Idaho-Eastern Oregon Onion Committee are authorized, and an assessment rate of $0.09 per hundredweight of onions is established for the fiscal period ending June 30, 1987. Unexpended funds may be carried over as a reserve.

PART 981—ALMONDS GROWN IN CALIFORNIA

§ 981.335 Expenses and assessment rate.

Expenses of $7,400,088 by the Almond Board of California are authorized for the crop year ending June 30, 1987. An assessment rate for that crop year payable by each handler in accordance with § 981.81 is fixed at $0.026 per pound of almonds (kernelweight basis) less any amount credited pursuant to § 981.41 but not to exceed $0.025 per pound of almonds (kernelweight basis).

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

§ 993.337 Expenses and assessment rate.

Expenses of $259,700 by the Prune Marketing Committee are authorized, and an assessment rate payable by each handler in accordance with § 993.81 is fixed at $2.65 per ton for salable dried prunes for the 1986–87 crop year ending July 31, 1987.

Dated: October 10, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 86–23545 Filed 10–16–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 12337, Special Conditions No. 23–47–CE–5]

Special Conditions; Beech Model 300 and 1900 Series Airplanes With Electronic Flight Instrument Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Amendment No. 4 to Special Conditions No. 23–47–CE–5.

SUMMARY: These special conditions are issued to become part of the type certification basis for the Beech 300 and 1900 series airplanes to allow incorporation of Electronic Flight Instrument System (EFIS). These airplanes have novel and unusual design features when compared to the state of technology envisaged in the airworthiness standards applicable to these airplanes. These novel and unusual design features include the use of cathode-ray tube electronic flight instrument system for which the applicable regulations do not contain adequate or appropriate airworthiness standards. These special conditions contain the additional safety standards which the Administrator considers necessary to establish a level of safety equivalent to that provided by the airworthiness standards applicable to the Beech 300 and 1900 series airplanes.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, 601 East 12th Street, Federal Office Building, Kansas City, Missouri 64106; telephone (816) 374–5688.

SUPPLEMENTARY INFORMATION:

Background

On April 9, 1986, Beech Aircraft Corporation, Wichita, Kansas, made application to the FAA for approval of installation of a Bendix EFS–10 Electronic Flight Instrument System (EFIS) on the Beech Model 300 airplane. This installation incorporates an electronic attitude director indicator (EADI) and electronic horizontal situation indicator (EHSI) in lieu of traditional mechanical or electro-mechanical indicators providing similar information to the flightcrew.

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the administrator finds that the airworthiness standards designated in accordance with § 21.101 do not contain adequate or appropriate safety standards because of novel or unusual design features of an airplane or installation. Special conditions, as appropriate, are issued in accordance with § 11.49, after public notices as required by §§ 11.28 and 11.29(b), effective October 14, 1980, and will become part of the type certification basis, as provided by § 21.101(b)(2).

The proposed type design of the Bendix EFS–10 EFIS installation in the Beech Model 300 airplane contains a number of novel or unusual design features not envisaged by the applicable Part 23 airworthiness standards. Special conditions are considered necessary because the airworthiness standards of Part 23 do not contain adequate or appropriate safety standards for the novel or unusual design features of the Bendix EFS–10 EFIS installation in the Beech Model 300 airplane.

Special Conditions No. 23–47–CE–5 applicable to the Beech 300 are also

applicable to the Beech 200 and 1900 airplanes. However, the requirements of SFAR 41C are applicable to the Beech 300 and 1900 airplanes, but are not applicable to the Beech 200 airplanes. Therefore, these special conditions will also be applicable to the Beech 300 and 1900 for installation of similar EFIS (not limited to the same manufacturer) without further amendment of the special conditions, but will not be applicable to the Beech 200 airplanes.

Beech has proposed cathode-ray tube (CRT) electronic display units for primary attitude, hearing, and navigation cockpit displays. The cockpit instrument panel configuration would feature three EFIS displays, an electronic attitude director indicator (EADI) and electronic horizontal situation indicator (EHSI) on the left instrument panel, and a multi-function display in the center panel. All other displays; i.e., airspeed, altitude, vertical speed, etc., will be conventional instruments. An optional configuration would provide for an EADI and EHSI on the copilot's side.

Type Certification Basis

The type certification basis for the Beech Models 300 and 1900 airplanes is as follows: Special Federal Aviation Regulation (SFAR) 41C, effective September 13, 1982; Part 23 of the Federal Aviation Regulations (FARs), effective February 1, 1965, through Amendment 23–9; Amendment 23–11; Amendment 23–14, §§ 23.143(a), 23.145(d), 23.153, 23.161(c)(3), 23.173(a), 23.175, 23.427, 23.441, and 23.445; Amendment 23–15, §§ 23.951(c) and 23.997(d); Amendment 23–23, § 23.1545(a); Amendment 23–26, §§ 23.967 and 23.1305(n); Special Conditions No. 23–47–CE–5, including Amendments Nos. 1, 2, and 3 dated November 15, 1982; Part 25 of the FAR, § 25.929, effective February 1, 1965; Amendment 25–23, § 25.1419; Amendment 25–41, § 25.831(d); Part 36 of the FARs, through Amendment 36–10; SFAR 27, through Amendment 27–4, and § 25.1419 when ice protection equipment is installed in accordance with the equipment list; and any other changes to Special Conditions No. 23–47–CE–5.

Discussion of Comments

No comments were received to Notice No. 23–ACE–17 which was published in the **Federal Register** on July 22, 1986 (51 FR 26261). The comment period closed August 21, 1986. Clarifying comments to the Beech Model 200 special conditions (51 FR 28509, August 8, 1986) were incorporated into Beech 300 and 1900 special conditions, sections 1 (a) and (b) for consistency. These changes do not change the applicable requirements.

Conclusion

This action affects only Beech Models 300 and 1900 model series airplanes. It is not a rule of general applicability and applies only to the series and models of airplanes identified in these special conditions.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transportation, Safety, and Tires.

The authority citation for these Special Conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 21.16 and 21.101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration issues the following special conditions as an Amendment No. 4 to Special Conditions No. 23–47–CE–5 applicable to the Beech 300 and 1900 series airplanes equipped with an electronic flight instrument system (EFIS).

Systems and Equipment

1. In addition to Appendix A of Part 135 and in lieu of applicable requirements of Part 23 of the Federal Aviation Regulations to the contrary, for instruments, systems, and installations whose design incorporates electronic displays that feature design characteristics where a single malfunction or failure could affect more than one primary instrument display or system, and/or system design functions that are determined to be essential for continued safe flight and landing of the airplane, the following special condition applies:

(a) Systems and associated components must be examined separately and in relation to other airplane systems to determine if the airplane is dependent upon its function for continued safe flight and landing, and if its failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions. Each system and each component identified by this examination upon which the airplane is dependent for continued safe flight and landing, or whose failure would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operation conditions, must be designed and examined to comply with the following additional requirements:

(1) It must be shown that there will be no single failure or probable combination of failures under any anticipated operating condition which would prevent the continued safe flight and landing of the airplane, or it must be shown that such failures are extremely improbable.

(2) It must be shown that there will be no single failure or probable combination of failures under any anticipated operation condition which would significantly reduce the capability of the airplane or the ability of the crew to cope with adverse operating conditions, or it must be shown that such failures are improbable.

(3) Warning information must be provided to alert the crew to unsafe system operating conditions and to enable them to take appropriate corrective action. This warning information must not tend to initiate crew action which would create additional hazards.

(4) Compliance with the requirements of this special condition must be shown by analysis and, where necessary, by appropriate ground, flight, or simulator tests. The analysis must consider:

(i) Modes of failure, including malfunction and damage from foreseeable sources;

(ii) Consequence of a single failure or probable combination of failures (latent or undetected);

(iii) Appropriate levels of reliability as determined by the severity of consequence;

(iv) The resulting effects on the airplane and occupants, considering the state of flight and operating conditions; and

(v) The crew warning cues, corrective action required, and the capability of detecting faults.

(5) Numerical analysis may be used to support the engineering examination.

(b) Electronic display units, including those incorporating more than one function, may be installed in lieu of mechanical or electro-mechanical instruments if:

(1) The display units:

(i) Are easily legible under all lighting conditions encountered in the cockpit, including direct sunlight;

(ii) In any normal mode of operation do not inhibit the primary display of attitude; and

(iii) Incorporate sensory cues for the pilot that are equivalent to those in the instrument being replaced by the electronic display units.

(2) The display units, including their systems and installations, must be

designed so that one display of information essential to safety and successful completion of the flight will remain available to the pilot, without need for immediate action by any crewmember for continued safe operation, after any single failure or probable combination of failures that is not shown to comply with paragraph (a)(1) of this special condition.

Issued in Kansas City, Missouri on September 29, 1986.

Edwin S. Harris,

Director, Central Region

[FR Doc. 86-23403 Filed 10-16-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-CE-44-AD; Amendment 39-5442]

Airworthiness Directives; Cessna Model 404 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to all Cessna Model 404 airplanes requiring inspection for cracks and, if necessary, modification of the engine mount beams. Failure of a cracked engine mount beam in flight could cause airplane control problems and separation of the engine. This action prescribes those comprehensive inspections and modifications necessary to ensure structural integrity of the engine mount beams.

EFFECTIVE DATE: October 21, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Cessna Multi-Engine Service Bulletin MEB 86-7, dated April 18, 1986, applicable to this AD may be obtained from the Cessna Aircraft Company, Customer Services, P.O. Box 1521, Wichita, Kansas 67201; Telephone (316) 946-7550. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri, 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence S. Abbott, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4409.

SUPPLEMENTARY INFORMATION: Several reports of engine beams developing fatigue cracks in the vicinity of the engines aft mount fittings on Cessna Model 404 airplanes have been received by the FAA and Cessna. Engines on Cessna Model 404 airplanes are secured to the airframe by beams that are cantilevered from the wing. The early Cessna light twins from which the Model 404 evolved, had aluminum hat section engine mount beams. The later models of the 400 Series, including the Model 404, have redesigned engine mount beams made of thin stainless steel to minimize fire hazard forward of the engine firewall. These thinner, harder materials have been more susceptible to cracking at the eccentrically loaded aft engine mounts. Timely detection and repair of those cracks is necessary to assure continued structural integrity of the attachment of the engines to the airplane. Accordingly, Cessna issued Service Bulletin MEB 86-7 recommending fluorescent penetrant inspections of the affected areas of the engine beams and installation of Service Kit SK 404-40 for repair, if cracks are found, to preclude possible separation of the engine in flight.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop on other airplanes of the same type design, an AD is being issued requiring inspections and modification, as necessary, to engine mount beams on Cessna Model 404 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure herein are impractical and contrary to the public interest and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Cessna: Applies to the Model 404 (Serial Numbers 404-0001 through 404-0136, 404-0201 through 404-0246, 404-0401 through 404-0460, 404-0601 through 404-0695, and 404-0801 through 404-0859) airplanes certificated in any category:

Compliance: Required as indicated, unless already accomplished.

To ensure the structural integrity of the engine mount beams, accomplish the following:

(a) Inspect the engine beams for cracks in accordance with the provisions of Cessna Multi-Engine Service Bulletin MEB 86-7, dated April 18, 1986, per the following schedule:

(1) On all airplanes with 1600 or more hours time-in-service (TIS), fluorescent penetrant inspect the engine beams within the next 100 flight hours and at each 800 hours TIS thereafter.

(2) On all airplanes with less than 1600 hours TIS, fluorescent penetrant inspect the engine beams between 1600 and 1700 hours TIS and at each 800 TIS thereafter.

(3) The flourescent penetrant inspections required by paragraphs (a)(1) and (a)(2) of this AD are no longer required on engine beams that have Service Kit SK 404-40 installed.

(b) If cracks are found in the inspection of Paragraph (a), prior to further flight perform the following in accordance with Cessna Service Bulletin MEB 86-7:

(1) If cracks found in the top (horizontal portion) of the beam are less than 2.00 inches in length, stop drill and install SK 404-40 in accordance with MEB 86-7.

(2) If cracks found in the top (horizontal portion) of the beam are greater than 2.00 inches in length, contact Cessna Aircraft Company for FAA approved repair disposition at the following address: Cessna Aircraft Company, Customer Service, P.O. Box 1521, Wichita, Kansas 67201; Telephone (316) 946-7550.

(c) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the provisions of this AD can be accomplished.

(d) Any equivalent method of compliance with this AD must be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Cessna Aircraft Company, P.O. Box 1521, Wichita, Kansas 67201; or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective October 21, 1986.

Issued in Kansas City, Missouri, on October 6, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-23404 Filed 10-16-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-24]

Establishment of Transition Area, Greenville, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to establish the Greenville, Michigan, transition area to accommodate a new VOR/DME-A instrument approach procedure to Greenville Municipal Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 U.T.C. December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Thursday, August 28, 1986, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Greenville, Michigan, transition area (51 FR 30674).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Greenville, Michigan, transition area to accommodate a new VOR/DME-A instrument approach procedure to Greenville Municipal Airport.

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 anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

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

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Greenville, MI [New]

That airspace extending upward from 700 feet above the surface within a 6 mile radius of Greenville Municipal Airport (Lat. 43°08'30" N., Long. 85°15'15" W.)

Issued in Des Plaines, Illinois, on October 3, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86-23405 Filed 10-16-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3200]

The North Carolina Orthopaedic Assoc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, prohibits The North Carolina Orthopaedic Assoc. from placing unreasonable restrictions against podiatrists seeking access to hospital facilities or surgical privileges and including hospitals or medical staffs to deny such privileges to qualified podiatrists.

DATE: Complaint and Order issued Sept. 19, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Douglas B. Brown, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree Street NW., Atlanta, GA 30367. (404) 881-4836.

SUPPLEMENTARY INFORMATION: On Thursday, June 5, 1986, there was published in the **Federal Register**, 51 FR 20498, a proposed consent agreement with analysis In the Matter of The North Carolina Orthopaedic Association, a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions, or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.390 To control employment practice. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; §13.533-20 Disclosures; § 13.533-45 Maintain

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

records. Subpart—Cutting Off Supplies or Service: § 13.655 Threatening disciplinary action or otherwise.

List of Subjects in 16 CFR Part 13

Hospital privileges, Podiatry, Trade practices.

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

Emily H. Rock,

Secretary.

[FR Doc. 86-23534 Filed 10-16-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

[T.D. 86-192]

Notice of Due Date of Customs Brokers Lists of Employees

AGENCY: Customs Service, Treasury.

ACTION: Clarification of final rule and compliance date.

SUMMARY: This notice is to advise customs brokers when they must submit to each district director of Customs where the broker has a permit to transact customs business, the list of its employees. This notice also clarifies that brokers' employees who do not work directly in the brokerage portion of the business must be included on the list and that employees employed in several districts must be reported on the list of each district.

EFFECTIVE DATE: October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Fred Burns O'Brien, Entry, Licensing and Restricted Merchandise Branch, (202-566-5765).

SUPPLEMENTARY INFORMATION:

Background

In T.D. 86-161, published in the Federal Register on August 26, 1986 (51 FR 30336), Parts 111, 171 and 178, Customs Regulations (19 CFR Parts 111, 171 and 178), were extensively revised to implement the statutory changes made by the Trade and Tariff Act of 1984 (Pub. L. 98-573), relating to the regulation of customs brokers. Section 111.28(b), Customs Regulations (19 CFR 111.28(b)), was amended to state that each broker shall submit, in writing, to each district director where the broker has a permit to transact customs business, a list of names of persons currently employed in that district by the broker. For each such employee, the broker shall also provide the current home address, last prior home address, social security number, date and place of birth, and if the employee has been employed by the broker for less than 3 years, the name and address of each former employer and dates of employment for the 3-year period preceding current employment with the broker.

Section 111.28(b) further provides that after an initial submission is made, the list shall be updated and submitted with the status report required by § 111.30(d), Customs Regulations (19 CFR 111.30(d)). However, no date was indicated in § 111.28(b) as the deadline for the initial submission. To give brokers ample time to prepare the list, Customs has now determined that initial submissions will not be required until January 31, 1987.

Regarding the employee lists, it is to be noted that the lists must include all employees who are employed by a broker in each district. This means that even those employees who do not work in the brokerage portion of the business must be listed. Also, employees who are employed in several districts must be reported on the list of each district in which they work.

Dated: October 10, 1986.

John P. Simpson,

Director, Office of Regulations and Rulings.

[FR Doc. 23531 Filed 10-16-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910 and 1926

[Docket No. H-033D]

Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Partial administrative stay of final rules; redesignation and amendment of final rule.

SUMMARY: OSHA's revised final standards for occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry (§ 1910.1001) and construction (§ 1926.58) promulgated on June 17, 1986, were published in the Federal Register on June 20, 1986, and became effective on July 21, 1986 (51 FR 22612). This document gives notice of a 9-month administrative stay of the revised standards insofar as they apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite. This stay is granted for the purpose of reopening the record, reviewing new submissions, and conducting supplemental rulemaking limited to the issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated in the same standards and to the same extent as asbestos, or should be treated in some other way.

This stay applies only to the application of the revised standards to non-asbestiform tremolite, anthophyllite and actinolite. In all other respects, the revised standards will take effect as previously scheduled. In addition, during the period of the stay, the provisions of the 1972 standard governing occupational exposure to asbestos will remain in effect with respect to regulation of non-asbestiform tremolite, anthophyllite and actinolite.

To provide notice of the application of the 1972 standard to non-asbestiform tremolite, anthophyllite and actinolite, OSHA is republishing and redesignating the 1972 standard as 29 CFR 1910.1101 and is making several technical changes to that standard.

The 1972 standard is redesignated as 29 CFR 1910.1101 to distinguish it from the revised standard for general industry which is designated as 29 CFR 1910.1001. The provisions in the prior standard which constituted the Emergency Temporary Standard for Asbestos issued in November 1983, are being deleted. Also a note is added to clarify the scope and application of the redesignated § 1910.1101.

DATE: The partial stay of 1910.1001 and 1926.58 was effective July 21, 1986 and will expire April 21, 1987. Revisions to the 1972 standard republished as 1910.1101 and all other amendments in this rule are effective October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Director, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Room N 3637, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: On June 17, 1986, OSHA issued revised standards governing occupational exposure to asbestos, tremolite, anthophyllite and actinolite for general industry and construction. They were published in the Federal Register on June 20, 1986 (51 FR 22612) and will be codified at 29 CFR 1910.1001 and 1926.58. Their effective date is July 21, 1986. The revised standards amend OSHA's previous asbestos standard

issued in 1972 and codified at 29 CFR 1910.1001 and 29 CFR 1926.55(c).

OSHA's 1972 asbestos standard defined "asbestos" as including "chrysotile, amosite, crocidolite, tremolite, anthophyllite and actinolite,". In recognition of the fact that tremolite, anthophyllite, and actinolite appear as both asbestiform and non-asbestiform minerals, the revised standards redefined the term "asbestos" to include only the asbestiform varieties of these substances (as well as chrysotile, amosite and crocidolite). The title of the standards were changed, however, to apply not only to "asbestos" as redefined, but also to non-asbestiform tremolite, actinolite and anthophyllite, 29 CFR 1910.1001 (b) and 1926.58(b) (1986). OSHA made these changes to conform to mineralogical terminology, as reflected by the evidence in its rulemaking record. Thus while a change in nomenclature was made, the Agency noted that the 1972 standard and the revised standards regulate precisely the same substances (51 FR 22612, 22679).

Since the issuance of the revised standards on June 17, 1986, OSHA has received letters and petitions from rulemaking participants and non-participants which contain additional comments, assertions, and information which the rulemaking record may not fully reflect. These letters and petitions concern the appropriateness of regulating non-asbestiform tremolite, anthophyllite and actinolite as presenting the same health risk as asbestos.

For the reasons indicated below, a temporary stay of 9 months of the effective date of the revised standards has been granted insofar as the standards apply to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite.

OSHA granted this temporary stay in part to enable the Agency to review a July 17, 1986 letter from the Director of the National Institute for Occupational Safety and Health (NIOSH) and certain related NIOSH staff memoranda which have recently been brought to OSHA's attention, as well as submissions by the R.T. Vanderbilt Co. and various trade associations concerning the appropriateness of regulating non-asbestiform tremolite, anthophyllite and actinolite in the revised asbestos standards. These documents, and, in particular, the documents generated by NIOSH, raise serious questions about the nature and extent of the hazards posed by these non-asbestiform minerals. This temporary stay was granted also to allow sufficient time for OSHA to reopen the rulemaking record and conduct supplemental rulemaking proceedings on the issue of whether and how to regulate occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite.

OSHA's decision to reopen the record is consistent with the Agency's determination that it provided adequate notice to the public that the recent asbestos rulemaking would address whether the Agency should amend the 1972 definition of asbestos, and whether the revised standards should apply to the three non-asbestiform minerals. Nevertheless, OSHA acknowledges that letters and petitions which contain additional comments, as described above, have been received since the issuance of the revised standards. These letters and petitions contain information which the rulemaking record may not fully reflect, and request an opportunity to submit further information. To assure that these submissions are fully considered by OSHA, to allow public comment on these additional submissions, and to invite additional comment and evidence on all issues relevant to regulation of non-asbestiform tremolite, anthophyllite and actinolite, OSHA will shortly reopen the rulemaking record, by notice in the **Federal Register**, to consider the limited issue of whether non-asbestiform tremolite, anthophyllite and actinolite should continue to be regulated as presenting the same health risk as asbestos, or whether they should be treated in some other way.

When that notice is published, all submissions to OSHA concerning the regulation of these minerals which have been received since the rulemaking record was closed on September 26, 1985, will be placed in the record and made available for public review and comment.

It should be noted that during the period of the stay, the provisions of the 1972 standard governing occupational exposure to asbestos (now redesignated 29 CFR 1910.1101) will remain in effect with respect to regulation of non-asbestiform tremolite, anthophyllite and actinolite.

The continued applicability of the 1972 standard was provided in the preamble to the revised standard in order not to leave "gaps in coverage and so that the existing provisions not terminate unless the new provisions are in effect." 51 FR 22704, 22732. Therefore, OSHA stated that if the amended provisions (of the revised standards) are not in effect because of stays or judicial action, then the unamended provisions (of the 1972 standard) will remain in effect" *Ibid.*

To provide notice of the continued applicability of the 1972 standard, OSHA believes it is appropriate to republish the 1972 standard to ensure continued protection for employees exposed to non-asbestiform tremolite, anthophyllite and actinolite as well as in the event that other administrative stays or judicial actions render provisions of the revised standards unenforceable.

In such case the parallel provisions of the 1972 standard would come into effect and would be immediately enforceable by OSHA. Without this automatic reversion to the older standard, employees would be denied the protection which they have long been assured. Given the very serious nature of the asbestos hazard. OSHA regards such denial as inconsistent with the Agency's mandate under the Occupational Safety and Health Act of 1970.

Several technical revisions to the 1972 standard are being made to facilitate this "back-up" function. First, the 1972 standard is being redesignated as 29 CFR 1910.1101 to distinguish it from the revised general industry standard which is codified as 29 CFR 1910.1001. OSHA is also adding a "note" to the 1972 standard to describe the intended application of the standard.

In addition, OSHA is deleting paragraph (k) of the 1972 standard, because that paragraph constituted the requirements of the emergency temporary standard issued by OSHA in November 1983 and was invalidated by the 5th Circuit Court of Appeal's decision in *Asbestos Information Ass'n* v. *OSHA*, 727 F.2d 415. Finally, OSHA is deleting an outdated provision which set the permissible exposure limit from July 7, 1972 to July 1, 1976.

OSHA is also amending the references to the 1972 asbestos standard which are found in the revised standards to reflect the redesignation of the 1972 standard as 29 CFR 1910.1101.

With respect to the temporary stay which has been granted, OSHA finds that advance notice and opportunity for comment are impracticable and unnecessary within the meaning of 5 U.S.C. 553, in view of (a) the limited duration of the stay; (b) the need to provide the relief requested before the standard went into effect; and (c) the continued applicability of the 1972 standard to non-asbestiform tremolite, anthophyllite and actinolite during the period of the stay.

Similarly, OSHA is making the technical amendments to 1910.1101 without advance notice and opportunity for comment pursuant to the authority of 5 U.S.C. 553(b). OSHA finds such process unnecessary and impractical due to the fact that these revisions (1)

implement a policy already determined after full rulemaking to continue to enforce parallel provisions of the 1972 standard where a stay or judicial action renders provisions of the 1972 standard unenforceable (see 51 FR 22704, 22732) and (2) delete provisions which are no longer effective. In neither case is an evidentiary issue involved.

List of Subjects

29 CFR Part 1910

Asbestos, Cancer, Health, Labeling, Occupational safety and health, Protective equipment, Respiratory protection, Signs and symbols.

29 CFR Part 1926

Asbestos, Cancer, Construction industry, Hazardous materials, Health, Labeling, Occupational safety and health, Protective equipment, Respiratory protection, Signs and symbols.

Authority and Signature

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC, 20210.

It is issued pursuant to sections 4, 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 941), 29 CFR Part 1911 and Secretary of Labor's Order No. 9–83 (48 FR 35736), and 5 U.S.C. 551 et seq.

Signed at Washington, D.C., this 10th day of October, 1986.

John A. Pendergrass,

Assistant Secretary for Occupational Safety and Health.

Amended Standards

PART 1910—[AMENDED]

PART 1926—[AMENDED]

Part 1910 of Title 29 of the Code of Federal Regulations is hereby amended as follows:

1. The authority citation for Subpart B of Part 1910 continues to read as follows:

Authority: Secs. 4, 6, and 8 of the Occupational Safety and Health Act, 29 U.S.C. 653, 655, 657; Walsh-Health Act, 41 U.S.C. 35 et seq.; Service Contract Act of 1965, 41 U.S.C. 351 et seq.; Pub. L. 91–54, 40 U.S.C. 333; Pub. L. 85–742, 33 U.S.C. 941; National Foundation on Arts and Humanities Act, 20 U.S.C. 951 et seq; Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736); and 29 CFR Part 1911.

2. Paragraph (a) of § 1910.19 is hereby revised to read as follows:

§ 1910.19 Special provisions for air contaminants.

(a) Asbestos, tremolite, anthophyllite, and actinolite dust. Section 1910.1001 or 1910.1101 shall apply to the exposure of every employee to asbestos, tremolite, anthophyllite, and actinolite dust in every employment and place of employment covered by §§ 1919.13, 1910.14, 1910.15 or 1910.16, in lieu of any different standard on exposure to asbestos, tremolite, anthophyllite, and actinolite dust which would otherwise be applicable by virtue of any of those sections.

* * * * *

Subpart Z—[Amended]

3. The authority citation for Subpart Z of Part 1910 continues to read as follows:

Authority: Sec. 6 and 8, Occupational Safety and Health Act, 29 U.S.C. 655, 657; Secretary of Labor's Orders Nos. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable; and 29 CFR Part 1911.

Section 1910.1000 Tables Z–1, Z–2, Z–3 also issued under 5 U.S.C. 553.

Section 1910.1000 not issued under 29 CFR Part 1911, except for "Arsenic" and "Cotton Dust" listings in Table Z–1.

Section 1910.1002 not issued under 29 U.S.C., 655 or 29 CFR Part 1911; also issued under 5 U.S.C. 553.

Section 1910.1003 through 1910.1018 also issued under 29 U.S.C. 653.

Section 1910.1025 also issued under 29 U.S.C. 653 and 5 U.S.C. 556.

Section 1910.1043 also issued under 5 U.S.C. 551 et seq.

Sections 1910.1045 and 1970.1047 also issued under 29 U.S.C. 653.

Section 1910.1499 and 1910.1500 also issued under 5 U.S.C. 553.

§ 1910.1001 [Amended]

§ 1926.58 [Amended]

4. Sections 1910.1001 and 1926.58 are hereby amended by adding the following note after Appendix H to § 1910.1001 and Appendix I to 1926.58.

Note.—Pursuant to a 9-month administrative stay effective July 21, 1986 (Insert citation from this **Federal Register** document), enforcement of this section is stayed as it applies to non-asbestiform tremolite, anthophyllite and actinolite. During the period of this stay the provisions of the 1972 standard governing occupational exposure to asbestos (redesignated as 29 CFR 1910.1101) will remain in effect with respect to regulation of non-asbestiform tremolite, anthophyllite and actinolite.

5. Paragraph (o)(1) of § 1910.1001 is hereby revised to read as follows:

§ 1910.1001 Asbestos.

* * * * *

(o) *Dates—Effective date.*

This standard shall become effective July 21, 1986. The requirements of the asbestos standard issued in June 1972 (37 FR 11318), as amended, and published in 29 CFR 1910.1101 remain in effect until compliance is achieved with the parallel provisions of this standard.

6. Paragraph (o)(1) § 1926.58 is hereby revised to read as follows:

§ 1926.58 Asbestos, tremolite, anthophyllite, and actinolite.

* * * * *

(o) *Dates—Effective date.*

This section shall become effective July 21, 1986. The requirements of the asbestos standard issued in June 1972 (37 FR 11318), as amended, and published in 29 CFR 1910.1101 remain in effect until compliance is achieved with the parallel provisions of this standard.

7. Section 1910.1101 is hereby added to read as follows:

§ 1910.1101 Asbestos.

Note.—This section applies to occupational exposure to non-asbestiform tremolite, anthophyllite and actinolite during the pendency of the stay of the revised standards (29 CFR 1910.1001; 29 CFR 1926.58).

(See [Insert citation from this **Federal Register** document] for a description of the stay).

This section also applies whenever all or part of the revised standards are rendered unenforceable because of a stay or judicial action. In such a case, to preclude a gap in coverage, parallel provisions of this section will take effect. OSHA will publish an appropriate notice in the **Federal Register** announcing each such application of this section. This section also applies pursuant to the requirements of 29 CFR 1910.1001(O) and 29 CFR 1926.58(O).

(a) *Definitions.* For the purpose of this section, (1) "Asbestos" includes chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite. (2) "Asbestos fibers" means asbestos fibers longer than 5 micrometers.

(b) *Permissible exposure to airborne concentrations of asbestos fibers.*

(1) The 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employment may be exposed shall not exceed two fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the

method prescribed in paragraph (e) of this section.

(2) *Ceiling concentration.* No employee shall be exposed at any time to airborne concentration of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(c) *Methods of compliance*—(1) *Engineering methods.* (i) *Engineerings controls.* Engineering controls, such as, but not limited to, isolation, enclosure, exhaust ventilation, and dust collection, shall be used to meet exposure limits prescribed in paragraph (b) of this section.

(ii) *Local exhaust ventilation.* (A) local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standards Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2–1971, which is incorporated by reference herein. (B) See § 1910.6 concerning the availability of ANSI Z90.2–1971, and the maintenance of a historic file in connection therewith. The address of the American National Standards Instituted is given in § 1910.100.

(iii) *Particular tools.* All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhasuet ventilation systems in accordance with paragraph (c)(1)(ii) of this section.

(2) *Work practices*—(i) *Wet methods.* Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborn fibers in excess of the exposure limits prescribed in paragraph (b) of this section, unless the usefulness of the product would be dimished thereby.

(ii) *Particular products and operations.* No asbestos cement, mortor, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in paragraph (b) of this section.

(iii) *Spraying, demolition, or removal.* Employees engaged in the spraying of asbestos, the removal, or demolition of pipes structures, or equipment covered or insultated with asbestos, and in the removal of demolition of asbestos insulation or coverings shall be provided with respiratory equipment in accordance with paragraph (d)(2)(iii) of this section and with special clothing in accordance with paragraph (d)(3) of this section.

(d) *Personal protective equipment*—(1) Compliance with the exposure limits prescribed by paragraph (b) of this section may not be achieved by the use of respirators of shift rotation of employees, except:

(i) During the time period necessary to install the engineering controls and to institute the work practices required by paragraph (c) of this section;

(ii) In work situations in which the methods prescribed in paragraph (c) of this section are either technically not feasible or feasible to an extent insufficient to reduce the airborne concentrations of asbestos fibers below the limits prescribed by paragraph (b) of this section: or

(iii) In emergencies.

(iv) Where both respirators and personnel rotation are allowed by paragraphs (d)(1) (i), (ii) or (iii) of this section, and both are practicable, personnel rotation shall be preferred and used.

(2) Where a respirator is permitted by paragraph (d)(1) of this section, it shall be selected from among those approved by the Bureau of Mines, Department of the Interior, or the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare, under the provisions of 30 CFR Part 11 (37 FR 6244, Mar. 25, 1972), and shall be used in accordance with paragraph (d)(1) (i), (ii), (iii), and (iv) of this section.

(i) *Air purifying respirators.* A reusable or single use air purifying respirator, or a respirator described in paragraph (d)(2) (ii) or (iii) of this section, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average concentrations of asbestos fibers are reasonably expected to exceed no more than 10 times those limits.

(ii) Powered air purifying respirators. A full facepiece powered air purifying respirator, or a powered air purifying respirator, or a respirator described in paragraph (d)(2)(iii) of this section, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average concentrations of asbestos fibers are reasonably expected to exceed 10 times, but not 100 times, those limits.

(iii) Type "C" supplied-air respirators, continuous flow or pressure-demand class. A type "C" continuous flow or pressure-demand, supplied-air respirator shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed 100 times those limits.

(iv) *Establishment of a respirator program.* (A) The employer shall establish a respirator program in accordance with the requirements of the American National Standards Practices for Respiratory Protection, ANSI Z88.2–1969, which is incorporated by reference herein.

(B) See § 1910.6 concerning the availability of ANSI Z88.2–1969 and the maintenance of a historic file in connection therewith. The address of the American National Standards Institute is given in § 1910.100.

(C) No employee shall be assigned to tasks requiring the use of respirators if, based upon his most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employee will be impaired by his use of a respirator. Such employee shall be rotated to another job or given the opportunity to transfer to a different position whose duties he is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay he had just prior to such transfer, if such different position is available.

(3) Special clothing: The employer shall provide, and require the use of, special clothing, such as coveralls or similar whole body clothing, head coverings, gloves, and foot coverings for any employee exposed to airborne concentrations of asbestos fibers, which exceed the ceiling level prescribed in paragraph (b) of this section.

(4) Change rooms: (i) At any fixed place of employment exposed to airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, the employer shall provide change rooms for employees working regularly at the place.

(ii) Clothes lockers: The employer shall provide two separate lockers or containers for each employee, so separated or isolated as to prevent

contamination of the employee's street clothes from his work clothes.

(iii) Laundering: (A) Laundering of asbestos contaminated clothing shall be done so as to prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(B) Any employer who gives asbestos-contaminated clothing to another person for laundering shall inform such person of the requirement in paragraph (d)(4)(iii)(A) of this section to effectively prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(C) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable containers, and labeled in accordance with paragraph (g) of this section.

(e) *Method of measurement.* All determinations of airborne concentration of asbestos fibers shall be made by the membrane filter method at 400–450 X (magnification) (4 millimeter objective) with phase contrast illumination.

(f) *Monitoring*—(1) *Initial determinations.* Within 6 months of the publication of this section, every employer shall cause every place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee's exposure to asbestos fibers is below the limits prescribed in paragraph (b) of this section. If the limits are exceeded, the employer shall immediately undertake a compliance program in accordance with paragraph (c) of this section.

(2) *Personal monitoring*—(i) Samples shall be collected from within the breathing zone of the employees, on membrane filters of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) *Sampling frequency and patterns.* After the initial determinations required by paragraph (f)(1) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees. In no case shall the sampling be done at intervals greater than 6 months for employees whose exposure to asbestos may reasonably be foreseen to exceed the limits prescribed by paragraph (b) of this section.

(3) *Environmental monitoring.* (i) Samples shall be collected from areas of a work environment which are representative of the airborne concentrations of asbestos fibers which may reach the breathing zone of employees. Samples shall be collected on a membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) Sampling frequencey and patterns. After the initial determinations required by paragraph (f)(1) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees. In no case shall sampling be at intervals greater than 6 months for employees whose exposures to asbestos may reasonably be foreseen to exceed the exposure limits prescribed in paragraph (b) of this section.

(4) *Employee observation of monitoring.* Affected employees, or their representatives, shall be given a reasonable opportunity to observe any monitoring required by this paragraph and shall have access to the records thereof.

(g) *Caution signs and labels*—(1) *Caution signs*—(i) *Posting.* Caution signs shall be provided and displayed at each location where airborne concentrations of asbestos fibers may be in excess of the exposure limits prescribed in paragraph (b) of this section. Signs shall be posted at such a distance from such a location so that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. Signs shall be posted at all approaches to areas containing excessive concentrations of airborne asbestos fibers.

(ii) *Sign specifications.* The warning signs required by paragraph (g)(1)(i) of this section shall conform to the requirements of 20"x14" vertical format signs specified in § 1910 145(d)(4), and to this subdivision. The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to that specified in this subdivision.

Legend	Notation
Asbestos	1" Sans Serif, Gothic or Block.
Dust Hazard	¾" Sans Serif, Gothic or Block.
Avoid Breathing Dust	¼" Gothic.
Wear Assigned Protective Equipment	¼" Gothic.
Do Not Remain In Area Unless Your Work Requires It.	¼" Gothic.
Breathing Asbestos Dust May Be Hazardous To Your Health.	14 point Gothic.

Spacing between lines shall be at least equal to the height of the upper of any two lines.

(2) *Caution labels*—(i) *Labeling.* Caution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section will be released.

(ii) *Label specifications.* The caution labels requied by paragraph (g)(2)(i) of this section shall be printed in letters of sufficient size and contrast as to be readily visible and legible. The label shall state:

Caution—Contains Asbestos Fibers, Avoid Creating Dust, Breathing Asbestos Dust May Cause Serious Bodily Harm

(h) *Housekeeping*—(1) *Cleaning.* All external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if, with their dispersion, there would be an excessive concentration.

(2) *Waste disposal.* Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, which may produce in any reasonably foreseeable use, handling, storage, processing, disposal, or transportation airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(i) *Recordkeeping*—(1) *Exposure records.* Every employer shall maintain records of any personal or environmental monitoring required by this section. Records shall be maintained for a period of at least 20 years and shall be made available upon request to the Assistant Secretary of Labor for Occupational Safety and Health, the Director of the National Institute for Occupational Safety and Health, and to authorized representatives of either.

(2) *Access.* Employee exposure records required by this paragraph shall be provided upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(l).

(3) *Employee notification.* Any employee found to have been exposed at any time to airborne concentration of asbestos fibers in excess of the limits

prescribed in paragraph (b) of this section shall be notified in writing of the exposure as soon as practicable but not later than 5 days of the finding. The employee shall also be timely notified of the corrective action being taken.

(j) *Medical examinations*—(1) *General.* The employer shall provide or make available at his cost, medical examinations relative to exposure to asbestos required by this paragraph.

(2) *Preplacement.* The employer shall provide or make available to each of his employees, within 30 calendar days following his first employment in an occupation exposed to airborne concentrations of asbestos fiber, a comprehensive medical examination, which shall include, as a minimum a chest roentgenogram (posterior-anterior 14x17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(3) *Annual examinations.* On or before January 31, 1973, and at least annually thereafter, every employer shall provide, or make available, comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers. Such annual examination shall include, as minimum, a chest roentgenogram (posterior-anterior 14x17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(4) *Termination of employment.* The employer shall provide or make available, within 30 calendar days before or after the termination of employment of any employee engaged in an occupation exposed to airborne concentration of asbestos fibers, a comprehensive medical examination which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14x17 inches), a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(5) *Recent examinations.* No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with this paragraph within the past 1-year period.

(6) *Medical records*—(i) *Maintenance.* Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be retained by employers for at least 20 years.

(ii) *Access.* Records of the medical examinations required by this paragraph shall provide upon request to employees, designated representatives, and the Assistant Secretary in accordance with 29 CFR 1910.20 (a)–(e) and (g)–(l). These records shall also be provided upon the request to the Director of NIOSH. Any physician who conducts a medical examination required by this paragraph shall furnish to the employer of the examined employee all the information specifically required by this paragraph, and any other medical information related to occupational exposure to asbestos fibers.

TABLE 1.—RESPIRATOR PROTECTION FOR AIRBORNE CONCENTRATIONS OF ASBESTOS

Airborne concentration of asbestos (TWA)	Required respirator [1]
Not in excess of 5 f/cc (10 x PEL).	Reusable or single use air purifying respirator.
Not in excess of 50 f/cc (100 x PEL).	Full facepiece air purifying respirator, or a powered air purifying respirator.
Greater than 50 f/cc	A type "C" continuous flow or pressure demand, supplied air respirator.

[1] Respirators specified for high concentrations may be used at lower concentrations of asbestos.

(Approved by the Office of Management and Budget under control number 12180010)

8. The authority citation for Subpart D of Part 1926, continues to read as follows:

Authority: Secs. 4, 5, 6, 8 Occupational Safety and Health Act of 1970, 29 U.S.C. 653, 655, 657; Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act), 40 U.S.C. 333, and Secretary of Labor's Orders 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable. Sections 1926.55(c) and 1926.58 also issued under 29 CFR Part 1911.

9. Paragraph (c) of § 1926.55 is hereby revised to read as follows:

§ 1926.55 Gases, vapors, fumes, dusts, and mists

* * * * *

(c) Paragraphs (a) and (b) of this section do not apply to the exposure of employees to airborne asbestos, tremolite, anthophyllite, or actinolite dust. Whenever any employee is exposed to airborne asbestos, tremolite, anthophyllite, or actinolite dust, the requirements of § 1910.1101 or § 1926.58 of this title shall apply.

[FR Doc. 86–23402 Filed 10–16–86; 8:45 am]

BILLING CODE 4510–26–M

Mine Safety and Health Administration

30 CFR Parts 16 and 17

Stemming and Blasting Devices; Revocation of Regulations Concerning Approval

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This final rule revokes obsolete the Mine Safety and Health Administration's (MSHA) regulations concerning approval of stemming devices and blasting devices under the authority of section 508 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 957).

EFFECTIVE DATE: October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235–1910.

SUPPLEMENTARY INFORMATION: MSHA originally published these final rules in the **Federal Register** on June 20, 1986 (51 FR 22519 and 22520); however, the Agency withdrew them on June 30, 1986 (51 FR 23536) to avoid paying republishing costs for Title 30. The Code of Federal Regulations is published on an annual basis and MSHA's volume (Title 30) is revised on July 1 of each year.

The requirements in Part 16 apply to stemming devices that incorporate asbestos, the manufacture of which has been discontinued because of health hazards associated with asbestos. Asbestos stemming devices have not been used in underground coal mines for approximately 30 years, and no MSHA approvals have been issued under Part 16 since August 1957. The requirements in Part 17 apply to devices that use high gas pressure to blast coal, a method of blasting that has not been used for at least 20 years in underground coal mines. No approvals for blasting devices have been issued under Part 17 since June 1960. The regulations in 30 CFR Parts 16 and 17 are therefore obsolete and are removed.

Executive Order 12291 and the Regulatory Flexibility Act

MSHA certifies that this rulemaking action will not have a significant economic impact on a substantial number of small entities.

Publication as a Final Rule

This rule eliminates obsolete regulations and does not affect the rights or obligations of any person currently holding an approval. In

addition, the rule relates to agency practice and procedure for approval of devices that are no longer used in underground coal mines. Accordingly, publication of a general notice of proposed rulemaking is not required by 5 U.S.C. 553.

List of Subjects in 30 CFR Parts 16 and 17

Mine safety and health, Explosives.

PARTS 16 AND 17—[REMOVED]

Accordingly, 30 CFR Parts 16 and 17 are removed from Chapter I of Title 30 of the Code of Federal Regulations.

Dated: October 8, 1986.

David A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 86-23539 Filed 10-16-86; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Parts 1, 7, and 50

General Regulations for Areas Administered by the National Park Service; National Capital Parks Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This final rule recognizes regulations pertaining to the management and protection of areas administered by the National Park Service in the National Capital Region. It also makes applicable to those park areas the General Regulations that apply to all other units of the National Park System throughout the country.

The Park Service has determined that a completely separate set of regulations is no longer necessary to manage park areas in Washington, DC and vicinity effectively. Only those regulations that address issues unique to park areas in the National Capital Region will be retained as Special Regulations; all others that duplicate provisions of the Service's General Regulations will be eliminated. Some regulations have been revised slightly to make consistent use of terms and format found in the Service's General Regulations, but no new regulatory actions are being proposed.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra Alley, Associate Regional Director, Public Affairs, National Capital Region, National Park Service, 1100 Ohio Drive SW., Washington, DC 20242, telephone (202) 426-6700.

SUPPLEMENTARY INFORMATION:

Background

General regulations found in Parts 1 through 5 of 36 Code of Federal Regulations (hereinafter "General Regulations") apply to all units of the National Park System except those administered by the National Capital Region in the District of Columbia and its environs (defined as Arlington, Fairfax, Loudoun, Prince William, and Stafford counties and Alexandria city in Virginia, and Prince Georges, Charles, Anne Arundel, and Montgomery counties in Maryland, 36 CFR 50.4(c)).

The General Regulations are supplemented by special regulations applicable to individual park areas, as found in Parts 7 and 13 (hereinafter "Special Regulations"). National Capital Region parks are subject to extensive regulations found in Part 50.

This dual set of regulatory schemes has resulted in considerable redundancy. For example, both the General Regulations (Part 2) and regulations applicable to National Capital Region parks (Part 50) deal with many of the same resource protection and public use matters, for example, horses, pets, picnicking, and disorderly conduct. It serves no purpose to have two sets of regulations which regulate many of the same activities.

Further, having different sets of regulatory schemes for different geographic areas has resulted in some confusion. For example, Park Rangers and U.S. Park Policemen in C&O Canal National Historical Park, encompassing lands in the District of Columbia, Maryland, and West Virginia, must use one set of regulations for parts of the park located in the District of Columbia and in Montgomery County, Maryland, and another, set of regulations for those parts of the park located in the remainder of Maryland and in West Virginia.

Further, Part 50 regulations sometimes neglect provisions necessary to more rural parks. For example, Part 50 does not address aircraft such as hot air balloons or ultra light craft, as the General Regulations do in 36 CFR 2.17. Managers of parks subject only to Part 50, such as Manassas, are without regulatory tools to manage the rapidly-increasing use of these balloons and crafts. Another example of an activity not addressed by Part 50 regulations, but which is occasionally a problem, is snowmobiling. The General Regulations address this activity in § 2.18.

Another problem is the illegal use of metal detectors for location of Civil War artifacts in battlefield parks such as Manassas. Part 50 regulations requires some actual damage, injury or removal before an individual with a metal detector can be prevented from using the device under the regulations. (36 CFR 50.7(1)). The General Regulations prohibit the posssession of a mineral or metal detector unless the device is broken down and stored to prevent its use while in park areas. (36 CFR 2.1(a)(7)).

Public Comments

To meet these concerns, the National Park Service published a proposed rulemaking on December 19, 1985. 50 FR 51782. The public was given sixty days to submit comments on the proposal. No comments were received on the proposed rulemaking.

Regulatory Changes

To meet the concerns caused by the present dual system of park regulations, the National Park Service: (1) Eliminates the CFR Part applicable only to the parks in the District of Columbia and its environs (Part 50); (2) makes the General Regulations contained in parts 1–5 applicable to all units of the National Park Service, including the District of Columbia parks; and (3) places regulations specifically applicable only to National Capital Region parks in special regulations in Part 7. The specific changes follow.

1. Part 1 (General Provisions)

The final rule amends § 1.2 of 36 CFR by eliminating the present provision excepting parks in the District of Columbia and its environs from the applicability of the General Regulations. Thereby, parks in the District of Columbia and its environs are subject to the same regulations as parks throughout the country, thus avoiding the duplication and confusion in the present dual regulation systems. Regulations specific to these parks supplement the General Regulations and are placed in Part 7.

In addition, § 1.2 is amended to make the General Regulations applicable to other Federal reservations in the environs of the District of Columbia. Section 1.4 is amended to include the definition of the term "other Federal reservations in the environs of the District of Columbia." Finally, § 1.2 is amended to delete references to Part 6, which was deleted in a 1983 rulemaking. See 48 FR 30275, June 30, 1983.

2. Part 50 (National Capital Parks Regulations)

Since the General Regulations are made applicable to the National Capital Region parks, regulations in Part 50 are deleted except for those specific to the District of Columbia and its environs. Regulations retained are placed in Part 7 as detailed below.

Regulations deleted are those that are duplicative of the General Regulations or those duplicative of local law. For example, both Part 50 and Part 2 deal with horses, pets, and picnicking. Further, provisions in Part 50 dealing with such topics as disorderly conduct and traffic are covered by local law. Especially in the District of Columbia, which is an area of exclusive federal jurisdiction, local law often is applied. The following sections in Part 50 are deleted altogether:

Sec.

50.2 Applicability of Federal laws.
50.3 Applicability of District of Columbia and State laws.
50.4 Definitions.
50–5 Penalties.
50.7 Federal property; miscellaneous provisions.
50.8 Lamps and lamp posts in park areas.
50–9 Comfort stations and other structures.
50.10 Trees, shrubs, plants, grass and other vegetation.
50.11 Dogs, cats, and livestock.
50.12 Horses.
50.13 Grazing; permitting animals to run loose.
50.14 Picnics in park areas.
50.17 Gambling.
50.26 Indecency, immorality, profanity.
50.28 Use of liquors; intoxication.
50.29 Laws and regulations applicable to traffic control; enforcement.
50.30 Obstructing entrances, exits, sidewalks.
50.31 Speed restrictions.
50.32 Reckless driving; prohibited operations.
50.33 Parking restrictions; impounding of vehicles.
50.34 Traffic signs.
50.35 Washing of cars prohibited.
50.37 Vehicles; weight and tread restrictions.
50.38 Tampering with vehicles prohibited.
50.39 Prevention of smoke.
50.40 Bicycling, roller skating and coasting restrictions.
50.41 Boating.
50.42 Swimming, water skiing, etc.
50.43 Collection of scientific specimens.
50.44 Lost and found articles.
50.45 Photographing, restrictions.
50.46 Discrimination in furnishing public accommodations and transportation services.
50.46a Discrimination in employment practices.
50.47 Installation permits.
50.48 Making false reports to the United States Park Police.
Sec.
50.49 Dangerous weapons.
50.50 Fires.
50.51 Sanitation.

3. Part 7 (Special Regulations)

The regulations presently in Part 50 that are being retained are redesignated as sections in Part 7. The retained regulations are placed under special regulation 36 CFR 7.96, National Captial Region Parks.

The special regulation applicable only to parks in the District of Columbia and its environs now includes the following provisions formerly in Part 50:

Section 50.1 Applicability of regulations

This section is revised to make these special regulations applicable to areas administered by the National Park Service in the District of Columbia and its environs and to other Federal reservations in the environs of the District of Columbia.

Section 50.15 Athletics.

This section is being retained in its entirety, except for the reference in paragraph (d) to another section in Part 50, and except for minor changes, as it addresses specific District of Columbia park areas and addresses problems of substantial impact on parks in the District of Columbia and its environs.

Section 50.16 Model planes.

This section is being retained, with minor grammatical changes, as the General Regulations provide no comparable prohibitions and the flying of model planes could be a significant problem in urban parks.

Section 50.18 Hunting and fishing.

This section is deleted as presently written because the General Regulations cover the subjects of hunting and fishing. However, to avoid making unlawful those fishing practices that are sanctioned under various state laws, a new regulation allowing fishing as authorized under state law, unless otherwise designated, is added.

Section 50.19 Demonstrations and special events.

This section is being retained in its entirety, with minor grammatical changes, as it specifically addresses issues unique to the Washington area parks. These regulations have been carefully crafted over the years to respond to the experiences of the National Park Service in the District of Columbia area and to local court decisions.

Section 50.24 Soliciting, advertising, sales.

This section is being deleted as duplicative of provisions in the General Regulations concerning advertising and of provisions in former § 50.52 concerning sales, with the exception of paragraph (a) relating to solicitations. This provision is retained as it applies a flat ban to solicitations, this being more restrictive than provisions in the General Regulations allowing solicitations for which a permit is granted. However, the section is revised to make the languague consistent with the sales provision in § 2.37 of Part 2 of this Chapter.

Section 50.25 Nuisances; disorderly conduct.

This section is deleted with the exception of the paragraph concerning swimming in certain park areas and entering into waters from park areas. This paragraph address specific National Capital Region parks and grants law enforcement officers the authority to cite persons for entering into dangerous waters, an authority lacking in Parts 1–5 of Chapter 1.

Section 50.27 Camping.

The majority of this section is being retained as it addresses problems specific to parks in the District of Columbia and its environs and responds to local court decisions. Provisions duplicative of provisions in the General Regulations are deleted.

Section 50.36 Commercial vehicles and common carriers.

This section is being retained in its entirety, with minor grammatical changes, with the exception of paragraph (c) which duplicates in large part paragraph (a). This section is retained because it addresses activities of unique concern to parks in the District of Columbia and its environs and, in fact, addresses those activities in several named parks.

Section 50.52 Sale and distribution of printed matter.

This section is being retained in its entirety, with minor grammatical changes, as it addresses specific parks in the District of Columbia and problems specific to parks in the District of Columbia and its environs, and responds to local court decisions.

The only changes that occurred in these sections when they were transposed were: (1) Corrections of typographical errors in the original sections; (2) revisions in references to

internal paragraphs and sections; (3) redesignation of "National Capital Parks" as "the National Capital Region", reflecting an administrative name change; (4) deletion of the reference in § 50.19(c) to the availability of permit applications at the National Visitor Center, Union Station, as the National Park Service no longer administers that facility; (5) deletion of the reference to the President's Cup Regatta in § 50.19, as there is no longer such an event; (6) revision in § 50.19 of the location of the Folk Life Festival, held in the Mall each year, as this location has changed slightly; (7) revision in § 50.19(d)(1)(vii), "Inaugural Ceremonies", to change the date "January 20, 1981" to the more general "Inauguration Day" to reflect the true intent of the paragraph; and (8) revisions of text to clarify the intent of certain regulations, to correct grammatical errors or to make consistent the use of terms defined in § 1.4.

4. Changes From Proposed Regulation

The final regulation is changed slightly from the proposed regulation. That change involves the geographical applicability of the provisions concerning demonstrations, solicitations, sales and camping. The proposed regulation had made those provisions applicable only to parks within the District of Columbia, whereas they were formerly applicable to all National Capital Region parks. The change in applicability unintentionally changed the venue of criminal cases brought under those provisions, *that is*, cases brought under regulations applicable only within the District of Columbia are heard in the District of Columbia Superior Court, whereas regulations not applicable exclusively within the District are heard in the United States District Court for the District of Columbia. So as not to change the venue and in order to maintain consistency throughout the National Capital Region parks, the Park Service is making all of the regulations retained from Part 50 applicable to all parks within the National Capital Region.

Drafting Information

The following persons participated in the writing of this rule: Richard G. Robbins and Patricia S. Bangert, Office of the Solicitor, U.S. Department of the Interior.

Paperwork Reduction Act

The information requirements contained in the General Regulations, Parts 2 and 3 of 36 CFR, have been approved by the Office of Management and Budget under 44 U.S.C. 3501, et seq., and assigned clearance number 1024–0026. The information requirements contained in § 7.96 have been approved by the Office of Management and Budget under 44 U.S.C. 3501, et seq., and assigned clearance number 1024–0021.

Compliance with Other Laws

The National Park Service has determined that this document is not a major rule requiring preparation of a Regulatory Impact Analysis under Executive Order 12291. The National Park Service also has determined that the rule will not have a significant economic impact on a substantial number of small entities and, therefore, does not require a small entity flexibility analysis under 5 U.S.C. 601. The rule eliminates many present restrictions. Which it extends the applicability of other provisions to parks administered by the National Capital Region, the rule makes applicable, to a great extent, provisions that are duplicative of those presently in effect. No new provisions are being instituted. Further, experience has been that the General Regulations have had minimal positive or negative impacts on the following types of businesses: some small businesses selling certain park-related items; local guide services and commercial packers; aircraft salvage companies; local repair shops and filling stations; and ranching and farming interests. Therefore, the rule will have no significant impact on any aspect of the economy.

The National Park Service has further determined that this rule is not a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act, 42 U.S.C. 4332, et seq. An environmental assessment and a Finding of No Significant Impact (FONSI) have been prepared by the National Park Service for the general regulations here made applicable to the National Capital Region parks. We adopt those documents here. The documents are available for review at the Division of Visitor Services, National Park Service, 18th and C Street NW., Washington, DC 20240, telephone (202) 343–4874.

List of Subjects

36 CFR Part 1

National parks, Penalties, Reporting and recordkeeping requirements, Signs and symbols.

36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

36 CFR Part 50

District of Columbia, National parks.

In consideration of the foregoing, 36 CFR Chapter 1 is amended as follows:

PART 1—GENERAL PROVISIONS

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

Authority: 16 U.S.C. 1, 3, 9a, 460 l–6a(e), 462(k); D.C. Code 8–137, 40–721 (1981).

2. Section 1.2 is revised to read as follows:

§ 1.2 Applicability and scope.

(a) The regulations contained in this chapter apply to all persons entering, using, visiting or otherwise within:

(1) The boundaries of federally owned lands and waters administered by or subject to the jurisdiction of the National Park Service; or

(2) The boundaries of lands and waters, controlled, leased, administered or otherwise subject to the jurisdiction of the National Park Service, including other Federal reservations in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the Act of March 17, 1948 (62 Stat. 81); or

(3) Less-than-fee interests to the extent necessary to fulfill the purpose of the acquired Federal interest and compatible with the retained nonfederal interest.

(b) The regulations contained in Parts 1 through 5 and Part 7 of this chapter are not applicable on privately owned lands and waters (including Indian lands and waters owned individually or tribally) within the boundaries of a park area, except as may be provided by regulations relating specifically to privately owned lands and waters under the legislative jurisdiction of the United States.

(c) The regulations contained in Part 7 and Part 13 of this chapter are special regulations prescribed for specific park areas. Those regulations may amend, modify, relax or make more stringent the regulations contained in Parts 1 through 5 and Part 12 of this chapter.

(d) The regulations contained in Parts 2 through 5 and Part 7 shall not be construed to prohibit administrative activities conducted by the National Park Service, or its agents, in accordance with approved general management and resources management plans, or in emergency operations involving threats to life, property, or park resources.

3. Paragraph (a) of § 1.4 is amended by adding the following definition after

the definition of "Operator" and before the definition of "Pack animal":

§ 1.4 Definitions.

(a) * * *

"Other Federal reservations in the environs of the District of Columbia" means Federal areas, which are not under the administrative jurisdiction of the National Park Service, located in Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the City of Alexandria in Virginia and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland, exclusive of military reservations, unless the policing of military reservations by the U.S. Park Police is specifically requested by the Secretary of Defense or a designee thereof.

* * * * *

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

4. Part 7 is amended as follows:

a. By revising the authority citation to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 462(k); section 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

b. By adding a new section 7.96 to read as follows:

§ 7.96 National Capital Region parks.

(a) *Applicability of regulations.* This section applies to all park areas administered by National Capital Region in the District of Columbia and in Arlington, Fairfax, Loudoun, Prince William, and Stafford Counties and the City of Alexandria in Virginia and Prince Georges, Charles, Anne Arundel, and Montgomery Counties in Maryland and to other federal reservations in the environs of the District of Columbia, policed with the approval or concurrence of the head of the agency having jurisdiction or control over such reservations, pursuant to the provisions of the act of March 17, 1948 (62 Stat. 81).

(b) *Athletics*—(1) *Permits for organized games.* Playing baseball, football, croquet, tennis, and other organized games or sports except pursuant to a permit and upon the grounds provided for such purposes, is prohibited.

(2) *Wet grounds.* Persons holding a permit to engage in athletics at certain times and at places authorized for this use are prohibited from exercising the privilege of play accorded by the permit if the grounds are wet or otherwise unsuitable for play without damage to the turf.

(3) *Golf and tennis; fees.* No person may use golf or tennis facilities without paying the required fee, and in compliance with conditions approved by the Regional Director. Trespassing, intimidating, harassing or otherwise interfering with authorized golf players, or interfering with the play of tennis players is prohibited.

(4) *Ice skating.* Ice skating is prohibited except in areas and at times designated by the Superintendent. Skating in such a manner as to endanger the safety of other persons is prohibited.

(c) *Model planes.* Flying a model powered plane from any park area is prohibited without a permit.

(d) *Fishing.* Unless otherwise designated, fishing in a manner authorized under applicable State law is allowed.

(e) *Swimming.* Bathing, swimming or wading in any fountain or pool except where officially authorized is prohibited. Bathing, swimming or wading in the Tidal Basin, the Chesapeake and Ohio Canal, or Rock Creek, or entering from other areas covered by this section the Potomac River, Anacostia River, Washington Channel or Georgetown Channel, except for the purpose of saving a drowning person, is prohibited.

(f) *Commercial vehicles and common carriers*—(1) *Operation in park areas prohibited; exceptions.* Commercial vehicles and common carriers, loaded or unloaded, are prohibited on park roads and bridges except on the section of Constitution Avenue east of 19th Street or on other roads and bridges designated by the Superintendent, or when authorized by a permit or when operated in compliance with paragraph (f)(2) of this section.

(2) *George Washington Memorial Parkway; passenger-carrying vehicles; permits; fees.* (i) Taxicabs licensed in the District of Columbia, Maryland, or Virginia, are allowed on any portion of the George Washington Memorial Parkway without a permit or payment of fees.

(ii) Passenger-carrying vehicles for hire or compensation, other than taxicabs, having a seating capacity of not more than fourteen (14) passengers, excluding the operator, when engaged in services authorized by concession agreement to be operated from the Washington National Airport and/or Dulles International Airport, are allowed on any portion of the George Washington Memorial Parkway in Virginia without a permit or payment of fees. However, when operating on a sightseeing basis an operator of such a vehicle shall comply with paragraph (f)(2)(iv) of this section.

(iii) Passenger-carrying vehicles for hire or compensation, other than those to which paragraphs (f)(2) (i) and (ii) of this section apply, are allowed on the George Washington Memorial Parkway upon issuance of a permit by the Regional Director, under the following conditions:

(A) When operating on a regular schedule: to provide passenger service on any portion between Mount Vernon and the Arlington Memorial Bridge, or to provide limited direct nonstop passenger service from Key Bridge to a terminus at the Central Intelligence Agency Building at Langley, Virginia, and direct return, or to provide limited direct nonstop passenger service from the interchange at Route 123 to a terminus at the Central Intelligence Agency Building at Langley, Virginia, and direct return. Permittees shall file a schedule of operation and all schedule changes with the Regional Director showing the number of such vehicles and total miles to be operated on the parkway.

(B) When operating nonscheduled direct, nonstop service primarily for the accommodation of air travelers arriving at or leaving from Dulles International Airport or Washington National Airport: between Dulles International Airport and a terminal in Washington, DC, over the George Washington Memorial Parkway between Virginia Route 123 and Key Bridge; or between Washington National Airport and a terminal in Washington, D.C., over the George Washington Memorial Parkway between Washington National Airport and 14th Street Bridge; or between Dulles International Airport and Washington National Airport over the George Washington Memorial Parkway between Virginia Route 123 and Washington National Airport. Permittees shall file a report of all operations and total miles operated on the George Washington Memorial Parkway with the Regional Director.

(C) Permits are issued to operators of vehicles described in paragraphs (f)(2)(iii) (A) and (B) normally for a period of one year, effective from July 1 until the following June 30, at the rate of one cent (1) per mile for each mile each such vehicle operates upon the parkway. Payment shall be made quarterly within twenty (20) days after the end of the quarter based upon a certification by the operator of the total mileage operated upon the parkway.

(iv) Sightseeing passenger-carrying vehicles for hire or compensation other than taxicabs may be permitted on the George Washington Memorial Parkway upon issuance of a permit by the Regional Director, to provide sightseeing service on any portion of the parkway. Permits may be issued either on an

annual basis for a fee of three dollars ($3.00) for each passenger-carrying seat in such vehicle; on a quarterly basis for a fee of seventy-five cents (75) per seat; or on a daily basis at the rate of one dollar ($1.00) per vehicle per day.

(3) *Taxicabs*—(i) *Operations around Memorials.* Parking, except in designated taxicab stands, or cruising on the access roads to the Washington Monument, the Lincoln Memorial, the Jefferson Memorial, and the circular roads around the same, of any taxicab or hack without passengers is prohibited. However, this section does not prohibit the operation of empty cabs responding to definite calls for hack service by passengers waiting at such Memorials, or of empty cabs which have just discharged passengers at the entrances of the Memorials, when such operation is incidental to the empty cabs' leaving the area by the shortest route.

(ii) *Stands.* The Superintendent may designate taxicab stands in suitable and convenient locations to serve the public.

(4) The provisions of this section prohibiting commercial trucks and common carriers do not apply within other Federal reservations in the environs of the District of Columbia and do not apply on that portion of Suitland Parkway between the intersection with Maryland Route 337 and the end of the Parkway at Maryland Route 4, a length of 0.6 mile.

(g) *Demonstrations and special events*—(1) *Definitions.* (i) The term "demonstrations" includes demonstrations, picketing, speechmaking, marching, holding vigils or religious services and all other like forms of conduct which involve the communication or expression of views or grievances, engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term does not include casual park use by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(ii) The term "special events" includes sports events, pageants, celebrations, historical reenactments, regattas, entertainments, exhibitions, parades, fairs, festivals and similar events (including such events presented by the National Park Service), which are not demonstrations under paragraph (g)(1)(i) of this section, and which are engaged in by one or more persons, the conduct of which has the effect, intent or propensity to draw a crowd or onlookers. This term also does not include casual park use by visitors or tourists which does not have an intent or propensity to attract a crowd or onlookers.

(iii) The term "national celebration events" means the annually recurring special events regularly scheduled by the National Capital Region, which are listed in paragraph (g)(4)(i) of this section.

(iv) The term "White House area" means all park areas, including sidewalks adjacent thereto, within these bounds; on the south, Constitution Avenue NW.; on the north, H Street NW.; on the east, 15th Street, NW.; and on the west, 17th Street NW.

(v) The term "White House sidewalk" means the south sidewalk of Pennsylvania Avenue NW., between East and West Executive Avenues NW.

(vi) The term "Lafayette Park" means the park areas, including sidewalks adjacent thereto, within these bounds: on the south, Pennsylvania Avenue NW.; on the north, H Street NW.; on the east, Madison Place NW.; and on the west, Jackson Place NW.

(vii) The term "Ellipse" means the park areas, including sidewalks adjacent thereto, within these bounds: on the south, Constitution Avenue NW.; on the north, E Street, NW.; on the west, 17th Street NW.; and on the east, 15th Street NW.

(viii) The term "Regional Director" means the official in charge of the National Capital Region, National Park Service, U.S. Department of the Interior, or an authorized representative thereof.

(ix) The term "other park areas" includes all areas, including sidewalks adjacent thereto, other than the White House area, administered by the National Capital Region.

(x) The term "Vietnam Veterans Memorial" means the structures and adjacent areas extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue two hundred (200) feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting Pool walkway).

(2) *Permit requirements.* Demonstrations and special events may be held only pursuant to a permit issued in accordance with the provisions of this section except:

(i) Demonstrations involving 25 persons or fewer may be held without a permit *provided* that the other conditions required for the issuance of a permit are met and *provided further* that the group is not merely an extension of another group already availing itself of the 25-person maximum under this provision or will not unreasonably interfere with other demonstrations or special events.

(ii) Demonstrations may be held in the following park areas without a permit *provided* that the conduct of such demonstrations is reasonably consistent with the protection and use of the indicated park area and the other requirements of this section. The numerical limitations listed below are applicable only for demonstrations conducted without a permit in such areas. Larger demonstrations may take place in these areas pursuant to a permit.

(A) *Franklin Park.* Thirteenth Street, between I and K Streets NW., for no more than 500 persons.

(B) *McPherson Square.* Fifteenth Street, between I and K Streets NW., for no more than 500 persons.

(C) *U.S. Reservation No. 31.* West of 18th Street and south of H Street NW., for no more than 100 persons.

(D) *Rock Creek and Potomac Parkway.* West of 23rd Street, south of P Street NW., for no more than 1,000 persons.

(E) *U.S. Reservation No. 46.* North side of Pennsylvania Avenue, west of Eighth Street and south of D Street, SE., for no more than 25 persons and south of D Street SE., for no more than 25 persons.

(3) *Permit applications.* Permit applications may be obtained at the Office of Public Affairs, National Capital Region, 1100 Ohio Drive SW., Washington, DC 20242. Applicants shall submit permit applications in writing on a form provided by the National Park Service so as to be received by the Regional Director at least 48 hours in advance of any proposed demonstration or special event. This 48-hour period will be waived by the Regional Director if the size and nature of the activity will not reasonably require the commitment of park resources or personnel in excess of that which are normally available or which can reasonably be made available within the necessary time period. The Regional Director shall accept permit applications only during the hours of 8 a.m.–4 p.m., Monday through Friday, holidays excepted. All demonstration applications, except those seeking waiver of the numerical limitations applicable to Lafayette Park (paragraph (g)(5)(ii) of this section), are deemed granted, subject to all limitations and restrictions applicable to said park area, unless denied within 24

hours of receipt. However, where a permit has been granted, or is deemed to have been granted pursuant to this subsection, the Regional Director may revoke that permit pursuant to paragraph (g)(6) of this section.

(i) *White House area.* No permit may be issued authorizing demonstrations in the White House area, except for the White House sidewalk, Lafayette Park and the Ellipse. No permit may be issued authorizing special events, except for the Ellipse, and except for annual commemorative wreath-laying ceremonies relating to the statutes in Lafayette Park.

(ii) *Other park areas.* No permits may be issued authorizing demonstrations or special events in the following other park areas:

(A) The Washington Monument, which means the area enclosed within the inner circle that surrounds the Monument's base, except for the official annual commemorative Washington birthday ceremony.

(B) The Kennedy Center, which means the area under the administration of the National Park Service within the building known as the John F. Kennedy Center for the Performing Arts and includes the roof terrace and outdoor terraces on the north, south, and west portions of the institution as well as the driveways leading to the parking garages. For the purpose of this section, the term "Kennedy Center" does not include the east building sidewalk, outdoor plaza or grassy areas at the Center. Demonstrations are permitted on those latter areas *provided* entrances to the Center are not obstructed or vehicular traffic in its vicinity is not impeded.

(C) The Lincoln Memorial, which means that portion of the park area which is on the same level or above the base of the large marble columns surrounding the structure, and the single series of marble stairs immediately adjacent to and below that level, except for the official annual commemorative Lincoln birthday ceremony.

(D) The Jefferson Memorial, which means the circular portion of the Jefferson Memorial enclosed by the outermost series of columns, and all portions on the same levels or above the base of these columns, except for the official annual commemorative Jefferson birthday ceremony.

(E) The Vietnam Veterans Memorial, except for official annual Memorial Day and Veterans Day commemorative ceremonies. Note: The darkened portions of the diagrams at the conclusion of paragraph (g) of this section show the areas where demonstrations or special events are prohibited.

(4) *Permit processing.* (i) Permit applications for demonstrations and special events are processed in order of receipt, and the use of a particular area is allocated in order of receipt of fully executed applications, subject to the limitations set forth in this section. *Provided, however,* that the following national celebration events have priority use of the particular park area during the indicated period.

(A) *Christmas Pageant of Peace.* In the oval portion of the Ellipse only, during approximately the last three weeks in December.

(B) *Cherry Blossom Festival.* In the Japanese Lantern area adjacent to the Tidal Basin and on the Ellipse and the Washington Monument Grounds adjacent to Constitution Avenue, between 15th & 17th Streets NW., for six days usually in late March or early April.

(C) *Fourth of July Celebration.* On the Washington Monument Grounds.

(D) *Festival of American Folklife.* In the area bound on the south by Jefferson Drive NW.; on the north by Madison Drive NW.; on the east by 7th Street NW.; on the west by 14th Street NW., for a two-week period in approximately late June and early July.

(E) *Columbus Day Commemorative Wreath-Laying.* At the Columbus statue on the Union Plaza on Columbus Day.

(F) *Inaugural ceremonies.* The White House sidewalk and Lafayette Park, exclusive of the northeast quadrant, for the exclusive use of the Inaugual Committee on Inauguration Day.

(ii) Other demonstrations or special events are permitted in park areas under permit to the National Celebration Events listed in this paragraph to the extent that they do not significantly interfere with the National Celebration Events. No activity containing structures is permitted closer than 50 feet to another activity containing structures without the mutual consent of the sponsors of those activities.

(iii) A permit may be denied in writing by the Regional Director upon the following grounds:

(A) A fully executed prior application for the same time and place has been received, and a permit has been or will be granted authorizing activities which do not reasonably permit multiple occupancy of the particular area; in that event, an alternate site, if available for the activity, will be proposed by the Regional Director to the applicant.

(B) It reasonably appears that the proposed demonstration or special event will present a clear and present danger to the public safety, good order, or health.

(C) The proposed demonstration or special event is of such a nature or duration that it cannot reasonably be accommodated in the particular area applied for; in that event, the Regional Director shall propose an alternate site to the applicant, if available for the activity; in this connection, the Regional Director shall reasonably take into account possible damage to the park, including trees, shrubbery, other plantings, park installations and statues.

(D) The application proposes activities contrary to any of the provisions of this section or other applicable law or regulation.

(5) *Permit limitations.* Issuance of a permit is subject to the following limitations:

(i) No more than 750 persons are permitted to conduct a demonstration on the White House sidewalk at any one time.

(ii) No more than 3,000 persons are permitted to conduct a demonstration in Lafayette Park at any one time.

(A) The Regional Director may waive the 3,000 person limitation for Lafayette Park and/or the 750 person limitation for the White House Sidewalk upon a showing by the applicant that good faith efforts will be made to plan and marshal the demonstration in such a fashion so as to render unlikely any substantial risk of unreasonable disruption or violence.

(B) In making a waiver determination, the Regional Director shall consider and the applicant shall furnish at least ten days in advance of the proposed demonstration, the functions the marshals will perform, the means by which they will be identified, and their method of communication with each other and the crowd. This requirement will be satisfied by completion and submission of the same form referred to in paragraph (g)(3) of this section.

(iii) No permit will be issued for a demonstration on the White House Sidewalk and in Lafayette Park at the same time except when the organization, group, or other sponsor of such demonstration undertakes in good faith all reasonable action, including the provision of sufficient marshals, to insure good order and self-discipline in conducting such demonstration and any necessary movement of persons, so that the numerical limitations and waiver provisions described in paragraphs (g)(5) (i) and (ii) of this section are observed.

(iv) No permit will be issued authorizing demonstrations or special events in excess of the time periods set

out below: *Provided, however,* that the stated periods will be extended for demonstrations only, unless another application requests use of the particular area and said application precludes double occupancy:

(A) White House area, except the Ellipse: Seven days.

(B) The Ellipse and all other park areas: Three weeks.

(v) The Regional Director may restrict demonstrations and special events weekdays (except holidays) between the hours of 7:00 to 9:30 a.m. and 4:00 to 6:30 p.m. if it reasonably appears necessary to avoid unreasonable interference with rush-hour traffic.

(vi) Special events are not permitted unless approved by the Regional Director. In determining whether to approve a proposed special event, the Regional Director shall consider and base the determination upon the following criteria:

(A) Whether the objectives and purposes of the proposed special event relate to and are within the basic mission and responsibilities of the National Capital Region, National Park Service.

(B) Whether the park area requested is reasonably suited in terms of accessibility, size, and nature of the proposed special event.

(C) Whether the proposed special event can be permitted within a reasonable budgetary allocation of National Park Service funds considering the event's public appeal, and the anticipated participation of the general public therein.

(D) Whether the proposed event is duplicative of events previously offered in National Capital Region areas or elsewhere in or about Washington, DC.

(E) Whether the activities contemplated for the proposed special event are in conformity with all applicable laws and regulations.

(vii) In connection with permitted demonstrations or special events, temporary structures may be erected for the purpose of symbolizing a message or meeting logistical needs such as first aid facilities, lost children areas or the provision of shelter for electrical and other sensitive equipment or displays. Temporary structures may not be used outside designated camping areas for living accommodation activities such as sleeping, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Temporary structures are permitted to the extent described above, provided prior notice has been given to the Regional Director, except that:

(A) Structures are not permitted on the White House sidewalk.

(B) All such temporary structures shall be erected in such a manner so as not to harm park resources unreasonably and shall be removed as soon as practicable after the conclusion of the permitted demonstration or special event.

(C) The Regional Director may impose reasonable restrictions upon the use of temporary structures in the interest of protecting the park areas involved, traffic and public safety considerations, and other legitimate park value concerns.

(D) Any structures utilized in a demonstration extending in duration beyond the time limitations specified in paragraphs (g)(5)(iv) (A) and (B) of this section shall be capable of being removed upon 24 hours notice and the site restored, or, the structure shall be secured in such a fashion so as not to interfere unreasonably with use of the park area by other permittees authorized under this section.

(E) Individuals or groups of 25 persons or fewer demonstrating under the small group permit exemption of paragraph (g)(2)(i) of this section are not allowed to erect temporary structures other tan small lecterns or speakers' platforms. This provisions does not restrict the use of portable signs or banners.

(viii) No signs or placards shall be permitted on the White House sidewalk except those made of cardboard, posterboard or cloth having dimensions no greater than three feet in width , twenty feet in length, and one-quarter inch in thickness. No supports shall be permitted for signs or placards except those made of wood having cross-sectional dimensions no greater than three-quarter of an inch by three-quarter of an inch. Stationary signs or placards shall be no closer than three feet from the White House sidewalk fence. All signs and placards shall be attended at all times that they remain on the White House sidewalk. Signs or placards shall be considered to be attended only when they are in physical contact with a person. No signs or placards shall be tied, fastened, or otherwise attached to or leaned against the White House fence, lamp posts or other structures on the White House sidewalk. No signs or placards shall be held, placed or set down on the center portion of the White House sidewalk, comprising ten yards on either side of the center point on the sidewalk; *Provided, however,* that individuals may demonstrate while carrying signs on that portion of the sidewalk if they continue to move along the sidewalk.

(ix) No parcel, container, package, bundle or other property shall be placed or stored on the White House sidewalk or on the west sidewalk of East Executive Avenue NW., between Pennsylvania Avenue NW., and E Street NW., or on the north sidewalk of E Street NW., between East and West Executive Avenues NW.; *Provided, however,* that such property, except structures, may be momentarily placed or set down in the immediate presence of the owner on those sidewalks.

(x) The following are prohibited in Lafyette Park:

(A) The erection, placement or use of structures of any kind except for the following:

(*1*) Structures that are being hand-carried are allowed.

(*2*) When one hundred (100) or more persons are participating in a demonstration in the Park, a temporary speaker's platform as is reasonably required to serve the demonstration participants is allowed as long as such platform is being erected, dismantled or used, *provided that* only one speaker's platform is allowed per demonstrating group, and *provided further that* such speaker's platform is authorized by a permit issued pursuant to paragraph (g) of this section.

(*3*) When less than one hundred (100) persons are participating in a demonstration in the Park, a temporary "soapbox" speaker's platform is allowed as long as such platform is being erected, dismantled or used, *providing that* only one speaker's platform is allowed per demonstrating group, and *provided further that* the speaker's platform is no larger than three (3) feet in length, three (3) feet in width, and three (3) feet in height, and *provided further that* such speaker's platform is authorized by a permit issued pursuant to paragraph (g) of this section.

(*4*) For the purpose of this section, the term "structure" includes props and displays, such as coffins, crates, crosses, theaters, cages, and statues; furniture and furnishings, such as desks, chairs, tables, bookcases, cabinets, platforms, podiums and lecterns; shelters, such as tents, boxes and other enclosures; wagons and carts; and all other similar types of property which might tend to harm park resources including aesthetic interests. *Provided however* that the

term "structure" does not include signs; bicycles, baby carriages and baby strollers lawfully in the Park that are temporarily placed in, or are being moved across, the Park, and that are attended at all times while in the Park (the term "attended' is defined as an individual being within three (3) feet of his or her bicycle, baby carriage or baby stroller); and wheelchairs and other devices for the handicapped in use by handicapped persons.

(B) The use of signs except for the following:

(*1*) Hand-carried signs are allowed regardless of size.

(*2*) Signs that are not being hand-carried and that are no larger than four (4) feet in length, four (4) feet in width and one-quarter (¼) inch in thickness (exclusive of braces that are reasonably required to meet support and safety requirements and that are not used so as to form an enclosure of two (2) or more sides) may be used in Lafayette Park, *provided that* no individual may have more than two (2) such signs in the Park at any one time, and *provided further that* such signs must be attended at all times (the term "attended' is defined as an individual being within three (3) feet of his or her sign(s)), and *provided further that* such signs may not be elevated in a manner so as to exceed a height of six (6) feet above the ground at their highest point, may not be arranged or combined in a manner so as to exceed the size limitations set forth in this paragraph, and may not be arranged in such a fashion as to form an enclosure of two (2) or more sides. For example, under this provision, two four-feet by four-feet signs may not be combined so as to create a sign eight feet long and four feet wide, and three such signs may not be arranged to create a sign four feet long and twelve feet wide, and two or more signs of any size may not be leaned or otherwise placed together so as to form an enclosure of two or more sides, etc.

(xi) Stages and sound amplification may not be placed closer than one hundred (100) feet from the boundaries of the Vietnam Veterans Memorial and sound systems shall be directed away from the memorial at all times.

(xii) Sound amplification equipment is allowed in connection with permitted demonstrations or special events, provided prior notice has been given to the Regional Director, except that:

(A) Sound amplification equipment may not be used on the White House sidewalk, other than hand-portable sound amplification equipment which the Regional Director determines is necessary for crowd-control purposes.

(B) The Regional Director reserves the right to limit the sound amplification equipment so that it will not unreasonably disturb nonparticipating persons in, or in the vicinity of, the area.

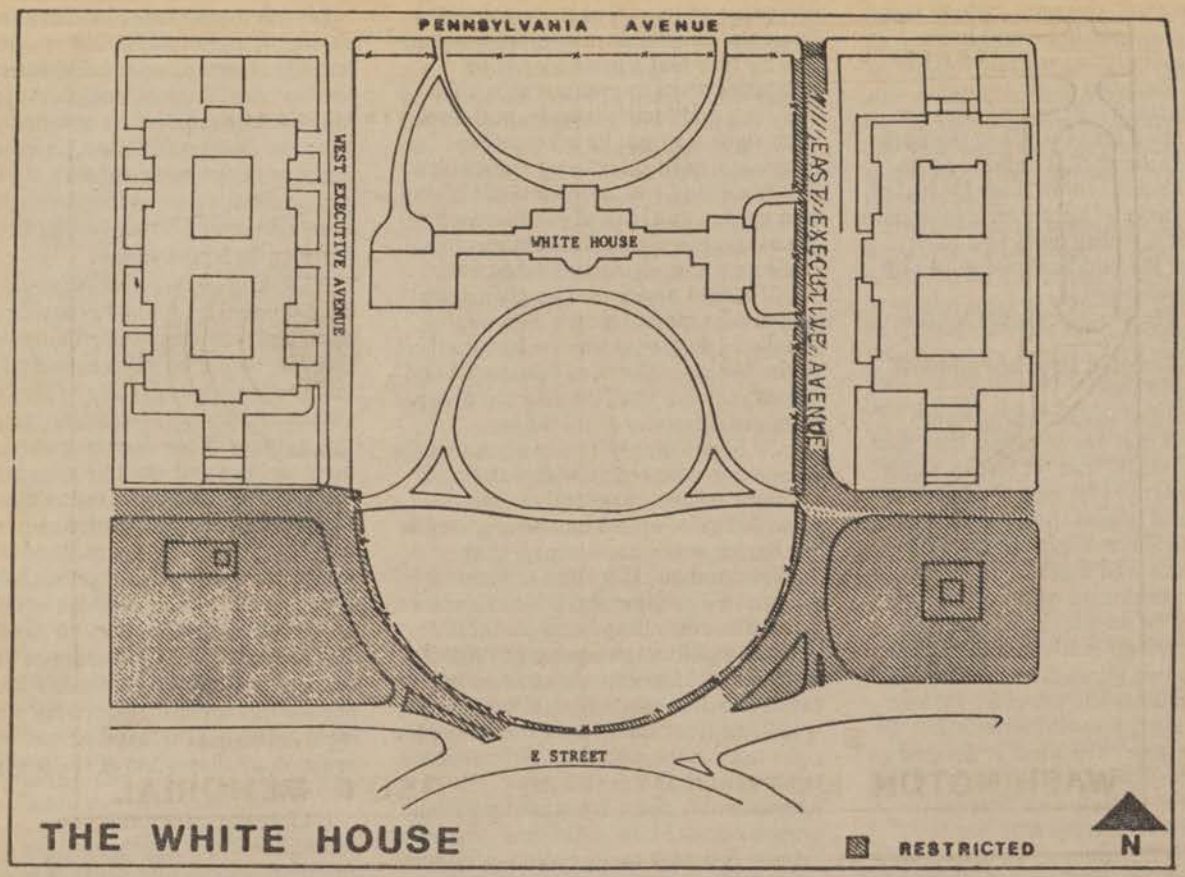
(xiii) A permit may contain additional reasonable conditions and additional time limitations, consistent with this section, in the interest of protecting park resources, the use of nearby areas by other persons, and other legitimate park value concerns.

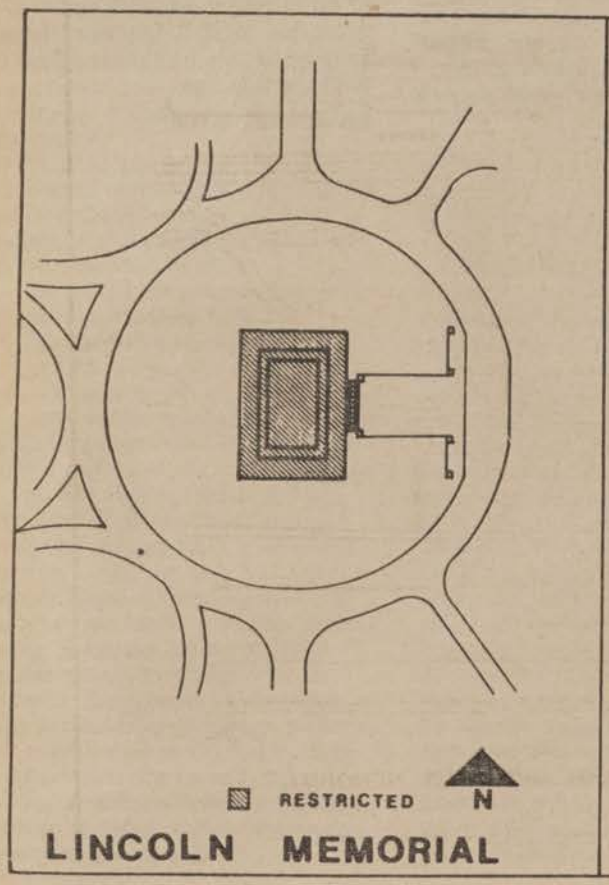
(xiv) A permit issued under this section does not authorize activities outside of areas under administration by the National Capital Region. Applicants may also be required to obtain a permit from the District of Columbia or other appropriate governmental entity for demonstrations or special events sought to be conducted either wholly or in part in other than park areas.

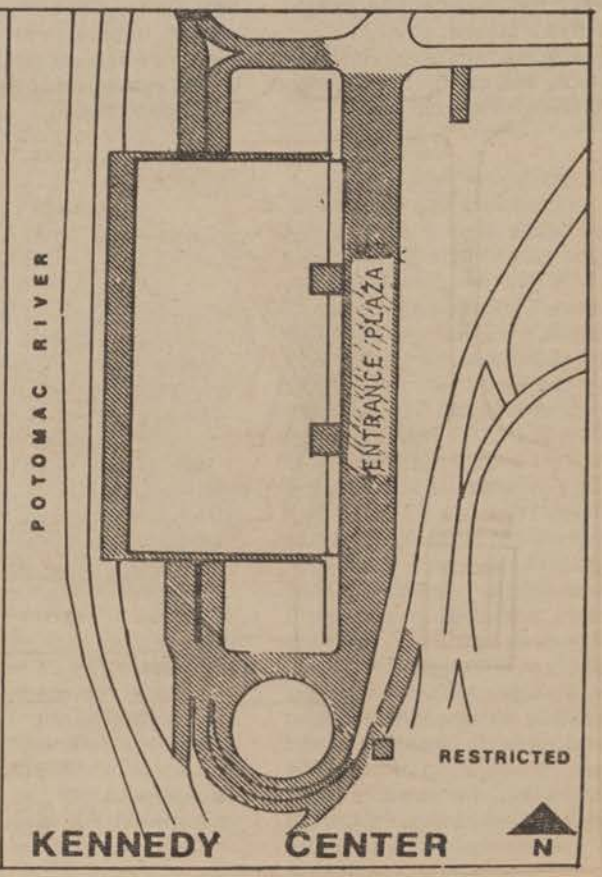
(6) *Permit revocation.* A permit issued for a demonstration is revocable only upon a ground for which an application therefor would be subject to denial under paragraphs (g) (4) or (5) of this section. Any such revocation, prior to the conduct of the demonstration, shall be in writing and shall be approved by the Regional Director. During the conduct of a demonstration, a permit may be revoked by the ranking U.S. Park Police supervisory official in charge if continuation of the event presents a clear and present danger to the public safety, good order or health or for any violation of applicable law or regulation. A permit issued for a special event is revocable, at any time, in the reasonable discretion of the Regional Director.

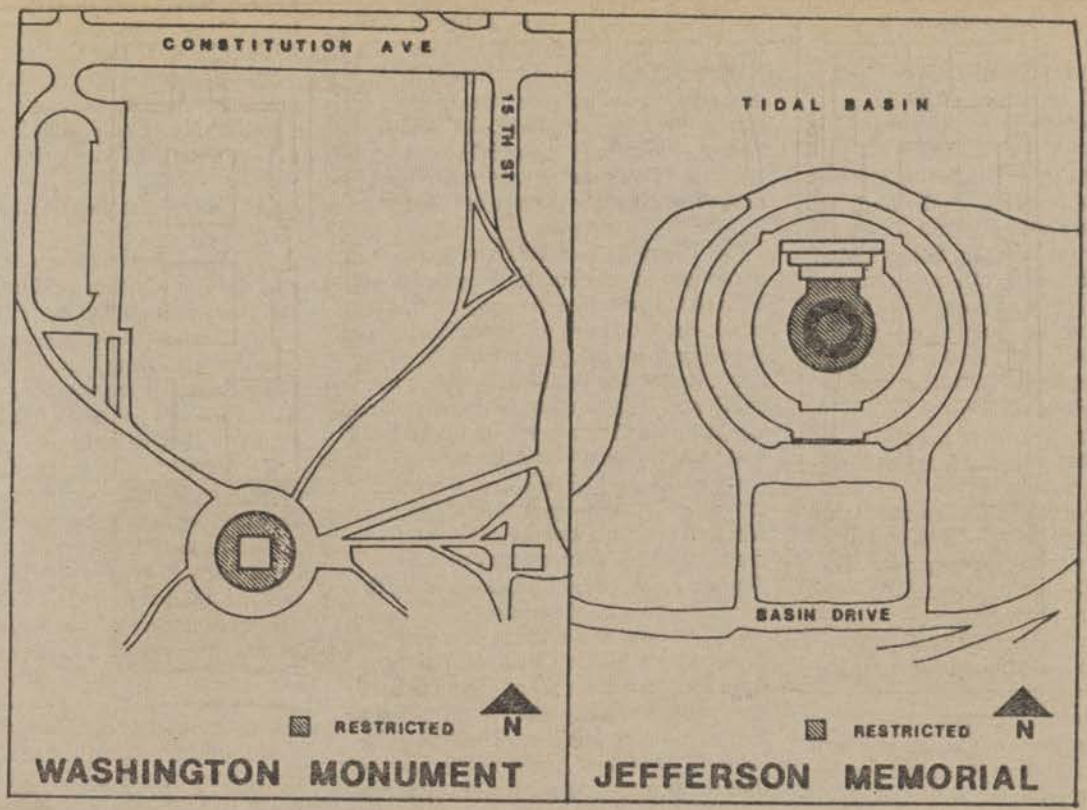
(7) Further information on administering these regulations can be found in policy statements published at 47 FR 24299, June 4, 1982, and at 47 FR 24302, June 4, 1982. Copies of the policy statements may be obtained from the Regional Director.

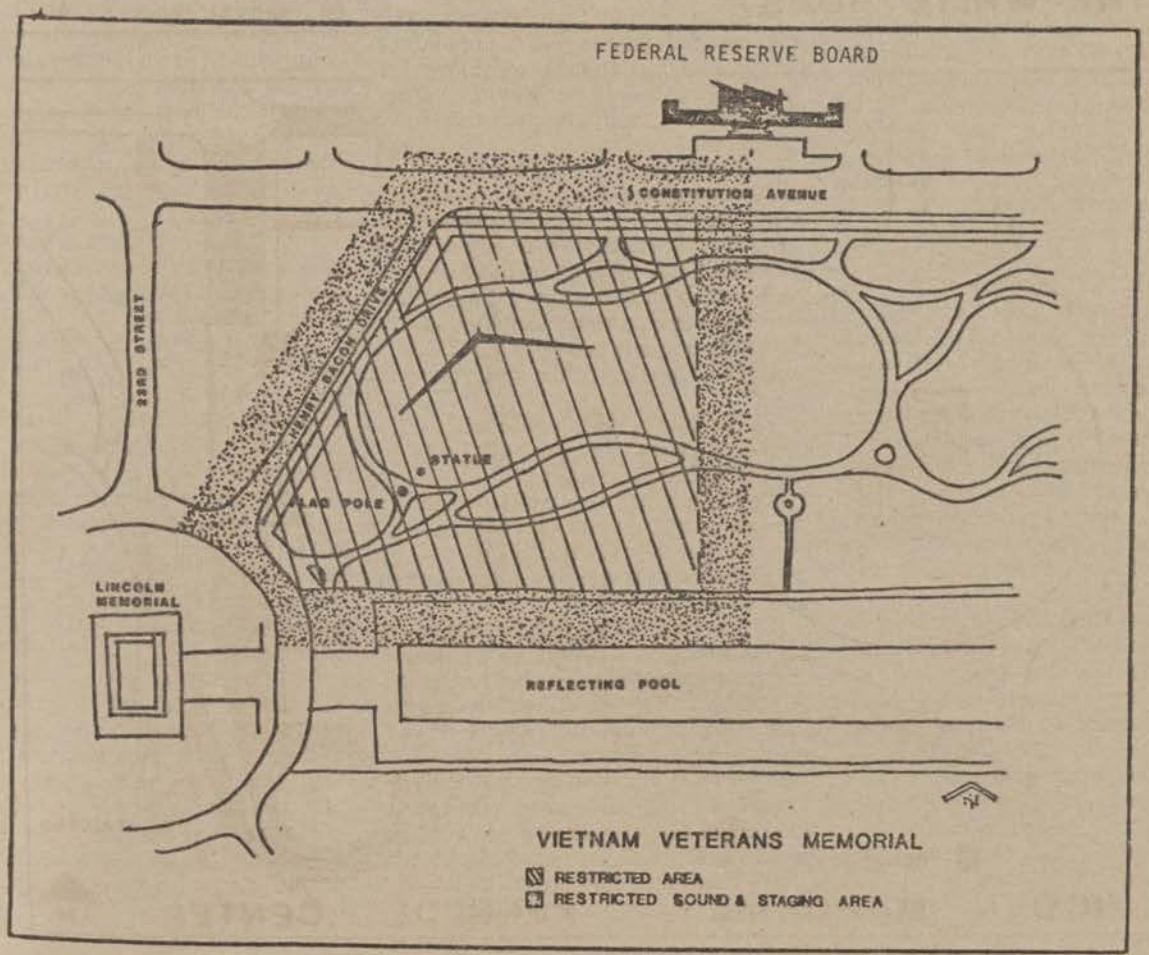
BILLING CODE 4310-70-M


PENNSYLVANIA AVENUE
WEST EXECUTIVE AVENUE
EAST EXECUTIVE AVENUE
WHITE HOUSE
E STREET
THE WHITE HOUSE
RESTRICTED
N


RESTRICTED
N
LINCOLN MEMORIAL


POTOMAC RIVER
ENTRANCE PLAZA
RESTRICTED
KENNEDY CENTER
N





BILLING CODE 4310-70-C

(h) *Soliciting.* Soliciting or demanding gifts, money, goods or services is prohibited.

(i) *Camping.* (1) Camping is defined as the use of park land for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or using any tents or shelter or other structure or vehicle for sleeping or doing any digging or earth breaking or carrying on cooking activities. The above-listed activities constitute camping when it reasonably appears, in light of all the circumstances, that the participants, in conducting these activities, are in fact using the area as a living accommodation regardless of the intent of the participants or the nature of any other activities in which they may also be engaging. Camping is permitted only in areas designated by the Superintendent, who may establish limitations of time allowed for camping in any public campground. Upon the posting of such limitations in the campground, no person shall camp for a period longer than that specified for the particular campground.

(2) Further information on administering these regulations can be found in policy statements published at 47 FR 24302 (June 4, 1982). Copies of the policy statements may be obtained from the Regional Director.

(j) *Sales.* (1) No sales shall be made nor admission fee charged and no article may be exposed for sale without a permit except as noted in the following paragraphs.

(2) The sale or distribution of newspapers, leaflets, and pamphlets, conducted without the aid of stands or structures, is allowed in all park areas open to the general public without a permit except the following areas where such sale or distribution is prohibited:

(i) Lincoln Memorial area which is on the same level or above the base of the large marble columns surrounding the structure, and the single series of marble stairs immediately adjacent to and below that level.

(ii) Jefferson Memorial area enclosed by the outermost series of columns, and all portions on the same levels or above the base of these columns.

(iii) Washington Monument area enclosed within the inner circle that surrounds the Monument's base.

(iv) The interior of all park buildings, including, but not limited to, those portions of the Kennedy Center and Ford's Theatre administered by the National Park Service.

(v) The White House Park area bounded on the north by H Street, NW.; on the south by Constitution Avenue, NW.; on the west by 17th Street, NW.; and on the east by 15th Street, NW.; except for Lafayette Park, the White House sidewalk (the south Pennsylvania Avenue, NW. sidewalk between East and West Executive Avenues) and the Ellipse.

(vi) Vietnam Veterans Memorial area extending to and bounded by the south curb of Constitution Avenue on the north, the east curb of Henry Bacon Drive on the west, the north side of the north Reflecting Pool walkway on the south and a line drawn perpendicular to Constitution Avenue two hundred (200) feet from the east tip of the memorial wall on the east (this is also a line extended from the east side of the western concrete border of the steps to the west of the center steps to the Federal Reserve Building extending to the Reflecting Pool walkway).

(3) The sale and distribution of newspapers, leaflets and pamphlets from fixed location stands is permitted within the Kennedy Center, provided a permit to do so has been issued by the General Manager: *And provided further,* that the printed matter is not primarily commercial advertising.

(i) An application for such a permit must set forth the name of the applicant; the name of the organization, if any; the date, time, duration, and location of the proposed sale or distribution; and the number of participants.

(ii) The General Manager shall, without unreasonable delay, issue a permit on proper application unless:

(A) A prior application for a permit for the same time and location has been made which has been or will be granted and the activities authorized by that permit do not reasonably permit multiple occupancy of the particular area;

(B) The sale or distribution will present a clear and present danger to the public health or safety;

(C) The number of persons engaged in the sale or distribution exceeds the number that can reasonably be accommodated in the particular location applied for;

(D) The location applied for has not been designated as available for the sale or distribution of printed matter; or

(E) The activity would constitute a violation of an applicable law or regulation.

(iii) If an application for a permit is denied, the General Manager shall so inform the applicant in writing, with the reason(s) for the denial clearly set forth.

(iv) The General Manager shall designate on a map, which shall be available for inspection in the Office of the General Manager, the locations within the Kennedy Center that are available for the sale or distribution of printed matter. Locations may be designated as not available only if the sale or distribution of printed matter would:

(A) Cause injury or damage to park resources;

(B) Unreasonably impair the atmosphere of peace and tranquility maintained in commemorative areas;

(C) Unreasonably interfere with interpretive, living history, visitor services, or other program activities or with the administrative functions of the National Park Service; or

(D) Substantially impair the operation of public use facilities or services of concessioners or contractors.

(v) The permit may contain such conditions as are reasonably consistent with protection and use of the park area.

(vi) No permit will be issued for a period in excess of 14 consecutive days: *Provided,* That permits may be extended for like periods, upon a new application, unless another applicant has requested use of the same location and multiple occupancy of that location is not reasonably possible.

(vii) Persons engaged in the sale of distribution of printed matter under paragraph (j) of this section shall not conduct activities from other than a stand in the locations designated, or hawk or call out from the stand. Each stand shall bear a sign identifying the sponsor, in a form approved by the General Manager.

(viii) The sale of distribution or printed matter without a permit, or in violation of the terms or conditions of a permit, is prohibited.

(ix) A permit may be revoked under any of those conditions, as listed in paragraph (j)(3)(ii) of this section, which constitute grounds for denial of a permit, or for violation of the terms and conditions of the permit. Such a revocation shall be made in writing, with the reason(s) for revocation clearly set forth, except under emergency circumstances, when an immediate verbal revocation or suspension may be made, to be followed by written confirmation.

(4) Persons engaged in the sale or distribution of printed matter under this section shall not obstruct or impede pedestrians or vehicles, harass park visitors with physical contact, misrepresent the purposes or affiliations of those engaged in the sale or distribution, misrepresent whether the printed matter is available without cost or donation.

(k) *Information collection.* The information collection requirements contained in this section have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1024–0021. The information is being collected to provide notification to park managers, United States Park Police, Metropolitan Police, and the Secret Service of the plans of organizers of large-scale demonstrations and special events in order to assist in the provision of security and logistical support. This information will be used to further those purposes. The obligation is required to obtain a benefit.

PART 50—[REMOVED]

5. Part 50 is removed.

Dated: September 23, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–23298 Filed 10–16–86; 8:45 am]

BILLING CODE 4310-70-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket Nos. RM87–1 and MC86–2; Order No. 712]

Amendment to Domestic Mail Classification Schedule, Third-Class Mail Preparation Requirements; Order Adopting Final Rule

Issued: October 10, 1986.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: In accordance with the October 7, 1986, adoption of the Postal Rate Commission's recommended Docket No. MC86–2 decision by the Governors of the Postal Service, the Commission is publishing the corresponding changes for the Domestic Mail Classification Schedule (DMCS). The DMCS is found as Appendix A to Subpart C of the Commission's rules of practice and procedure (39 CFR 3001.61 through 3001.67). This change concerns the preparation requirements for third-class mail eligible for the five-digit presort level rates.

EFFECTIVE DATE: October 9, 1986.

ADDRESS: Correspondence should be sent to Charles L. Clapp, Secretary of the Commission, 1333 H Street NW., Suite 300, Washington, DC 20268 (telephone: 202/789–6840).

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, 1333 H Street NW., Suite 300 Washington, DC 20268 (telephone: 202/789–6820).

SUPPLEMENTAL INFORMATION: On December 26, 1985, the Postal Service filed a case, pursuant to 39 U.S.C. 3623, requesting that the Domestic Mail Classification Schedule (DMCS) be amended to change the definition of bulk third-class mail eligible for the five-digit presort rate in light of operating changes since the classification was established. The Commission invited interested persons to comment and participate in the proceeding. 51 FR 795–96 (Jan. 8, 1986). A Postal Service witness testified at a public hearing on May 6, 1986. The Commission gave the parties the opportunity to file briefs and reply briefs. On September 9, 1986, the Commission issued a decision recommending a change in § 300.0231 of the DMCS. The Board of Governors approved the recommended decision on October 7, 1986, and set October 9, 1986, as the effective date for the change. A temporary change producing the same effect as the amended § 300.0231 had been in effect since April 7, 1986. The temporary language is superseded by the amended § 300.0231 effective October 9, 1986. The amendment to the DMCS which is published in this order reflects the Governors' October 7, 1986, decision. Consistent with the Commission's explanation in the rulemaking (Docket No. RM85–1) which led to the publication of the DMCS in the **Federal Register**, this addition is published as a final rule, since procedural safeguards and ample opportunities to have different viewpoints considered have already been afforded to all interested persons.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

PART 3001—RULES OF PRACTICE AND PROCEDURE

Subpart C—Rules Applicable to Requests for Establishing or Changing the Mail Classification Schedule

List of Changes

1. The authority citation for 39 CFR Part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622–3624, 3661, 3662, 84 Stat. 759–762, 764, 90 Stat. 1303 (5 U.S.C. 553), 80 Stat. 383.

2. The following change in the Domestic Mail Classification Schedule published as Appendix A to Subpart C (39 CFR 3001.61 through 3001.67) of the Commission's rules of practice and procedure is adopted:

Revise 300.0231 to read as follows:

300.0231 Five-Digit Presort Level

Five-digit presort level mailings must contain at least 200 pieces or 50 pounds of five-digit presorted mail prepared in accordance with USPS regulations so as to avoid handling of individual pieces prior to incoming secondary distribution.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 86–23501 Filed 10–16–86; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3096-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at three particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: October 17, 1986.

ADDRESS: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–BBEF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection

Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTAL INFORMATION: On September 18, 1986, EPA proposed to exclude specific wastes generated by three facilities, including: (1) BBC Brown Boveri, Incorporated, located in Sanford, Florida (see 51 FR 33069); (2) Pamcor C, Incorporated, located in Las Piedras, Puerto Rico (see 51 FR 33071); and William L. Bonnell Company, located in Carthage, Tennessee (see 51 FR 33072). These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final the three proposals and to make our decisions effective immediately. More specifically, today's rule allows these three facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[1] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

[1] The current exclusions apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] To date only one State (Georgia) has received approval for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

BBC Brown Boveri, Inc., Sanford, Florida;
Pamcor C, Inc., Las Piedras, Puerto Rico;
William L. Bonnell Co., Carthage, Tennessee.

I. BBC Brown Boveri, Inc.

A. Proposed Exclusion

BBC Brown Boveri, Inc. (BBC) has petitioned the Agency to exclude its wastewater treatment sludge (dewatered sludge) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by BBC substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by BBC indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 33069–33071, September 18, 1986, for a more detailed explanation of why EPA proposed to grant BBC's petition.)

[2] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to BBC for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the dewatered sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to BBC Brown Boveri, Inc. for its wastewater treatment sludge (EPA Hazardous Waste No. F006) generated at BBC's Sanford, Florida facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[3] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

II. Pamcor C, Inc.

A. Proposed Exclusion

Pamcor C, Inc. (Pamcor) has petitioned the Agency to exclude its wastewater treatment sludge (drummed sludge) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Pamcor substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Pamcor indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 33071–33072, September 18, 1986, for a more detailed explanation of why EPA proposed to grant Pamcor's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Pamcor for the waste identified in its petition.

[3] See footnote 1.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the drummed sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Pamcor C, Inc. for its wastewater treatment sludge (EPA Hazardous Waste No. F006) generated at Pamcor's Las Piedras, Puerto Rico facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[4] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

III. William Bonnell Company

A. Proposed Exclusion

William L. Bonnell Company (Bonnell) has petitioned the Agency to exclude its wastewater treatment sludge (vacuum filter sludge) from EPA Hazadous Waste No. F019, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Bonnell substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Bonnell indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (see 51 FR 33072–33073, September 18, 1986, for a more detailed explanation of why EPA proposed to grant Bonnell's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Bonnell for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the vacuum filter sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to William L. Bonnell Company for its dewatered wastewater treatment sludge (vacuum filter sludge) resulting from the chemical conversion coating of aluminum, listed as EPA Hazardous Waste No. F019, generated at its Carthage, Tennessee facility.[5] (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[6] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

IV. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect six months after promulgation (RCRA section 3010(b)), the Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

VII. List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: October 10, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to Table 1 as indicated:

Appendix IX—[Amended]

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
• •	• •	• • •
BBC Brown Boveri, Inc.	Sanford, FL	Dewatered Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after October 17, 1986.
• •	• •	• • •
Pamcor C, Inc.	Las Piedras, PR	Dewatered Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after October 17, 1986.
• •	• •	• • •
William L. Bonnell Co.	Carthage, TN	Dewatered Wastewater treatment sludges (Vacuum filter sludge) (EPA Hazardous Waste No. F019) currently generated from the chemical conversion coating of aluminum after October 17, 1986. This exclusion does not apply to sludges in the on-site surface impoundments.

[FR Doc. 86–23561 Filed 10–16–86; 8:45 am]

BILLING CODE 6560–50–M

[4] See footnote 1.

[5] Bonnell petitioned the Agency to exclude its wastewater treatment sludge and sludge contained in its on-site surface impoundments. This final exclusion applies only to the wastewater treatment sludges currently generated at the facility, and not to sludges in the on-site impoundments.

[6] See footnote 1.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 19

[FCC 86-404]

Conflict of Interests; Editorial Amendment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: By this Order, the Commission is amending its conflict of interest rules to correct citations therein.

EFFECTIVE DATE: November 6, 1986.

FOR FURTHER INFORMATION CONTACT: A. Holly Kaufman, Office of General Counsel, (202) 632-6990.

Amendment of § 19.735-204(e)(3) of the Commission's Rules; Order

Adopted: September 19, 1986.
Released: September 30, 1986.

By the Commission

1. In 1983, the Commission amended certain provisions of its conflict of interest rules with respect to prohibited financial holdings of its employees. *Financial Interests of Commissioners and Employees of the Commission in Entities Regulated by the Commission.* 48 FR 38240 (Aug. 23, 1983). That amendment revised § 19.735-204(e)(3), which requires an employee to avoid participating in any matter in which a person with whom such employee is negotiating, or from whom he has accepted employment, has a financial interest. Section 19.735-204(e)(3) was intended to cross reference that section of Part 19 which sets forth the procedures for filing disqualification statements. Currently, the cross reference refers to § 19.735-412(e), which no longer exists. That section was renumbered as section 412(b)(7). The cross reference, therefore, should be changed to reflect this recodification. Thus, this Order is issued for the purpose of revising § 19.735-204(e)(3) to correct the cross reference from former § 19.735-412(e) to the current § 19.735-412(b)(7).

2. Additionally, the authority citation for Part 19 of the Commission's rules contains several typographical errors and is being amended pursuant to 5 U.S.C. 553(a)(3)(A).

3. We find that prior notice and comment procedures are unnecessary to implement these rule amendments, because the amendments involve general rules of agency organization, practice or procedure. *See* 5 U.S.C. 553(b)(3)(A).

4. In view of the foregoing and pursuant to sections 4 (i) and (j) of the Communications Act of 1934, as amended, IT IS HEREBY ORDERED that Part 19 of the Commission's Rules is amended as set forth below, effective November 6, 1986.

List of Subjects in 47 CFR Part 19

Conflict of interests.

Federal Communications Commission.
William J. Tricarico,
Secretary.

PART 19—[AMENDED]

Part 19 of Title 47 of the CFR is amended as follows:

1. The authority citation for Part 19 is revised to read as follows:

Authority: E.O. 11222, 3 CFR 1965 Comp., 5 CFR 735.104, unless otherwise noted.

2. Section 19.735-204 is amended by revising paragraph (e)(3) to read as follows:

§ 19.735-204 Financial interests.

* * * * *

(e) * * *

(3) An employee may not participate in his governmental capacity in any matter in which a person from whom he has accepted employment, or with whom he is negotiating for employment, has a financial interest. At the outset of negotiations with such a prospective employer, the employee shall notify his immediate supervisor. The supervisor shall review the employee's current assignments and responsibilities and discharge him from any that could affect the interests of the prospective employer. The employee shall thereupon file a statement of disqualification and non-participation pursuant to § 19.735-412(b)(7). The statement shall continue in effect until such time (if any) as the negotiations are unsuccessfully terminated.

* * * * *

[FR Doc. 86-23503 Filed 10-16-86; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 22

[CC Docket No. 86-165]

Simplification of the Separate Subsidiary; Reporting Requirement

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has determined that the separate subsidiary reporting requirement in the Common Carrier Bureau's Domestic Public Cellular Radio Telecommunications Service should be modified. Specifically, separate subsidiaries will be required to file only those agreements between themselves and their parent Bell companies or affiliates that relate directly or interconnection with landline exchange and transmission facilities. This action is taken in response to comments received as a result of our Notice of Proposed Rulemaking, 51 FR 17366.

EFFECTIVE DATE: December 8, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia McClain-Hill, tele: (202) 632-6450.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's report and order, CC Docket 86-165, adopted September 16, 1986, and released October 1, 1986.

The complete text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's Copy Contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On April 18, 1986, the Commission adopted a Notice of Proposed Rulemaking (Notice) which solicited comments concerning a proposed change in the rules to require that separate subsidiaries in the Common Carrier Bureau's Domestic Public Cellular Radio Telecommunications Service file only those agreements with parent BOC's or affiliates that relate specifically to interconnection with landline exchange and transmission facilities. After careful consideration of the comments, the Commission adopted the proposed rule.

2. *Final Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b) it is certified that the final rule will not have a significant impact on a substantial number of small entities. This action is expected to promote efficient and expedient authorization of cellular licenses and lower the administrative costs associated with the process of granting cellular licenses.

3. Authority for this rulemaking is contained in sections 1, 4 (i) and (j), 301, 303 and 309 of the Communications Act

of 1934, as amended, and section 553 of the Administrative Procedure Act.

List of Subjects in 47 CFR Part 22

Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William J. Tricarico,

Secretary.

47 CFR Chapter Part 22 is amended as follows:

PART 22—PUBLIC MOBILE RADIO SERVICES

1. The authority citation for Part 22 continues to read as follows:

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

2. Section 22.901 is amended by revising paragraph (c)(3) to read as follows:

§ 22.901 Eligibility.

* * * * *

(c) * * *

(3) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or anything of value, shall be reduced to writing. A copy of any contract, agreement or other arrangement entered into between such entities with regard to interconnection with landline network exchange and transmission facilities shall be filed with the Commission within thirty days after the contract, agreement or other arrangement is made. A copy of all other contracts, agreements or arrangements between such entities shall be kept available by the separate corporation for inspection upon reasonable request by the Commission. The provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

* * * * *

[FR Doc. 86-23505 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 43

[CC Docket No. 86-192, FCC 86-396]

Common Carrier Service; Elimination of Reporting Requirement for Maritime Radio Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has eliminated the requirement that maritime radio carriers file Annual Report Form M. This decision is part of the Commission's overall effort to eliminate unnecessary and burdensome reporting requirements.

EFFECTIVE DATE: November 6, 1986.

FOR FURTHER INFORMATION CONTACT: Katie Rangos at (202) 632-0745.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's report and Order, CC Docket 86-192, adopted September 17, 1986 and released September 30, 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, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M St., Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On May 9, 1986, the Commission issued a Notice of Proposed Rulemaking (Notice) CC Docket No. 86-192, FCC 86-247, released May 15, 1986, that proposed to eliminate the reporting requirement of maritime radio carriers. In that *Notice* we reasoned that the reports of the maritime radio carriers are used infrequently and thus unnecessarily burdened both the companies and the staff. Although ample time was given, there were no comments submitted to that *Notice*. We take this lack of response as a strong indication that this requirement should not be retained. Thus, we are amending our rules to eliminate the reporting requirement for maritime radio carriers.

2. Section 43.21 of the Commission's Rules (47 CFR 43.21) and Annual Report Form M require that communication common carriers in the maritime radio service having annual operating revenues in excess of $50,000 shall file annual reports with the Commission. The Form M is a 93 page report that contains detailed information on stock and stockholders; officers and director; and financial and operating data of the companies.

3. The maritime radio carriers Form M reports have been used on an infrequent and limited basis. The Form M is primarily a telephone company report with only one schedule pertaining to maritime carrier operations. As stated in the *Notice*, we do not publish any information from the maritime radio reports comparable to the statistical tabulations of the telephone carrier reports.

4. Finally, we note that this Commission retains the authority to undertake special studies requesting detailed information if necessary. A special study could be designed so as to acquire the specific information in the least costly manner possible. Eliminating the maritime radio filing requirement thus will reduce the burden on both the industry and this Commission without impairing this Commission's ability to regulate effectively.

5. The requirement of § 43.21 that maritime radio carriers file Form M is unnecessary and burdensome. The information filed by the maritime carriers is not used by this Commission for any ongoing regulatory purpose. The filing taxes the resources of the carrier without any substantive benefits. Eliminating the requirement will also be consistent with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) which requires agencies to revoke rules that serve no beneficial function. OMB approval is not necessary because there are less than 10 maritime carriers submitting Form M.

6. Accordingly, it is ordered, that pursuant to the provisions of section 4(i), 219, 220, 403 and 404 of the Communication Act of 1934, as amended, 47 U.S.C. 54(i), 219, 220, 403 and 404, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553, the policies discussed herein are adopted, and that Section 43.21 of the Commission's Rules, 47 CFR 43.21, and Annual Report Form are amended as set forth in the Appendix, effective November 6, 1986.

7. It is further ordered, that this proceeding is hereby terminated.

List of Subjects in 47 CFR Part 43

Communications common carriers, Reporting and record keeping requirements, Marine.

Federal Communications Commission

William J. Tricarico,

Secretary.

Rule Change

PART 43—[AMENDED]

Part 43, Chapter 1 of Title 47, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 43 continues to read:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted.

2. Section 43.21(a) is revised to read as follows:

§ 43.21 Annual reports of carriers and certain affiliates.

(a) Communication common carriers having annual operating revenues in excess of $100 million, licensees in the Domestic Public Land Mobile Radio Service, Licensees in the Domestic Public Point-to-Point Microwave Radio Service who are miscellaneous common carriers as defined by § 21.1 of this chapter, communication common carriers operating to overseas points having annual operating revenues in excess of $50,000, and certain companies (as indicated in paragraph (c) of this section) directly or indirectly controlling such carriers shall file with the Commission annual reports as provided in this section. Except as provided in paragraph (c) of this section, each annual report required by this section shall be filed not later than March 31 of each year, covering the preceding calendar year. It shall be filed on the appropriate report form prescribed by the Commission (see § 1.785 of this chapter) and shall contain full and specific answers to all questions propounded and information requested in the currently effective report forms. The number of copies to be filed shall be as specified in the applicable report form. At least one copy of the report shall be signed on the signature page by the responsible accounting officer. A copy of each annual report shall be retained in the principal office of the respondent and shall be filed in such manner as to be readily available for reference and inspection.

* * * * *

2. The Annual Report Form M at page 1, "General Instructions," paragraph 1, is amended to read as follows:

This annual report form is prescribed for the use of telephone companies operating telephone exchanges and having annual operating revenues in excess of $100,000,000 and telephone companies not operating telephone exchanges but operating to overseas points and having annual operating revenues in excess of $50,000. Each company subject hereto (hereinafter referred to as the "respondent") shall prepare its annual report to the Commission in the form and manner herein prescribed and shall file two copies of such annual report with the Commission at its offices in Washington, DC not later than March 31 of the year following that for which the report is made. (See particularly section 43.21(a) of the Commission's Rules.)

[FR Doc. 86-23504 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-317; RM-5053, 5180]

Radio Broadcasting Services; Trenton, GA and South Pittsburg, TN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 247C2 to South Pittsburg, Tennessee and Channel 274A to Trenton, Georgia at the request of Marion County Broadcasting Service, Inc., and Trenton Service Company, Inc., respectively. A first FM service could be provided to each community. A site restriction of 3.4 kilometers (2.1 miles) northeast of South Pittsburg is required. The filing window dates for these new allotments will be announced at a future date. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 12, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-317, adopted September 26, 1986, and released October 7, 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.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202, paragraph (b), the table of allotments is amended by adding the following entries for Trenton, Georgia, Channel 274A and for South Pittsburg, Tennessee, Channel 247C2.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-23509 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-343; RM-5001]

Radio Broadcasting Services; Mt. Vernon, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 271B1 to Mt. Vernon, Illinois as its second FM Channel with a 13.2 mile northwest site restriction, at the request of Midwest Consultants, Inc. However, we shall delay acceptance of applications for this allotment at Mt. Vernon until Station KEZK(FM), St. Louis, Missouri, is granted a license for its new transmitter site. This relocation would alleviate a current short spacing to two stations. A filing window for Channel 271B1 at Mt. Vernon will be announced at a future date. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 12, 1986; The window period for filing applications will open on November 13, 1986, and close on December 15, 1986.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-343, adopted September 25, 1986, and released October 7, 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.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202, paragraph (b), the table of allotments, is amended under Mt. Vernon, Illinois to add Channel 271B1.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-23510 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

Television Broadcasting Services: Key West, Marathon and Islamorada, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allocates VHF Channel 8 to Key West, Florida, UHF Channel 16 to Marathon, Florida, and VHF Channel 9 to Islamorada, Florida, in response to a petition filed by the Mass Media Bureau.

EFFECTIVE DATE: November 3, 1986.

FOR FURTHER INFORMATION CONTACT: John I. Riffer, Adjudication Division, (202) 632-7220.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, adopted September 19, 1986 and released September 26, 1986. The full text of this Commission Order 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 contractor, International Transcript Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington DC 20037.

List of Subjects in 47 CFR Part 73

Television broadcasting.

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read:

Authority: 47 U.S.C. 154(i), 303.

§ 73.606 [Amended]

2. Section 73.606 (b) is amended by revising the channel nos. for the following cities under Florida: Key West 8,*13,22+, Marathon 16+, and Islamorada *9+.

William Tricarico,

Secretary.

[FR Doc. 86-23512 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-73]

TV Broadcasting Services; Grand Island, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document changes the offset designation for Channel 17 at Grand Island, Nebraska, from minus to zero, on the Commission's own motion. The *Report and Order* also modifies the construction permit of Station KTVG to specify operation on Channel 17 with a zero offset. The change could avoid objectionable interference between Station KTVG and co-channel Station KTTW at Sioux Falls, South Dakota. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 12, 1986.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-73, adopted September 26, 1986, and released October 7, 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 contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

TV broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.606 [Amended]

2. In § 73.606, paragraph (b), the table of allotments is amended, under Nebraska, by revising Channel 17— to Channel 17 for Grand Island.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-23513 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-35; RM-5134; RM-5377]

Radio Broadcasting Services; Trinity and Rogersville, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 223A to Trinity, Alabama, as that community's first local service, in response to a request filed by Dorsey Eugene Newman, and Channel 230A to Rogersville, Alabama, also as a first local service, in response to a proposal filed by Radio Rogersville. With this action, this proceeding is terminated.

EFFECTIVE DATES: November 12, 1986. The window period for filing applications will open on November 13, 1986, and close on December 15, 1986, for Channel 223A at Trinity, AL, while that for Channel 230A at Rogersville, AL, will be announced later.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 86-35, adopted September 25, 1986, and released October 7, 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, D.C. 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, D.C. 20037.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202, paragraph (b), the table of allotments is amended by adding Rogersville, Channel 230A and Trinity, Channel 223A, under Alabama.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 86-23508 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-319; RM-5054]

Radio Broadcasting Services; Hondo, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 253A to Hondo, Texas, as that community's first FM service at the request of DLB Broadcasting Corporation. A site restriction of 11.4 kilometers (7.1 miles) south of the community is required. Mexican government has concurred.

With this action, this proceeding is terminated.

EFFECTIVE DATES: November 12, 1986. The window period for filing applications will open on November 13, 1986, and close on December 15, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-319, adopted September 15, 1986, and released October 7, 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.

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. In § 73.202, paragraph (b), the table of allotments, in the entry for Hondo, Texas, Channel 253A is added.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-23511 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 97

[PR Docket No. 85-23, FCC 86-364]

Radio Services, Frequencies and Emissions

AGENCY: Federal Communications Commission.

ACTION: Final rules; memorandum opinion and order.

SUMMARY: This document partially grants the Petition for Reconsideration of David B. Popkin and adopts certain rule changes pursuant to that petition. These rules are being adopted to clarify the Commission's earlier actions in this docket.

EFFECTIVE DATE: These rule changes are effective 0001 UTC November 14, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

Adopted: August 7, 1986.
Released: August 19, 1986.
By the Commission.

In the Matter of Amendment of Part 97 of the Commission's Rules to Implement the Final Acts of the World Administrative Radio Conference, Geneva, 1979, PR Docket No. 85-23.

1. In the *Report and Order* in this proceeding, 51 FR 2712, January 21, 1986, we adopted rules to complete implementation of the Final Acts of the World Administrative Radio Conference, Geneva, 1979, with respect to the Amateur Radio Service. David B. Popkin filed a Petition for Reconsideration which sought: (1) To correct certain emissions limitations in the 7075-7100 kHz frequency band; (2) to coordinate the effective dates of the Report and Order in this matter with the *Report and Order* in PR Docket No. 85-104; (3) to include a specific reference to § 97.3(t) in § 97.67(b), (4) to reword § 97.67(i); and (5) to reword § 97.7(g)(8) and 97.7(g)(9).

2. A subsequent *Order*, 51 FR 9012, March, 1986, in this matter corrected the status of emissions limitations in the 7075-7100 kHz band and resolved the conflicting effective dates of the rules adopted in PR Docket No. 85-104 and in this proceeding. These issues are therefore moot.

3. Popkin sought cross-reference to § 97.3(t) in § 97.67(b) because we removed the term "peak envelope power" from § 97.67(b). However, we removed that term because "transmitter power" as defined in § 97.3(t) *is* peak envelope power. Wherever "transmitter power" appears in the amateur rules, it means peak envelope power as specified in § 97.3(t). We defined "transmitter power" to eliminate the need to elaborate each time it appears in the amateur rules. Popkin's request for cross-reference to § 97.3(t) In § 97.67(b) is therefore unnecessary.

4. Popkin stated that the wording of § 97.67(l) is confusing when compared to the original § 97.7(b)(15). We are adopting reworded rules in this document to clarify this section.

5. Popkin recommended redrafting §§ 97.7(g)(8) and 97.7(g)(9) to clarify that secondary status bears no relation to the areas of prohibited operation for the 902-928 MHz band. We are adopting reworded rules in accord with this recommendation in order to eliminate any possible confusion.

6. Finally, on our own motion we are adopting rules to reinstate the definition of the National Radio Qulet Zone, which was adopted in this proceeding as § 97.3(k), but which was inadvertently superseded by *Report and Order* in PR Docket No. 85-22, 51 FR 17342, May 12, 1986. We are also adopting rules to reinstate pulse emissions in the 902-928 MHz frequency band, which were adopted in PR Docket No. 84-960 but which were inadvertently removed by prior action in PR Docket No. 85-23.

7. The new rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection, and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

8. Accordingly, it is ordered pursuant to § 1.429 of the Commission's rules (47 CFR 1.429) and sections 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. §§ 154(i) and 303(r)), that, effective 0001 UTC November 14, 1986, the Commission's rules are amended as set forth in the attached Appendix.

9. It is further ordered that the Petition for Reconsideration filed by David B. Popkin is granted in part consistent with this Memorandum Opinion and Order and denied in all other respects.

10. It is further ordered that this proceeding is terminated.

11. For further information about this document contact John J. Borkowski, (202) 632–4964.

List of Subjects in 47 CFR Part 97

Amateur radio, Frequencies.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 97—AMATEUR RADIO SERVICE

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.

2. In § 97.3 paragraph (k) is revised and a new paragraph (dd) is added to read as follows:

§ 97.3 Definitions.

* * * * *

(k) *National Radio Quiet Zone.* the area bounded by 39°15'N on the north, 78°30'W on the east, 31°30'N on the south and 80°30'W on the west.

* * * * *

(dd) *Coordinated station operation.* the repeater or auxiliary operation of an amateur station for which the transmitting and receiving frequencies have been implemented by the licensee in accordance with the recommendation of a frequency coordinator.

3. In § 97.7, paragraphs (g)(8) and (9) and are revised to read:

§ 97.7 Frequency privileges.

* * * * *

(g) *Limitations*:

* * * * *

(8) In the 902–928 MHz band, amateur stations shall not operate within the States of Colorado and Wyoming, bounded by the area of: latitude 39°N to 42°N, and longitude 103°W to 108°W. Also in this band, amateur stations shall not operate in those portions of the States of Texas and New Mexico bounded on the south by latitude 31°41'N, on the east by longitude 104°11'W, on the north by latitude 34°30'N, and on the west by longitude 107°30' W.

(9) This band is allocated on a secondary basis to the Amateur service subject to not causing harmful interference to the operations of Government stations authorized in this band or to Automatic Vehicle Monitoring (AVM) systems authorized under § 90.239. Stations in the Amateur service are not protected from any interference due to the operation of industrial, scientific and medical (ISM) devices, AVM systems or Government stations authorized in this band.

* * * * *

4. Paragraph (c) of § 97.61 is revised to read:

§ 97.61 Authorized emissions.

* * * * *

(c) *Above 144.1 MHZ*: Amateur stations are authorized to transmit the following emissions on amateur frequencies above 144.1 MHz: NoN, A1A, A2A, A2B, A3E, A3C, A3F, F1B, F2B, F3E, G3E, F3C, F3F, H3E, J3E, and R3E. PoN emissions (the emission letters "K, L, M, Q, V, W and X" may also be used in place of the letter "P" for pulsed radars) may be transmitted at all amateur frequencies above 902 MHz, except in the 1240–1300 MHz and 10.0–10.5 GHz bands. In the 902–928 MHz and F8E emissions may also be used.

5. Paragraph (1) of § 97.67 is revised to read:

§ 97.67 Maximum transmitting power.

* * * * *

(1) In the 902–928 MHz frequency band the transmitter power shall not exceed 50 watts for operation outside of the White Sands Missile Range but within 150 miles of its boundaries. Its boundaries are those portions of Texas and New Mexico bounded on the south by latitude 31°41'N, on the east by longitude 104°11'W, on the north by latitude 34°30'N, and on the west by longitude 107°30'W.

§ 97.85 [Amended]

6. Paragraph (g) of § 97.85 is amended by changing the cross-reference in the first sentence after "coordinated" to read: (see § 97.3(dd)).

[FR Doc. 86–23507 Filed 10–16–86; 8:45 am]

BILLING CODE 6712-01-M

VETERANS ADMINISTRATION

48 CFR Part 846

Acquisition Regulations; Quality Assurance

AGENCY: Veterans Administration.

ACTION: Final rule.

SUMMARY: The VA (Veterans Administration) is issuing final regulation amendments to the VAAR (VA Acquisition Regulation) to specify factors that are to be considered in determining the need to require subsistence inspections by the Departments of Agriculture or Commerce. Such factors include other mandatory inspection systems, suppliers' quality control systems, the feasibility of prequalifying suppliers and the cost of the inspections.

EFFECTIVE DATE: This final rule is effective October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Chris A. Figg, Chief, Policy Division, Office of Procurement and Supply, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420 (202) 233–2334.

SUPPLEMENTARY INFORMATION: These regulation amendments are for internal guidance and do not require public comment. Therefore, they are being published as final rules.

I. Executive Order 12291

These final regulation amendments have been reviewed in conjunction with Executive Order 12291, Federal Regulation, and have been determined not to be a "major rule" as defined therein.

II. RFA (Regulatory Flexibility Act)

Because this final rule does not come within the term "rule" as defined in the RFA (5 U.S.C. 601(2)), it is not subject to the requirements of that act. In any case, these amendments will not have significant impact on a substantial number of small entities because the provisions are primarily internal procedures.

III. Paperwork Reduction Act

This final rule requires no additional information collection or recordkeeping requirements upon the public.

List of Subjects in 48 CFR Part 846

Government procurement.

Approved: October 8, 1986.

By direction of the Administrator.

Thomas E. Harvey,

Deputy Administrator.

Part 846 of Title 48 of the Code of Federal Regulations is amended as follows:

PART 846—QUALITY ASSURANCE

1. The authority citation for Part 846 continues to read as follows:

Authority: 38 U.S.C. 210 and 40 U.S.C. 486(c).

846.403 [Amended]

2. In 48 CFR 846.403(b) remove the word "marketing" and add, in its place, the words "marking".

846.408–70 [Amended]

3. Section 846.408–70 is amended as follows:

a. In paragraph (a) remove the words "Department of Agriculture" and add, in

their place, the words, "USDA (U.S. Department of Agriculture)".

b. Paragraphs (b) and (c) are redesignated as paragraphs (c) and (d).

In newly redesignated paragraph (c) remove the words "Department of Agriculture" and add, in their place, the acronym "USDA".

c. A new paragraph (b) is added to read as follows:

846.408-70 Inspection of subsistence.

* * * * *

(b) Since the requirement for USDA or Department of Commerce inspections and certifications results in additional contractor costs which may be ultimately reflected in bid prices, the contracting officer, in consultation with the Chief, Dietetics Service, must evaluate the need for such inspections. The evaluation shall include the following:

(1) The quality assurance already provided by other mandatory inspection systems;

(2) The proposed suppliers' own quality control system;

(3) Experience with the proposed suppliers;

(4) The feasibility of prequalifying suppliers' quality assurance systems and subsequently waiving certifications for future solicitations; and

(5) The cost of the inspections.

* * * * *

846.408-71 [Amended]

5. Section 846.408-71 is amended as follows:

a. In paragraph (a) remove the words "VAAR Program Guide G-1" and add, in their place, "Federal Hospital Subsistence Guide G-1" wherever it occurs.

b. In paragraph (a) remove the words "U.S. Department of Agriculture (USDA)" and add, in their place, the acronym "USDA".

[FR Doc. 86-23309 Filed 10-16-86; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. 74-14; Notice 47]

Occupant Crash Protection and Automatic Restraint Phase-In Reporting

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: On April 12, 1985, NHTSA published a notice proposing amendments to Standard No. 208, *Occupant Crash Protection.* On March 21, 1986, NHTSA published a final rule that addressed a number of the proposed requirements. This notice announces the agency's decisions on several of the remaining proposals. NHTSA has decided to adopt an exemption from the automatic restraint requirement for convertibles. The exemption would only apply during the phase-in period. In a subsequent rulemaking the agency will determine whether to apply the automatic restraint requirement to convertibles manufactured after September 1, 1989, or whether to apply a dynamic test requirement to the manual safety belts used in those vehicles. The agency is modifying the head injury criterion used in Standard No. 208 compliance testing by adopting a maximum time interval of 36 milliseconds for calculating the HIC values.

DATES: The amendments made by this notice will be effective on October 17, 1986. Petitions for reconsideration must be filed by November 17, 1986.

ADDRESS: Petitions for reconsideration should refer to the docket and notice number of this notice and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Strombotne, Office of Vehicle Safety Standards, Room 5320, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 Telephone (202) 426-2264.

SUPPLEMENTARY INFORMATION: On April 12, 1985 (50 FR 14589), NHTSA published a notice, which is the basis for the final rule being issued today, proposing the following amendments to Standard No. 208, *Occupant Crash Protection:* reporting requirements for the phase-in of automatic restraints, deletion of the oblique crash test, use of the New Car Assessment Program (NCAP) test procedures, adoption of a due care defense, alternative calculations of the head injury criterion (HIC), and alternative occupant crash protection requirements for convertibles. The notice also proposed the dynamic testing of manual lap/shoulder belts for passenger cars, light trucks and light van-type vehicles.

On March 21, 1986 (51 FR 9800), NHTSA published a final rule amending Standard No. 208 that retained the oblique crash test for automatic restraint equipped cars, adopted some NCAP test procedures for use in the standard's crash tests, provided for a due care defense with respect to the automatic restraint requirement, and required the dynamic testing of manual lap/shoulder belts in passenger cars if the automatic restraint requirement is rescinded. The March 1986 notice also created a new Part 585 setting reporting requirements regarding compliance with the automatic restraint phase-in requirements of the standard. This notice announces the agency's decision on several of the other actions proposed in the April 1985 notice. NHTSA will soon publish a separate notice announcing its decision on dynamic testing of safety belts in light trucks, buses, and multipurpose passenger vehicles.

Convertibles

The April 1985 notice proposed alternative occupant crash protection requirements for convertibles, beginning with model year 1990. The agency proposed that manufacturers have the option of installing manual lap belts, subject to the belt strength requirements of Standard No. 209, *Seat Belt Assemblies,* and the anchorage strength requirements of Standard No. 210, *Seat Belt Assembly Anchorages,* instead of installing automatic restraints subject to the occupant crash protection criteria of Standard No. 208.

As a part of the notice, NHTSA requested data on several specific questions to assist the agency in making a decision. Those questions covered such issues as current and future production figures for convertibles and the cost and practicability of installing various types of automatic restraints. The answers provided by the commenters show that:

- Through 1989, convertibles will average slightly over one percent of annual passenger car production.
- Manufacturers uniformly said that automatic safety belts are not a practical alternative for convertibles. For example, General Motors estimated an automatic lap/shoulder belt would cost $600 for convertibles, with much of that cost needed for structural modifications to the car. It also said that while automatic lap belts may be technically possible, their actual performance could be below that of manual belts because of additional belt "slack" that would be inherent in such designs.
- Manufacturers' estimates of the costs of air bag systems, exclusively for use in convertibles, ranged from $1,200 to $3,500.

- Most manufacturers supported exemption of convertibles from the automatic restraint requirement, saying that the increased costs of automatic restraints would diminish convertible sales. Ford, Toyota, and Volkswagen said that if convertibles had to meet the automatic restraint requirement, they would probably have to discontinue their convertible lines.
- All manufacturers that provided information on the type of safety belt they are installing in their convertibles stated that they use lap/shoulder safety belts, even though the standard currently gives them the option of using only a lap belt. Volkswagen suggested requiring all convertibles to have lap/shoulder belts.
- The Center for Auto Safety (CFAS), Insurance Institute for Highway Safety (IIHS), and State Farm, all of which supported the use of automatic restraints in convertibles, argued that convertibles are "luxury" cars and thus any cost increase associated with automatic restraints would not affect the sales of convertibles. In support of its argument for requiring automatic restraints in convertibles, CFAS also noted that the agency's NCAP data show that, with two exceptions, crash test results in the convertible version of a vehicle were considerably worse than in the "parent" vehicle.
- The National Transportation Safety Board (NTSB) argued that the current provision in the standard allowing manufacturers the option of installing only lap belts in convertibles is inadequate and may not provide sufficient protection in a crash.

After reviewing the comments, NHTSA continues to believe that applying the automatic restraint requirement to convertibles is not reasonable, practicable or appropriate for that vehicle type, at least during the phase-in. The information provided by the commenters shows that use of automatic belts is not reasonable for some models because they would have to make substantial structural redesigns to incorporate a "pylon" or other structure for attaching the upper torso portion of the automatic belt. If manufacturers use air bag systems, then the cost of the system could be substantial enough to severely curtail sales of those models. However, as new types of air bag and other automatic restraint systems are developed, the cost could be reduced. The agency has therefore decided to limit the exemption for convertibles to the phase-in period. NHTSA will re-examine, at a later date, the issue of whether to apply an automatic restraint requirement to convertibles manufactured after September 1, 1989, or to require dynamic testing of the manual safety belts installed in those vehicles.

NHTSA believes that its decision is consistent with its duty, under section 103(f)(3) of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1392(f)(3)), to "consider whether any such proposed standard is reasonable, practicable and appropriate for the particular type of motor vehicle . . . for which it is prescribed." The legislative history of the Vehicle Safety Act makes clear that Congress recognized that it might not be appropriate to set the same standards for some vehicle types, such as convertibles, as other vehicle types. In discussing the purpose of section 103(f)(3), the Senate Report stated that:

> [T]he committee intends that the Secretary will consider the desirability of affording consumers continued wide range of choices in the selection of motor vehicles. Thus it is not intended that standards will be set which will eliminate or necessarily be the same for small cars or *such widely accepted models as convertibles* and sports cars, so long as all motor vehicles meet basic minimum standards. [Emphasis added.]

NHTSA's decision with regard to convertibles is also consistent with the guidance provided by the U.S. Court of Appeals for the Sixth Circuit in its decision in *Chrysler* v. *Department of Transportation*, 472 F.2d 659 (1972). In that decision, the court reviewed the legislative history of section 103(f)(3), discussed above, and concluded that the agency did not give sufficient attention to the issue of whether convertibles should be subject to the same occupant crash protection requirements as hard top vehicles. While the court's decision to send the rule back to the agency for further consideration was based primarily on the perceived inadequacy of the test dummy used in compliance tests, the decision was also based on the need for the agency to consider adequately the potential effects of the occupant crash protection rule on convertibles.

The substantial cost impact of requiring convertibles to have automatic restraints, would be true even if convertibles were considered "luxury" cars, since the cost would have to be spread over a very low production volume. For example, although the agency believes that the cost for low volume installation of air bag systems—10,000 to 100,000 cars or less annually—would be smaller than the estimates submitted by some manufacturers, the cost, which ranges from $600 to $1,500 per vehicle, would still be substantial. Although covertible models are priced higher than their sedan counterparts, they are not all "high priced" or "luxury" cars. For example, convertible versions of the Renault Alliance, Chevrolet Cavalier, Chyrsler LeBaron, Dodge 600, Ford Mustang LX, and Pontiac Sunbird all sell from $11,000–$13,000.

It is possible that development of new technology may lead to new air bag systems with lower costs. The agency is currently conducting research with the Breed Corporation on an air bag system with an all-mechanical sensor, which has the potential of being produced at a lower cost than current systems with electronic sensors. The preliminary data from the sled and crash tests of the Breed system are promising. However, the system still must be field-tested before the agency will be able to evaluate its effectivenesss. Thus, it is still too early to predict whether this research system or other systems can be successfully developed into an effective and low-cost air bag system that can be used in convertibles and other passenger cars.

In the case of "built-in" safety (i.e., use of padding and structural changes to provide protection to unrestrained occupants), the agency notes that only General Motors has done some preliminary work, and GM has not yet indicated that it could certify convertibles or any vehicles to the injury protection criteria of Standard No. 208. Thus, the practicability of this approach across the fleet of convertibles (i.e., for all manufacturers for each of their convertibles) is uncertain at this time. The agency will continue to monitor the development of new automatic belt, air bag and built-in safety systems and review the practicability and appropriateness of those systems for convertibles.

Definition of Convertible

Toyota asked the agency to clarify what vehicles are considered to be convertibles; in particular, it asked whether a passenger car with a T-bar roof or a Targa top would be considered a convertible. In several letters of interpretation, the agency has said that a convertible is a vehicle whose A-pillar or windshield peripheral support is not joined at the top with the B-pillar or other rear roof support rearward of the B-pillar by a fixed rigid structural member. Thus, a vehicle with a Targa top would be considered a convertible since it does not have any fixed structural member connecting the tops of the A and B-pillars. However, a vehicle with a T-bar roof would not be

considered a convertible since there is a fixed structural member in the vehicle's roof which connects the A and B-pillars.

Changes in Reporting Requirements

Part 585, *Automatic Restraint Phase-in Reporting Requirements*, requires manufacturers to provide NHTSA with a yearly report on their compliance with the automatic restraint phase-in requirements of Standard No. 208. Part 585 currently requires manufacturers to provide data on their entire production of passenger cars, including convertibles. Since NHTSA has decided to exempt convertibles from the requirement for mandatory installation of automatic restraints during the phase-in period, the agency is making a change to Part 585. The agency is amending the reporting requirement so that a manufacturer does not have to count convertibles as a part of its passenger car production volume when it is calculating its phase-in requirement. However, since a manufacturer may decide to install voluntarily automatic restraints in its convertibles, the changes made to the phase-in requirements of Standard No. 208 and the reporting requirements of Part 585 will allow a manufacturer the option to include automatic-restraint equipped convertibles in its passenger car production volume when it is determining its compliance with the automatic restraint phase-in requirement.

Modification of the head injury criterion

In response to a petition from the Committee on Common Market Automobile Constructors and comments from other vehicle manufacturers, the April 1985 notice set forth two proposed alternative methods of using the head injury criterion (HIC) in situations when there is no contact between the test dummy's head and the vehicle's interior during a crash. The agency said that, after considering the comments, it would decide whether to retain the current HIC requirement or to adopt one of the proposed alternatives. As discussed in detail below, the agency has decided to adopt the proposed alternative which will calculate a HIC in both contact and non-contact situations, but limit the calculation to a maximum time interval of 36 milliseconds.

I. First Proposed HIC Alternative.

A. Use HIC Only When There is Head Contact

The first proposed alternative was to retain the current HIC calculation for contact situations, but limited to the actual times that contact occurs. However, in non-contact situations, the agency proposed that a HIC would not be calculated, but instead new neck injury criteria would be calculated. The agency proposed that neck criteria would be calcualted differently depending upon whether the existing Part 572 test dummy or the Hybrid III test dummy was used in the crash test. The reason for the proposed difference was that the Hybrid III test dummy has instrumentation in its neck to measure directly shear and tension forces in the neck and the existing Part 572 dummy does not. The agency proposed to use the Hybrid III's neck instrumentation and set limits on the shear and tension forces in the neck. Since neck forces cannot be measured directly by the existing Part 572 test dummy, the agency proposed to use a surrogate measure for neck forces through the use of head acceleration-based criteria, a calculation that is valid only when the head does not contact any object during a crash test.

The agency explained that a crucial element necessary for deciding whether to use the HIC calculation or the neck criteria was an objective technique for determining the occurrence and duration of head contact in the crash test. As discussed in detail in the April 1985 notice, there are several methods available for establishing the occurrence and/or duration of head contact, but there are questions about their levels of consistency and accuracy.

Almost all of the commenters opposed the use of the first proposed alternative. The commenters uniformly noted that there is no current technique that can accurately and reliably identify whether and exactly when head contact has or has not occurred during a crash test in all situations. The agency agrees that, in the absence of such a method to determine the occurrence and duration of head contact, the first alternative is not appropriate.

B. Apply Neck Criteria if There is no Head Contact

As discussed above, the agency proposed a new neck criteria to be used in non-contact situations; however, because of the problems involved in trying to identify when head contact occurs, the agency in not adopting the non-contact proposal. CFAS urged the agency to apply the neck injury criteria in both contact and non-contact situations. It also argued that because the neck has more soft tissue than the head, a lower acceleration threshold should be used. As noted above, with the Part 572 test dummy, the proposed neck injury criteria (based on head acceleration measurements) are valid only when the head does not contact another object, so they should not be used in situations when there is an impact to the head. Similarly, the impossibility of determining, in all situations, when head contact begins and ends precludes the agency from adopting the proposed non-contact neck injury criteria for the Part 572 test dummy. The agency has already indicated that it will consider the issue of neck injury criteria for the Hybrid III test dummy in the separate rulemaking on that test dummy.

II. Second HIC Alternative.

At present, a HIC is calculated for the entire crash duration. The second alternative proposed by the agency would calculate a HIC in both contact and non-contact situations, but it would limit the time duration during which a HIC is calculated. NHTSA proposed a limit on the maximum time duration of the HIC calculation because the current calculation can produce high HIC values for a crash which has a relatively low acceleration level, but a long time duration, and which in all likelihood will not result in brain injuries.

The agency proposed to limit the HIC calculation to a maximum of 36 milliseconds because it determined that the 36 millisecond limit together with a HIC of 1000 limit will assure that the acceleration level of the head will not exceed 60 g's for any period greater than 36 milliseconds. The 60 g's acceleration limit was set as a reasonable head injury threshold by the originators of the Wayne State Tolerance Curve, which was used in the development of the HIC calculation. (Readers are referred to the April 12, 1985 notice of proposed rulemaking for information on the development of HIC.)

There was a marked division among the commenters on the second alternative. Manufacturers and their trade associations commenting on the issue uniformly supported the use of the second alternative; although nine of those commenters (AMC, Chrysler, Ford, GM, Motor Vehicle Manufacturers Association (MVMA), Peugeot, Renault, Volvo, and Volkswagen) argued that the HIC calculation should be limited to a time interval of approximately 15 to 17 milliseconds, which would limit average long time duration head accelerations to 80–85 g's. Other commenters (CFAS, IIHS, and State Farm) argued that the current HIC calculations should be retained; they said that the proposed alternative would lower HIC levels without ensuring that motorists were still receiving adequate head protection.

Those favoring the second alternative raised a number of arguments in support of its use. They said that using a time limit for the HIC calculation is appropriate because head contacts with hard surfaces generally have high accelerations, but a short time duration (10 to 15 milliseconds). In the case of head contacts with softer surfaces, such as an airbag system, they said that the time duration of the contact is longer, but the acceleration is much lower, and thus the potential for injury is reduced. Ford pointed to airbag system testing in which human volunteers "experienced average accelerations between 59 to 63 g's for HIC calculation durations of 24 to 30 ms, without any head or neck injury."

Those favoring use of a shorter time duration than 36 ms offered additional arguments. They said that the proposed 36 ms requirement is too stringent because it would not allow the average head acceleration levels during a crash to exceed 60 g's. For example, GM said that the the Wayne State cadaver test data show that the head can withstand acceleration levels of up to 80 g's without injury. GM also said that Wayne State and other test data show that brain injuries and skull fractures in cadavers occur at HIC durations of 15 ms or less and thus there is no basis for considering any time interval longer than 15 ms. Likewise, Volvo said that it does not believe that 60 g is a critical acceleration level. Volvo noted that Standard No. 201, *Occupant Protection in Interior Impact*, permits an acceleration level of up to 80 g's in 15 mile per hour impacts of the instrument panel with a headform.

Mercedes-Benz, which supported the second alternative, urged the agency to measure HIC only during the time interval when the acceleration level in the head exceeds 60 g's. It said that this method would more effectively differentiate results received in contacts with hard surfaces and results obtained from systems, such as airbags, which provide good distribution of the loads experienced during a crash.

Those opposing the proposed second alternative argued that a 36 millisecond time limit is too short and could result in lower HIC scores being calculated than are calculated by the current HIC formula. For example, IIHS noted that a 60 g impact with a time duration of 50 milliseconds would produce a HIC of greater than 1,000 using the calculation methods currently found in the standard. IIHS also said that since some brain injuries can occur at the HIC level of less than 1,000, the agency should not take any action that would, in effect, allow HIC levels of above 1,000. It also urged the agency not to adopt the 36 millisecond limit since there is evidence showing that even mild brain injuries can produce long-term disability and it is not known whether such injuries can be caused without head contact.

A. Rejection of 17 Millisecond HIC Limit

To evaluate the effect of the 17 millisecond limit suggested by many of the commenters, NHTSA reexamined the biomechanical studies cited by the commenters and looked at the effect of how the recommended time limits would affect the HIC values measured in a 30 mile per hour barrier crash test, which is the compliance test used in Standard No. 208, for different types of restraint systems and also with respect to the New Car Assessment Program (NCAP). After completing this review, NHTSA has concluded, as discussed below, that the use of a 17 millisecond limit is not appropriate in vehicle crash tests.

The agency reviewed the Wayne State laboratory tests results cited by several of the commenters in support of adopting a 17 millisecond limit for the HIC calculation. In those tests, cadaver heads were dropped on various hard and padded surfaces. The results from those tests show that those impacts generally produce a single peak acceleration, which ranges from 4 to 13 ms in duration. While NHTSA agrees that a 17 millisecond limit would be appropriate for short duration, single impacts into a hard surface, head acceleration responses in crash tests are considerably different from laboratory drop tests. In a vehicle crash, the duration of head impacts is often considerably longer, the head impact can involve considerably higher forces, and the head can experience multiple impacts. Given these differences, NHTSA does not believe that a 17 millisecond limit, based on single, short duration laboratory tests, should be adopted.

NHTSA agrees with Ford that the test results from the human volunteer airbag test are important and demonstrate that the probability of injury in longer duration impacts (greater than 15 milliseconds) with moderate accelerations is low. However, NHTSA believes that the air bag tests are limited in their application. Those well-controlled tests using young, healthy males, do not necessarily represent the results that would be found using other segments of the population. Likewise, the recommendation by the Wayne State researchers regarding a head acceleration limit of 60 to 80 g's is deduced mostly from tests with healthy 19 to 48 year old male volunteers. As to Volvo's comments about the use of an 80 g criteria in Standard No. 201, the agency notes that the standard places a specific limit on the 80 g criteria by prohibiting the accelerations from exceeding 80 g's for more than 3 continuous milliseconds.

NHTSA believes that it should take a cautious approach in modifying the head injury tolerance level set by the HIC requirement. Any modifications should ensure that a wide range of the population is provided protection. Therefore, the agency believes that it should use a HIC calculation which will not exceed 60 g's during relatively long duration impacts, which is the lower end of the recommended range proposed by the Wayne State researchers for use with HIC.

A review of the effect of a 17 millisecond limit on 291 test results from the 35 mph NCAP test program and the test results from 30 mph barrier impact tests also support the agency's decision not to adopt that suggestion. This analysis yielded the following results: 1. Using the current HIC calculation, this agency noted that the average HIC for the 291 NCAP tests was 1107 and the percentage of HIC's that exceeded 1,000 was 46 percent. Using a 17 millisecond limit, the average HIC in the 291 NCAP tests dropped to 931 and the percentage of HIC's that exceeded 1,000 fell to 35 percent.

2. The current HIC failure rate of approximately 16 percent for 30 mph belted occupants could be cut to approximately 8 percent.

3. For unrestrained occupants, the average HIC value would drop by 21 percent and their Standard No. 208 compliance failure rate would be reduced by 42 percent.

4. Airbag average HIC values would be reduced by 28 percent; however, this would not affect the Standard No. 208 failure rates, since air bags that function properly produce HIC values well below the 1000 level.

B. Rejection of Mercedes-Benz HIC Limitation

To evaluate the effect of the Mercedes-Benz suggestion to limit the calculation of HIC to instances when the acceleration exceeded 60 g's, the agency recalculated the HIC values for 30 mph 3-point belts (driver and passenger sides), 30 mph unrestrained driver and passenger), air bag (only), and 35 mph NCAP barrier and barrier equivalent crash tests using the Mercedes-Benz method.

Compared to the 36 ms proposed by NHTSA and 15–17 ms. approach advocated by some commenters, the Mercedes-Benz method would bring

about the most significant numerical reduction in HIC scores. At 30 mph, all lap/shoulder belt passenger HIC scores would be reduced to zero (a 100 percent reduction). Using the current HIC calculation, the average HIC for the 291 NCAP tests was 1107 and the percentage of HIC's that exceeded 1,000 was 46 percent. Using a 60 g limit, the average HIC would drop to 808 and the percentage of HIC's that exceed 1,000 would fall to 32 percent. 30 mph air bag HIC values would be cut by 47.9 percent and unrestrained occupants would experience a 31 to 36 percent reduction of the average HIC score. The data also indicates that failure rates on airbags would not be affected, while approximately 14 percent of the unrestrained passengers would be shifted from failing to passing the HIC 1000 limit.

The use of a minimum head acceleration threshold or cut-off to define the maximum HIC time duration, as proposed by Mercedes-Benz, provides a means of differentiating between critical and non-critical acceleration peaks, if and when they exceed 60 g's. However, there are a number of problems which led the NHTSA to reject the proposed Mercedes-Benz method. The Mercedes-Benz method only takes into account head accelerations that are greater than 60 g's. Thus, the average head acceleration permitted by the Mercedes-Benz method must be, at a minimum, 60 g's and most likely the average head acceleration permitted by the Mercedes-Benz method would substantially exceed that limit. In contrast, the 36 millisecond alternative adopted by the agency will ensure that the average head acceleration does not exceed the 60 g acceleration limit. In addition, it is unclear from Mercedes-Benz's comments how their method would accommodate multiple non-continuous acceleration peaks in excess of 60 g's. Discriminating between injurious and non-injurious peaks is critical to picking the time duration. If *all* peaks are to be included, it is unclear from Mercedes' proposal how the time interval would be measured. Given all of these concerns, NHTSA believes that the Mercedes-Benz proposal should not be adopted.

C. Adoption of 36 Millisecond HIC Limit

As discussed earlier in this notice, the agency proposed a time limit for the HIC calculation because the current method can produce an artifically high HIC for a crash which has relatively low acceleration level, but a long time duration. To evaluate the effects of the proposal, NHTSA took the NCAP results and recalculated the HIC using the proposed 36 millisecond limit. That analysis shows that the 36 millisecond limit would have only a minor effect on HIC scores recorded in the NCAP tests. As discussed above, using the current HIC calculation, the average HIC for the 291 tests was 1107 and the percentage of HIC's that exceeded 1,000 was 46 percent. Using a 36 millisecond limit, the average HIC dropped slightly to 1061, and the percentage of HIC values that exceeded 1,000 dropped to 41 percent. Thus, the results show that in the NCAP tests, which are conducted at 35 mph, the average HIC value would be only four percent lower when calculated with the 36 millisecond limit. In additon, the results showed that of the 291 NCAP tests, only 38 tests had both a HIC value which exceeded 1,000 *and* a HIC duration exceeding 36 milliseconds. Of this group of 38 tests, there are only 15 instances in which the 36 millisecond limit results in a new HIC value less than 1,000. Since the NCAP tests at 35 mph involve 36 percent greater energy than the 30 mph tests used in Standard No. 208 compliance testing, the number of HIC values possibly changing from above 1000 to below 1000 because of the 36 millisecond limit should be even less in the Standard No. 208 compliance tests.

The agency further examined these 15 instances of HIC's greater than 1000 being recalculated to be less than 1000. In 12 of these 15 cases, the original HIC (i.e., without a time limitation) was between 1000 and 1074. Again at 30 mph, with 36 percent, less energy involved, it is doubtful if any of these vehicles would have had occupant HIC's greater than 1000. Thus, in only three cases (one percent of the total involved) would a "fail" have potentially become a "pass", using the 208 criteria. If this same value is associated with 30 mph barrier tests, the risks to safety associated with having a HIC calculation which is founded on a sounder basis than the current calculation are not significant.

To further evaluate the effects of a 36 millisecond limit, the agency specifically examined the potential impact of the new HIC calculation on whether a vehicle will pass or fail the HIC of 1000 limit set in Standard No. 208. NATSA recalculated the HICs recorded in a wide variety of 30 mph crash tests, which is the compliance test speed used in Standard No. 208, The tests included vehicle using the following different types of restraint systems: manual lap/shoulder belts, automatic belts, air bags only and air bag with lap and lap/shoulder belts. In addition, the agency recalculated the HIC values recorded in 30 mph tests with unrestrained occupants, which would simulate the types of HIC values that could be recorded in vehicles with built-in safety features. (The results of those tests are discussed in Chapter III of the Final Regulatory Evaluation on HIC). The agency's analysis shows that in all the 30 mph tests, the 36 millisecond limit does not change a "failing" HIC into a "passing" HIC. Thus, a vehicle which currently does not comply with the HIC requirement of Standard No. 208 using the prior HIC calculation method also will not comply using the 36 millisecond limit.

Cost and Benefits

NHTSA has examined the impact of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has prepared a regulatory evaluation that examines the economic and other impacts of this rulemaking action.

The changes in the HIC calculation should not have a significant impact. As discussed in detail above, the agency's analysis of crash test data shows that the 36 millisecond limit does not have any significant effect on changing the HIC values currently recorded in 30 mile per hour compliance crash tests. The extent of the effect of this change on mild brain injuries is unknown. As IIHS noted, there is insufficient data on how such injuries are caused. Thus, the agency cannot assess the role of the current or changed HIC calculation in preventing or reducing such injuries. However, since the agency's crash test analysis shows that a vehicle that currently exceeds a HIC of 1000 in Standard No. 208's 30 miles per hour compliance test will still exceed 1000 using the new 36 millisecond limit, the agency believes that the effect of the 36 millisecond limit on mild brain injuries should be no different than the effect of the current calculation. In addition, NHTSA does not believe that manufacturers will change their vehicle designs because of the slight change in the HIC calculation. Thus, the 36 millisecond limit should not adversely effect safety or a manufacturer's compliance costs.

Likewise, the decision to exempt convertibles during the phase-in period should not have a significant effect. Because convertibles represent a small portion of most manufacturers' production, they do not need to install automatic restraints in their convertibles in order to meet the production

requirements during the phase-in. The problems associated with installing automatic restraints in convertibles also make it unlikely that manufacturers would equip their convertibles with such restraints during the phase-in. Thus, the exemption adopted in this notice should have little effect on the type of restraint system that will be used in convertibles during the phase-in.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. Accordingly, the agency has not prepared a full regulatory flexibility analysis.

Few, if any, passenger car manufacturer would qualify as small entities. Small organizations and government units should not be affected since the change in the HIC calculation should not affect vehicle designs or prices.

Environmental Effects

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Paperwork Reduction

The phase-in reporting requirements of this rule contain information collection requirements which have been previously submitted to and approved by the Office of Management and Budget pursuant to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through June 30, 1988 (OMB approval number 2127–0535). The amendments made by today's final rule do not increase the reporting burden on manufacturers. Instead, the agency is giving manufacturers the option of excluding the number of convertibles they produce from their phase-in production reports.

Effective Date

NHTSA has determined that it is in the public interest to make the amendments, adopted in today's notice, effective immediately. The change in the HIC calculation can affect manufacturer's plans for the model year beginning September 1, 1986.

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

49 CFR Part 585

Reporting and recordkeeping requirements.

In consideration of the foregoing, Parts 571 and 585 of Title 49 of the Code of Federal Regulations are amended as follows:

PART 571—[AMENDED]

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.208 [Amended]

2. A new S4.1.3.1.3 is added to § 571.208 to read as follows:

S4.1.3.1.3 A manufacturer may exclude convertibles which do not comply with the requirements of S4.1.2.1, when it is calculating its average annual production under S4.1.3.1.2(a) or its annual production under S4.1.3.1.2(b).

3. A new S4.1.3.2.3 is added to § 571.208 to read as follows:

S4.1.3.2.3 A manufacturer may exclude convertibles which do not comply with the requirements of S4.1.2.1, when it is calculating its average annual production under S4.1.3.2.2(a) or its annual production under S4.1.3.2.2(b).

4. A new S4.1.3.3.3 is added to § 571.208 to read as follows:

S4.1.3.3.3 A manufacturer may exclude convertibles which do not comply with the requirements of S4.1.2.1, when it is calculating its average annual production under S4.1.3.3.2(a) or its annual production under S4.1.3.3.2(b).

6. S6.2 of § 571.208 is revised to read as follows:

S6.2 The resultant acceleration at the center of gravity of the head shall be such that the expression:

$$\left[\frac{1}{(t_2-t_1)}\int_{t_1}^{t_2} a\,dt\right]^{2.5}(t_2-t_1)$$

shall not exceed 1,000 where a is the resultant acceleration expressed as a multiple of g (the acceleration of gravity), and t_1 and t_2 are any two points in time during the crash of the vehicle which are separated by not more than a 36 millisecond time interval.

PART 585—AUTOMATIC RESTRAINT PHASE-IN REPORTING

1. The authority citation for Part 585 continues to read as follows:

Authority: 15 U.S.C. 1392, 1407; delegation of authority at 49 CFR 1.50.

2. Section 585.4 is revised to read as follows:

§ 585.4 Definitions.

(a) All terms defined in section 102 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1391) are used in their statutory meaning.

(b) "Passenger car" means a motor vehicle with motive power, except a multipurpose passenger vehicle, motorcycle, or trailer, designed for carrying 10 persons or less.

(c) "Production year" means the 12-month period between September 1 of one year and August 31 of the following year, inclusive.

3. Section 585.5(b)(1) is revised to read as follows:

§ 585.5 Reporting requirements.

* * * * *

(b) *Report content*—(1) *Basis for phase-in production goals.* Each manufacturer shall provide the number of passenger cars manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the current production year. A new manufacturer that is, for the first time, manufacturing passenger cars for sale in the United States must report the number of passenger cars manufactured during the current production year. For the purpose of the reporting requirements of this Part, a manufacturer may exclude its production of convertibles, which do not comply with the requirements of S4.1.2.1 of § 571.208 of this Chapter, from the report of its production volume of passenger cars manufctured for sale in the United States.

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Issued on: October 10, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86–23329 Filed 10–16–86; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1057

[Ex Parte No. MC-43 (Sub-No. 17)]

Authorized Carrier Lease of Equipment and Drivers to Private Carriers and Shippers

AGENCY: Interstate Commerce Commission.

ACTION: Removal of rules.

SUMMARY: The Commission repeals the rules in 49 CFR 1057.41 so as to allow authorized carriers to lease equipment and drivers to private carriers and shippers provided certain minimum criteria are set forth in the written lease. The proposed action was published at 50 FR 41533, October 11, 1985. The use of equipment and driver leasing (popularly termed "single-source leasing") increases the spectrum of price and service quality options available to shippers and receivers. Carriers can earn additional revenues by the productive use of their equipment and personnel by shippers and private carriers and also may be able to reduce insurance costs. Shippers and private carriers benefit by having an additional source for equipment and drivers. These results promote competition and efficient resource use in the public interest.

EFFECTIVE DATE: This decision is effective on November 17, 1986.

FOR FURTHER INFORMATION CONTACT:

Robert G. Rothstein, (202) 275–7912

or

Andrew L. Lyon, (202) 275–7292.

SUPPLEMENTARY INFORMATION: Additional information is contained in the full Commission decision which is available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, or may be purchased from T.S. InfoSystems, Inc., Room 2229, c/o Interstate Commerce Commission Building, 12th Street and Constitution Avenue, NW., Washington, DC 20423; or call toll-free (800) 424–5403; or (202) 289–4357 in the Washington, DC, metropolitan area.

Energy and Environmental Statement

This action does not appear to significantly affect the quality of the human environment or conservation of energy resources.

Regulatory Flexibility Analysis

The action taken here will have a positive, but not significant beneficial economic impact upon small entity lessees and lessors of equipment. By allowing another option for more efficient equipment utilization during periods when equipment might not otherwise be used, authorized carrier lessors will realize a benefit in their ability to lease out idle equipment for short periods of time and collect revenues from such transactions. Shipper and private carrier lessees will benefit by having additional sources from which to obtain equipment and drivers for use in their proprietary transportation operations. These advantages should benefit the public in the form of improved service and lower rates. The modifications will not impose regulatory burdens because they are permissive and do not require regulated carriers to enter into such arrangements.

List of Subjects in 49 CFR Part 1057

Motor carriers.

This notice and accompanying decision are issued pursuant to 49 U.S.C. 11107 and 10321 and 5 U.S.C. 553.

Decided: October 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

Appendix

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

Title 49, Part 1057 is amended as follows:

1. The authority citation following § 1057.12 is removed and the authority citation for 49 CFR part 1057 is revised to read as follows:

Authority: 49 U.S.C. 11107 and 10321; 5 U.S.C. 553.

§ 1057.41 [Removed]

2. Section 1057.41 is removed.

[FR Doc. 86–23465 Filed 10–16–86; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Parts 1135 and 1312

[Ex Parte No. 290 (Sub-No. 2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission has modified its rules governing railroad cost recovery procedures by requiring railroads to adjust their cost recovery tariffs to take into account declines in the rail cost adjustment factor (RCAF). The Commission will address declines in the RCAF that cannot be practicably addressed through rate reduction orders by postponing authorizations for future cost recovery rate increases. The Commission has also adopted procedures to mitigate errors in forecasting costs in a previous quarter. Finally, the Commission has ordered the railroads to cancel cost recovery tariff RCCR X–0–86. These new policies seek to interpret the enabling statute in light of current realities in a manner that is fair to all parties.

DATE: The new rules take effect on November 17, 1986.

FOR FURTHER INFORMATION CONTACT:

William T. Bono—(202) 275–7354, Bureau of Accounts

or

Craig M. Keats—(202) 275–7602, Office of General Counsel

SUPPLEMENTARY INFORMATION: Proposed rules in this proceeding were published at 51 FR 16363, May 2, 1986. 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, Washington, DC 20423, or call 289–4357 (Washington, DC, metropolitan area), or toll-free (800) 424–5403.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. It will not have a significant adverse impact on a substantial number of small entities, because it does not prescribe maximum rate levels, but rather addresses only the methodologies by which rail carriers may set rates.

List of Subjects

49 CFR Part 1135

Administrative practice and procedures, Railroads, Reporting and recordkeeping requirements.

49 CFR Part 1312

Railroads.

Decided: October 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Chairman Gradison submitted a separate expression. Commissioner Andre dissented with a separate expression.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1135—[AMENDED]

1. The authority citation for Part 1135 is revised to read as follows:

Authority: 49 U.S.C. 10321 and 10707a; 5 U.S.C. 553.

2. Section 1135.1 is amended by redesignating paragraph (f) as paragraph (g), revising paragraph (b), and adding a new paragraph (f), to read as follows:

§ 1135.1 Quarterly adjustment of rates.

* * * * *

(b) The allowable increase will be based on a projection of the index to the midpoint of the quarter to which the index will apply. The percentage change must be calculated from a comparison of the forecast index for the midpoint of the quarter during which the rates will be in effect with the forecast index for the midpoint of the previous quarter. Each quarterly index will be adjusted for forecast error in the index issued six months earlier. The adjustments will be made by adding or subtracting, as appropriate, the difference between the index using actual data for the second prior quarter and the index using forecasted data for that quarter.

* * * * *

(f) All cost recovery tariffs filed with the Commission shall state that they are being filed in conformity with the rules in 49 CFR 1135.1 and 1312.17(k), and shall be amended under the same timetable applicable to rate increases, to reflect declines in the cost index. Any declines in the index below the level in effect on December 31, 1985, will be addressed by postponing authorizations for future cost recovery rate increases pursuant to a "banking" procedure described more fully in Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures,* served October 17, 1986.

* * * * *

PART 1312—[AMENDED]

3. The authority citation for Part 1312 continues to read as follows:

Authority: 49 U.S.C. 10321, 10708, and 10762; 5 U.S.C. 553.

4. Section 1312.17 is amended by adding a new paragraph (k)(3) reading as follows:

§ 1312.17 Amendments.

* * * * *

(k) * * *

(3) All cost recovery tariffs filed with the Commission shall state that they are being filed in conformity with the rules in 49 CFR 1135.1 and 1312.1 applicable to cost recovery rate increases, to reflect declines in the cost index. Any declines in the index below the level in effect on December 31, 1985, will be addressed by postponing authorizations for future cost recovery rate increases pursuant to a "banking" procedure described more fully in Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures,* served October 17, 1986.

* * * * *

[FR Doc. 86-23466 Filed 10-16-86; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 51, No. 201
Friday, October 17, 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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 251

Temporary Emergency Food Assistance Program; Advance Notice of Proposed Rulemaking

AGENCY: Food and Nutrition Service, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Food and Nutrition Service invites comments on methods to revise the formula used to allocate donated foods and funds among States for use in the Temporary Emergency Food Assistance Program (TEFAP). The Food and Nutrition Service feels that the current allocation formula may need to be more responsive to changes in economic conditions in order to do an adequate job of targeting commodities and funds to States in greatest need. Under TEFAP, USDA provides donated foods and administrative funds to help State and local agencies defray the costs of distributing food. Currently, donated foods and funds are allocated among States based on the following formula: (1) The number of households with incomes below the poverty level weighted at 60%; and (2) The number of unemployed persons weighted at 40%. This action advises interested parties to suggest ways to improve the current allocation of food and funds to make it more responsive to current and future need.

DATE: Comments must be received on or before December 16, 1986.

ADDRESS: Comments should be sent to Beverly A. King at the address listed below.

FOR FURTHER INFORMATION CONTACT: Beverly A. King, Chief, Program Administration Branch, Food and Nutrition Service, Food Distribution Division, Park Office Center, Alexandria, Virginia 22302, Telephone (703) 756–3660.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under Executive Order 12291 and has not been classified major because it does not meet any of the three criteria identified under the Executive Order. Compliance with the provisions in this rule will not have an annual effect on the economy of more than $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions. This action will not have significant adverse effects 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.

This action has been reviewed with regard to the Regulatory Flexibility Act (5 U.S.C. 601–612). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This program is listed in the Catalog of Federal Domestic Assistance under 10.568 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015 Subpart V and 49 FR 22675, May 31, 1984).

Legislative Background

Title II of Pub. L. 98–8 is designated as the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c *note*), hereafter referred to as the "Act". The Act requires the distribution of surplus agricultural commodities, acquired by the Commodity Credit Corporation, to charitable institutions, food banks, hunger centers, soup kitchens and other public or private non-profit recipient agencies for emergency hunger relief and provides authorization for $50 million to help defray State and local distribution costs. The Act was amended most recently by Pub. L. 99–198, the Food Security Act of 1985 which extends TEFAP through September 30, 1987. Congress' intent under the Act is to provide food to relieve situations of emergency and distress among needy persons including low income and unemployed persons.

The Department currently divides commodities and funds available under the Act on the basis of the number of persons unemployed and the number of persons in poverty in each State. These factors were chosen because the Department had determined that use of these factors best identifies areas in need of emergency relief.

Each year USDA establishes the type and amounts of commodities that will be made available to States. USDA apportions these commodities and funds among States on the basis of the following formula: (1) The number of households with income below the poverty level weighted at 60%; and (2) The number of unemployed persons weighted at 40%.

FNS is concerned that the allocation formula has become outdated and may no longer target commodities and funds to areas of current need. The Agency also feels that the formula could be more responsive to economic changes which cause the situations of emergency need that the program is intended to address.

For example, State by State poverty figures are available only from the U.S. Department of Commerce Bureau of the Census. Current allocations made under the formula are based on poverty statistics derived from the 1980 Census, which is based on 1979 income. To the extent that the geographic distribution of poverty has changed in the past six years, these data may fail to adequately target commodities and funds to areas of current emergency need.

The Agency is soliciting comments on ways to revise the allocation formula for commodities and administrative funds to better target them to areas of greatest need. Options could include alternative measures of low-income or poverty status, methods to update poverty statistics to make them more current and alternative weighting of factors included in the formula to make the allocation more responsive to areas of emergency need.

The Agency has already examined a number of alternative formulae. These include allocating commodities using Food Stamp Program participation as a measure of poverty, using mean or median per capita income as a measure of poverty and alternatives which would

include the above options using different weighting schemes.

Some projections of allocations using options described above have been done by FNS. Commenters interested in the results may write to Ms. King for a copy or may obtain a copy from Ms. King's office at the above address.

Comments on ways to update the data used in the present formula as well as comments on possible alternative formulas should be forwarded to the Food and Nutrition Service by the specified date.

Authority: 7 U.S.C. 612c *note*.

Dated: October 14, 1986.

Robert E. Leard,

Administrator.

[FR Doc. 86-23544 Filed 10-16-86; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Marketing Service

7 CFR Parts 1033, 1036, and 1040

[Docket Nos. A0-166-A56, A0-179-A51, and A0-225-A38]

Milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This hearing is being held to consider proposals to change the classification of skim milk and butterfat used to produce ice cream and related products from Class III to Class II in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan milk orders. Also to be considered are proposals to amend only the Southern Michigan order. These proposals would change the diversion limits on producer milk, reduce the pooling standards for balancing and supply plants, and revise the Class II price. Proponents contend that the modifications are needed to promote uniformity in order application and to reflect changed marketing conditions.

DATE: The hearing will convene at 9:30 a.m. on October 28, 1986.

ADDRESS: The hearing will be held at the Ramada Inn-Airport, 8270 Wickham Road, Romulus, Michigan 48174, (313) 729-6300.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447-7311.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

Notice is hereby given of a public hearing to be held at the Ramada Inn-Airport, 8270 Wichkam Road, Romulus, Michigan 48174, beginning at 9:30 am., on October 28, 1986, with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operations. Most parties subject to a milk order are considered small businesses. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Parts 1033, 1036, and 1040

Milk marketing orders,
Milk,
Dairy Products.

The authority citation for Parts 1033, 1036, and 1040 continues to read as follows:

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

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Milk Marketing, Inc. (MMI)

Proposal No. 1

In § 1033.41, revise paragraphs (b)(3) and (c)(1) to read as follows:

§ 1033.41 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce yogurt, sour cream, sour mixtures (such as dips and dressings), cottage cheese, cottage cheese curd, pancake mixes, puddings, frozen cream, milkshake mixes containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, and any concentrated milk product in bulk, fluid from other than that used to produce a Class III product; and

* * * * *

(c) * * *

(1) Skim milk and butterfat used to produce butter, nonfat dry milk, dry whole milk, dry whey, dry buttermilk, casein, cheese (except cottage cheese and cottage cheese curd), dietary products and infant formulas in hermetically sealed metal or glass containers, evaporated or condensed milk or skim milk (plain or sweetened) in a consumer-type package, any concentrated milk product in bulk, fluid form used to produce Class III products, any product containing six percent or more nonmilk fat (or oil), and any product that contains by weight less than 6.5 percent nonfat milk solids.

* * * * *

Proposal No. 2

In § 1036.40, revise paragraphs (b)(3) and (c)(1) to read as follows:

§ 1036.40 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce yogurt, sour cream, sour cream products (e.g. dips), cottage cheese and cottage cheese curd, frozen desserts and frozen dessert mixes, eggnog, frozen cream, milkshake mixes containing 20 percent or more total solids and any concentrated milk product in bulk, fluid form other than that used to produce a Class III product; and

* * * * *

(c) * * *

(1) Skim milk and butterfat used to produce butter, cheese (excluding cottage cheese and cottage cheese curd),

evaporated and condensed milk (plain or sweetened) in a consumer-type package, any concentrated milk product in bulk, fluid form used to produce Class III products, nonfat dry milk, dry whole milk, dry whey, condensed or dry buttermilk, any product containing six percent or more nonmilk fat (or oil), and sterilized products (except fluid cream products and those products listed in paragraph (b)(3) of this section) in hermetically sealed glass or metal containers;

* * * * *

Proposed by Michigan Milk Producers Association (MMPA)

Proposal No. 3

In § 1040.40, revise paragraphs (b)(3), (c)(1)(iv), and (c)(1)(vii) to read as follows:

§ 1040.40 Classes of utilization.

* * * * *

(b) * * *

(3) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts (including frozen yogurt), and frozen dessert mixes (including frozen yogurt mixes);

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this seciton.

(c) * * *

(1) * * *

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

* * * * *

(vii) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package;

* * * * *

Proposed by the Kroger Company

Proposal No. 4

§§ 1033.41 and 1040.40 [Amended]

Amend §§ 1033.41(b)(3) and 1040.40(c)(1)(v) by adding the words "buttermilk biscuit mixes" to the products included therein.

Proposed by MMPA

Proposal No. 5

§ 1040.7 [Amended]

In the last sentence of § 1040.7(b), change "April through September" to read "April through August", and change "October through March" to read "September through March".

Proposal No. 6

In § 1040.7, revise paragraphs (b)(2)(i), (ii) and (iii) and (b)(3) and add a new paragraph (b)(6) to read as follows:

§ 1040.7 Pool plant.

* * * * *

(b) * * *

(2) * * *

(i) Not less than that percentage of its total member producers' milk which is designated by the Market Administrator for the current month pursuant to paragraph (b)(6) of this section; or

(ii) Not less than that percentage of its total member producers' milk which was designated by the Market Administrator for the second through the thirteenth preceding months pursuant to paragraph (b)(6) of this section, if such plant was qualified under this paragraph in each of the preceding thirteen months; and

(iii) A supply plant that qualifies as a pool plant pursuant to this subparagraph in each of the months of September through March shall be a pool plant for the following months of April through August.

(3) A plant which has been a pool plant for twelve consecutive months, but is not otherwise qualified under this paragraph, if it has a marketing agreement with a cooperative association and it fulfills the following conditions:

(i) The aggregate monthly quantity supplied by all parties to such an agreement as a percentage of the producer milk receipts included in the unit during the month is not less than that percentage designated by the Market Administrator for the current month pursuant to paragraph (b)(6) of this section; and

(ii) Shipments to distributing plants for qualification purposes shall include both transfers from supply plants to plants described in paragraph (b)(5) of this section, and by deliveries directly from farm routes to distributing plant(s) qualified under paragraph (a) of this section; and

(iii) A supply plant that qualifies as a pool plant pursuant to this subparagraph in each of the months of September through March shall be a pool plant for the following months of April through August.

* * * * *

(6) The shipping percentage that applies to a handler described in paragraphs (b) (2) and (3) of this section shall be determined in the following manner:

(i) Upon completion of a compilation of the statistical summary for the current marketing month, the Market Administrator shall calculate the percentage that packaged fluid milk sales represent the total producer milk in that month's pool.

(ii) The Market Administrator will refer to the following table for the purpose of announcing the shipping percentage applicable for determination of pool plant status for this same month of the following year:

Packaged fluid milk sales as a percent of total producer milk	Applicable shipping (percent)
Below 34.99	30
35 to 39.99	35
40 to 44.99	40
45 to 49.99	45
50 and over	50

* * * * *

Proposed by National Farmers Organization (NFO)

Proposal No. 7

In § 1040.7, revise paragraph (b)(2) to read as follows:

§ 1040.7 Pool plant.

* * * * *

(b) * * *

(2) A plant operated by a cooperative association, except a plant that qualifies for pool plant status pursuant to paragraph (a) or (b) (1) or (3) of this section, or which is a pool plant under similar provisions of another Federal order, if the cooperative requests pool status for such plant and transfers from such plant to plants described in paragraph (b)(5) of this section and by direct delivery from farms to pool distributing plants are:

(i) For any month during the 12 month period beginning in March, the percentage announced by the Market Administrator pursuant to (b)(6)* of this section.

*Note—NFO supports the MMPA proposed § 1040.7(b)(6).

(ii) The percentage specified in (b)(2) of this section may be satisfied by qualifying shipments during the current month or on the basis of the average of such shipments during the preceding 12 month period ending with the current month.

* * * * *

Proposal No. 8

Amend § 1040.13 by deleting the present provisions of paragraph (d) and substituting the following:

§ 1040.13 Producer milk.

* * * * *

(d) Diverted from a pool plant to a nonpool plant (other than a producer-handler plant) for the account of the

handler operating such pool plant or for the account of a handler described in § 1040.9(b) subject to the following conditions:

(1) During each of the months of September through February not less than one day's production of the producer must be physically received at a pool plant;

(2) In any month of September through February, the operator of a pool plant may divert the milk of any producer that is not under the control of a cooperative association that diverts milk during the month pursuant to paragraph (d)(3) of this section. The operator of such plant may divert a total quantity of milk not exceeding 60 percent of the producer milk physically received at such pool plant during the month;

(3) In any month of September through February, a cooperative association may divert an aggregate quantity of milk not exceeding 60 percent of the producer milk the cooperative association caused to be physically received at or diverted from pool plants during the month; and

(4) Any milk diverted in excess of the limit set forth in paragraph (d) (2) or (3) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to designate the dairy farmer deliveries which are ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

Proposed by MMPA

Proposal No. 9

§ 1040.50 [Amended]

In § 1040.50(b)(1) change "15 cents" to "10 cents".

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 10

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the orders may be procured from the Market Administrators of each of the aforesaid marketing orders or from the Hearing Clerk, Room 1079, South Building, United States Department of Agriculture, Washington, DC 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Ohio Valley, Eastern Ohio-Western Pennsylvania, and Southern Michigan Marketing Orders

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, DC, on October 14, 1986.

James C. Handley,

Administrator.

[FR Doc. 86-23546 Filed 10-16-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-45-AD]

Airworthiness Directives; Beech Models 1900 and 1900C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Beech Models 1900 and 1900C airplanes equipped with optional "Chip Detect" annunciators. The AD would require that the Pilots Operating Handbook and FAA Approved Airplane Flight Manual (POH/AFM) be revised to remove language which could allow flights beyond the point of first intended landing following illumination of a "chip detect" annunciator, and to insert in its place a requirement that the cause of the illumination be determined and corrected prior to the next takeoff. This annunciator is intended to inform the flight crew of magnetic particle contamination in the engine reduction gear oil supply, a condition which could lead to in-flight engine failure, and continued illumination of a "chip detect" caution annunciator may reduce the attention-getting qualities of other required caution and warning lights with a resulting adverse effect upon safe operation.

DATE: Comments must be received on or before December 22, 1986.

ADDRESSES: Copies of the applicable POH/AFM revisions are available from Beech Aircraft Corporation, 9709 East Central, P.O. Box 85, Wichita, Kansas 67201. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-45-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. L.D. Felix, ACE-160W, Wichita Aircraft Certification Office, Federal Aviation Administration, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4433.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-45-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Language introduced into the Beech Model 1900/1900C POH/AFM Part Number 114–590021–3 by Revision A2 dated September 1985 would authorize flights beyond the point of first intended landing following illumination of a "chip detect" caution annunciator without first determining the cause of the illumination. For reasons of operating safety, the FAA considers that any caution annunciation, once given, must be considered valid until its cause is found and corrected. The "chip detect" caution annunciator is intended to inform the flight crew of magnetic particle contamination in the engine reduction gear oil supply, a condition which may lead to in-flight engine failure. A failure to determine and correct the cause of such annunciation at the point of first intended landing exposes the occupants of the airplane to possible undue hazard due to in-flight engine failure on any additional flights, including those which may be necessary to reach a point at which normal maintenance may be performed.

The warning, caution, and advisory annunciators installed in the Model 1900 and 1900C cockpits are presented in a format that is compatible with the requirements of the Federal Aviation Regulations. In this format, red (warning) annunciators are used to indicate hazards which may require immediate corrective action. Amber (caution) annunciators are used to indicate the possible need for future corrective action. Green annunciators are used to indicate safe operation, and annunciators of other colors may be used to indicate system status. The safety benefits of this format depend upon the attention-getting qualities of the individual annunciators. Where any warning (red) or caution (amber) annunciator operates continuously, the attention-getting qualities of the remaining annunciators may be compromised. This may result in the flight crew's failure to detect and take timely action with respect to failures in other installed systems, particularly if flight is extended beyond the point of first intended landing. Since flight operation beyond the point of first intended landing with a caution annunciator illuminated may lead to unsafe flight crew actions, the FAA has determined that an unsafe condition exists. The proposed AD requires that pen-and-ink changes be made to the POH/AFM to delete a requirement that, following illumination of a chip detect annunciator, the cause of the malfunction should be determined and corrected at the next point where maintenance can be performed, and to insert in its place a requirement that the cause of the malfunction should be determined and corrected prior to the next takeoff.

Revision A3, dated February 1986, incorporates POH/AFM changes which are substantively the same as those directed by this proposed AD, and Beech has provided copies of Revision A3 to operators for each Model 1900 and 1900C airplane in service. Notwithstanding this, the unsafe procedure that is contained in the POH/AFM Revision A2 material is legally presumed to be safe unless it is subject to directed revision or unless the FAA approval is rescinded.

Since the condition described is likely to exist or develop in other Beech Model 1900/1900C airplanes of the same design, the AD would require that the Beech Model 1900/1900C POH/AFM P/N 114–590021–3 be revised to require pen and ink correction to material inserted by Revision A2, dated September 1985. The FAA has determined there are approximately 58 airplanes affected by the proposed AD. The cost of revising the POH/AFM of these airplanes as required by this proposed AD is estimated to be zero per airplane. The total cost is estimated to be zero to the private sector.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant financial impact on any small entities operating these airplanes.

Therefore, I certify that this action: (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES".**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to Models 1900 and 1900C (all serial numbers) airplanes equipped with optional "Chip Detect" annunciators, certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To preclude the reduction of the attention-getting qualities and enhance pilot awareness of the cockpit caution and warning annunciators, accomplish the following:

(a) Revise Beech Model 1900/1900C Pilots Operating Handbook and FAA-Approved Airplane Flight Manual (POH/AFM), Part Number (P/N) 114–590021–3, by incorporating Revision A3, dated February, 1986.

(b) An alternate means of compliance with paragraph (a) of the AD is as follows:

(1) Using pen-and-ink or other permanent means, delete the words "at the next point where maintenance can be performed" from the precedure entitled Illumination of "Chip Detect" Annunciator on page 3A–6.

(2) In place of the words deleted in step (1), insert the words "prior to the next takeoff".

(c) The requirements of paragraph (a) or (b) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(d) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946–4400.

All persons affected by this directive may obtain copies of the document(s) applicable to this AD upon request to Beech Aircraft Corporation, 9709 East Central, P.O. Box 85, Wichita, Kansas 67201; of the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 7, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86–23406 Filed 10–16–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86-CE-43-AD]

Airworthiness Directive; British Aerospace Models HP.137 Jetstream MK.1, Jetstream Series 200, and Jetstream Model 3101 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to British Aerospace (BAe) Models HP.137 Jetstream MK.1, Jetstream Series 200 and Jetstream Model 3101 airplanes which would limit the in-service life of the flap torque shaft assembly to 18,000 landings or the equivalent as a result of BAe fatigue tests. This proposed AD would give instructions for determining the "in-service life" and labeling the flap torque shaft assemblies in service.

DATE: Comments must be received on or before December 22, 1986.

ADDRESSES: BAe Mandatory Service Bulletin (MSB) 27-JA840421 dated January 14, 1986, and Service Bulletin (S/B) 27-JM7500 dated January 23, 1986, applicable to this proposed AD may be obtained from British Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington, DC 20041; Telephone (703) 435-9100 or at the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 86-CE-43-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Ted Ebina, Brussels Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B-1000 Brussels, Belgium; Telephone 513.38.30; or Mr. Harvey Chimerine, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64016; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-43-AD Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

Based upon the results of BAe conducted fatigue tests, the "in-service life" of the flap torque shaft assembly used in BAe Models HP.137 Jetstream MK.1, Jetstream Series 200 and Jetstream Model 3101 airplanes is restricted to 18,000 landings or the equivalent. BAe S/B 27-JM7500 dated January 23, 1986, details procedures for the identification of these assemblies by individual serial number to facilitate the recording of the expired life of an individual component. BAe MSB 27-JA840421 dated January 14, 1986, includes instructions for determining the "in-service life" and labeling of flap torque shaft assemblies in service.

The Civil Aviation Authority United Kingdom (CAA-UK) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in the United Kingdom has classified BAe MSB 27-JA840421 service bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under United Kingdom registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the CAA-UK combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of BAe MSB 27-JA840421 dated January 14, 1986, and S/B 27-JM7500 dated January 23, 1986. Based on the foregoing, the FAA believes that the condition addressed by a reduction in the original life limits for the continued airworthiness of the flap torque assembly is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require a modification record and serial number plate on the torque shafts to facilitate the keeping of records. It would provide instructions for determining the "in-service life" and labeling of flap torque shaft assemblies that are installed. It would also provide instructions for affixing labels on flap torque shafts which were in-service and state on the label the number of landings which would indicate the "in-service life". The FAA has determined there are approximately 50 airplanes affected by the proposed AD. The cost of inspecting and modifying these airplanes in accordance with the proposed AD is estimated to be $1,050 per airplane. The total cost is estimated to be $52,500 to the private sector.

Few if any, small entities own the affected airplanes therefore the cost of compliance is so small that it would not imposed a significant economic inpact on any such owners.

Therefore, I certify that this action: (1) Is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES"**.

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

proposes to amend § 39.13 of Part 39 of the FAR as follows:

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

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

§ 39.13 [Amended]

2. By adding the following new AD:

British Aerospace: Applies to Models HP.137 Jetstream MK.1 Jetstream Series 200 and Jetstream Model 3101 airplanes (All Serial Numbers), certificated in any category.

Compliance: Required as indicated after the effective date of this AD, unless already accomplished.

To prevent failure to the flap torque shaft assembly accomplish the following:

(a) Within 100 hours time-in-service:

(1) Modify the flap torque shaft assembly by securing a "Modification and Serial Number Plate" to the flap torque shaft which includes part number, serial number (assigned by British Aerospace (BAe)), date and number of landings in accordance with the provisions of Section 2 "Accomplishment Instructions" of BAe SB 27–JM7500 dated January 23, 1986.

(2) On airplanes with flap torque shaft assemblies having 17,900 or more landings on the effective date of this AD, within the next 100 landings replace the flap torque shaft assembly with an airworthy part of the same part number modified as per paragraph (a)(1) above and modified in accordance with the provisions of Section 2 "Accomplishment Instructions" Part A "Torque Shaft Assembly installed on In-service Aircraft" of BAe MSB 27–JA840421 dated January 14, 1986.

(3) On airplanes with flap torque shaft assemblies having less than 17,900 landings on the effective date of this AD replace the flap torque shaft assemblies before accumulating 18,000 landings, with an airworthy part of the same part number modified as per paragraph (a)(1) above and modified in accordance with the provisions of Section 2 "Accomplishment Instructions" Part A "Torque Shaft Assembly Installed on Inservice Aircraft" of BAe 27–JA840421 dated January 14, 1986.

(b) If the actual number of landings is unknown for the purpose of complying with this AD, one landings may be substituted for each ½ flight hour unless the operator substantiates a different flight hours to landings ratio. This substantiation must be submitted to and approved by the Manager, Atlanta Aircraft Certification Office, address below.

(c) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where the AD can be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the manager, Aircraft Certification Staff, AEU–100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, B–1000 Brussels, Belgium.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to British Aerospace, Engineering Department, Post Office Box 17414, Dulles International Airport, Washington DC; telephone (703) 435–9100, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 6, 1986.

Jerold M. Chavkin,

Acting Director Central Region.

[FR Doc. 86–23407 Filed 10–16–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 86–AWA–40]

Proposed Establishment of Airport Radar Service Areas

Correction

In FR Doc. 86–22118, beginning on page 35140, in the issue of Wednesday, October 1, 1986, make the following corrections:

On page 35141, second column, first complete paragraph, fifth line, "can" should read "are".

On the same page, same column, fourth paragraph, fifth line from the bottom, "State" should read "Stage".

On page 35142, third column, first complete paragraph, thirteenth line, "what" should read "that".

On the same page, same column, same paragraph, twentieth line "change" should read "charge".

On page 35150 at the bottom of the page, the file line was omitted, and should have read as follows:

[FR Doc. 86–22118 Filed 9–30–86; 8:45 am]

BILLING CODE 1505–01–M

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14 CFR Part 71

[Airspace Docket No. 86–AWP–32]

Proposed Revision to Livermore, CA, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the description of the Livermore California, transition area. This will extend the 700 foot transition area to the southeast of the Livermore Municipal Airport, California, and provide controlled airspace for aircraft executing the Instrument Landing System (ILS) Runway 25 approach to the Livermore Municipal Airport.

DATE: Comments must be received on or before November 30, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration Attn: Manager, Airspace and Procedures Branch, AWP–530, Docket No. 86–AWP–32, Air Traffic Division, P.O. Box 90027, Worldway Postal Center, Los Angeles, California 90009–2007.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace and Procedures Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace and Procedures Specialist, Airspace and Procedures Branch, AWP–530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297–1648.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Comments 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–AWP–32." 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 maybe changed in light of the comments received. All comments submitted will be available for examination in the Airspace and Procedures Branch, Air Traffic Division, at 15000 Aviation Boulevard, Lawndale, California 90260, both before and after the closing date for comments. A report

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

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposal Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace and Procedures Branch, AWP-530, P.O. Box 92007, Worldway Postal Center, Los Angeles, California, 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to expand the 700 foot transition area southeast of the Livermore Municipal Airport, California. Section 71 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 him operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, 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 71

Aviation safety/transition areas.

The Proposal Amendment

PART 71—[AMENDED]

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

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

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

§ 71.18 [Amended]

2. Section 71.181 is amended as follows:

Livermore, CA—[Revised]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 37°44'00" N., long. 121°52'00" W.; to lat. 37°48'15" N., long. 121°40'00" W., to lat. 37°41'30" W., long. 121°34'00" W.; to lat. 37°37'15" N., long. 121°32'00" W.; to lat. 37°38'00" N., long. 121°52'00" W.; thence, to the point of beginning.

Issued in Los Angeles, California, on October 8, 1986.

Attachment.

Wayne C. Newcomb,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 86-23408 Filed 10-16-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Parts 970 and 971

[Docket No. 50712-5112]

Deep Seabed Mining; Proposed Regulations for Commercial Recovery and Revision of Regulations for Exploration

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Extension of comment period for proposed rule.

SUMMARY: Pub. L. 96-283, the Deep Seabed Hard Mineral Resources Act (the Act), authorizes the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to issue to eligible United States citizen applicants, licenses for exploration for and permits for the commercial recovery of deep seabed hard mineral resources. The Act also requires that NOAA issue regulations with respect to deep seabed mining licenses and permits.

On July 25, 1986, NOAA proposed a rule governing application for and issuance of commercial recovery permits [51 FR 26794]. NOAA has been asked, and has decided, to extend the period for comment on the proposed regulation from October 23, 1986, to November 24, 1986.

DATE: Comments on the proposed rule must be received on or before November 24, 1986.

ADDRESS: Submit comments to: James P. Lawless, Chief, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1825 Connecticut Avenue, NW., Suite 710, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: John W. Padan, Program Manager, Deep Seabed Mining, (202) 673-5117, at the above address.

SUPPLEMENTARY INFORMATION: Copies of transcripts of the public hearings held in conjunction with this rulemaking are available for inspection at the following addresses:

a. *Washington, DC*- Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, Suite 710, 1825 Connecticut Avenue, NW., Washington, DC 20235.

b. *Honolulu, Hawaii*—Ocean Resources Branch, Hawaii Department of Planning and Economic Development, Room 248, Old Federal Court House Building, 335 Merchant Street, Honolulu, Hawaii.

c. *Hilo, Hawaii*—Mookini Library, University of Hawaii at Hilo.

Approved: October 14, 1986.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 86-23549 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 127

Proposed Customs Regulations Amendment Relating to Sale of Unclaimed and Abandoned Imported Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to allow for the sale of unclaimed and abandoned merchandise in a district other than the district in which the merchandise was imported. It is expected that permitting sales in other districts would often result in higher bids for the merchandise at auction, and thus higher sales prices. Also, Customs would be able to consolidate the sales so that fewer Customs districts would be involved. This would allow for more efficient use of Customs personnel who organize and conduct such sales.

DATE: Comments must be received on or before December 16, 1986.

ADDRESS: Comments (preferably in triplicate) may be addressed to, and inspected at, the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: John Holl, Office of Cargo Enforcement Facilitation (202–566–8151).

SUPPLEMENTARY INFORMATION:

Background

Sections 490 through 493, Tariff Act of 1930, as amended (19 U.S.C. 1490–1493), set forth procedures to be followed whenever there has been an incomplete entry of imported merchandise, as well as procedures for the subsequent disposition of the merchandise. Whenever entry of any imported merchandise is not made within the time permitted by law or regulations, or whenever entry of such merchandise is incomplete because of the failure to pay the estimated duties, or whenever, in Customs opinion, entry cannot be made for lack of proper documents or other cause, or whenever Customs believes that any merchandise is not correctly or legally invoiced, the merchandise is taken into Customs custody and sent to a bonded warehouse or public store. The merchandise, known as "general order", is held at the warehouse or public store at the risk and expense of the consignee until entry is made or completed and the proper documents are produced, or a bond given for their production.

If the general order merchandise remains in Customs custody for one year from the date of importation, without payment of all estimated duties and storage or other charges, it is then considered unclaimed and abandoned to the Government. The merchandise may then be appraised and sold by Customs at public auction. Gunpowder, explosives, or other merchandise subject to depreciation in value by damage, leakage, or other reasons, to such extent that the proceeds of the sale of the merchandise may be insufficient to pay the duties, storage, and other charges if it remains in a public store or a bonded warehouse for a period of one year, may be sold immediately.

Any merchandise which is subject to sale under these laws may be entered (but not for warehouse) or withdrawn for consumption at any time prior to sale, upon payment of all duties, storage, and other charges and expenses that may have accrued upon the merchandise. Also, there are separate provisions relating to the disposition of merchandise subject to Internal Revenue tax.

Sections 127.0 through 127.37, Customs Regulations (19 CFR 127.0 through 127.37), implement the laws concerning general order merchandise and the disposition of unclaimed and abandoned merchandise. Pursuant to § 127.22, relating to the place of sale of unclaimed and abandoned merchandise, the district director, in his discretion, may sell such merchandise at any port within his district.

It has come to Customs attention that unclaimed and abandoned merchandise could often be more advantageously sold if the sale were to occur in a district other than the one in which the merchandise was imported. This would allow Customs to consolidate the sales. Thus, fewer Customs districts would be involved, which would result in more efficient use of Customs personnel who organize and conduct such sales. It would also allow for more competition in the bidding (and therefore higher sales prices) since a greater number of prospective buyers would be present at these consolidated sales. In addition, certain merchandise, such as collector's quality firearms and rare birds, which appeal to specific kinds of buyers, would bring a higher price if they could be sold in a district with a concentration of these buyers. It is believed that the higher sales prices obtained in the consolidated sales would cover the costs of transportation of the merchandise to the district where the sale is to take place and still result in a greater return to the Government.

Proposed Action

It is proposed to amend § 127.22, Customs Regulations (19 CFR 127.22), to allow for the sale of unclaimed and abandoned merchandise in a district other than the one in which the merchandise was imported. The decision to transfer the merchandise for purposes of sale would be within the discretion of the district director in the district where the merchandise was imported. With the exception of certain merchandise as noted in 19 U.S.C. 1491 and 1492, only merchandise which has remained in general order for one year and is thereupon considered unclaimed and abandoned may be transferred to another district for sale.

The consignee of the merchandise would be notified of its transfer to another district for sale inasmuch as the consignee, pursuant to 19 U.S.C. 1491, has the option of making entry at any time prior to the sale, upon the payment of all duties, storage and other charges, and expenses that may have accrued on the merchandise. The costs of transfer would be assumed by Customs. They would be considered an expense of the sale, to be reimbursed to Customs out of the proceeds of the sale.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. 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 regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue, NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from the other offices participated in its development.

List of Subjects in 19 CFR Part 127

Customs duties and inspection, Unclaimed and abandoned merchandise.

Proposed Amendment

It is proposed to amend Part 127, Customs Regulations (19 CFR Part 127), as set forth below.

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

1. The general authority citation of Part 127 is revised to read as follows:

Authority: 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 5753.

2. It is proposed to revise § 127.22 to read as follows:

§ 127.22 Place of sale.

All merchandise at a port other than a district headquarters port, which becomes subject to sale (including explosives, perishable articles and articles liable to depreciation), shall be promptly reported to the headquarters port for disposition. The district director at the port, in his discretion, may authorize the sale of such merchandise, as well as merchandise at the headquarters port which is subject to sale, at any port within his district, or in any other district. The consignee of any merchandise which is to be transferred from the district where it was imported to another district for sale, shall be notified of the transfer so that he may have the option of making entry for the merchandise before the transfer and sale.

William von Raab,

Commissioner of Customs.

Approved: October 3, 1986.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86-23532 Filed 10-16-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

[Docket No. 60604-6104]

Antidumping Duties; Extension of Comment Period

AGENCY: International Trade Administration, Commerce.

ACTION: Proposed rule and request for comments; extension of comment period.

SUMMARY: The International Trade Administration announces that the deadline for receipt of comments on the proposed rule on antidumping duties (19 CFR Part 353) published August 13, 1986 (51 FR 29046) is extended for 30 days.

DATES: Writtem comments on the proposed rule must be received by November 13, 1986.

ADDRESS: Address written comments (10 copies) to Gilbert B. Kaplan, Deputy Assistant Secretary for Import Administration, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Deputy Chief Counsel for Import Administration, Room B-099, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230 (202) 377-1411.

SUPPLEMENTARY INFORMATION: On August 13, 1986, the Department of Commerce, International Trade Administration, published in the **Federal Register** (51 FR 29046) proposed revisions to its regulations relating to antidumping duties (19 CFR Part 353). This notice stated that the public comment period for that rulemaking closes on October 14, 1986.

The Department, which has received requests for additional time for comment, believes that the proposed rule is sufficiently complex to warrant a comment period longer than the normal 60 days.

Accordingly, this notice announces that the public comment period for that rulemaking is extended until November 13, 1986. Comments on the proposed rule must be submitted on or before that date.

Dated: October 10, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-23555 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF LABOR

Employment Standards Administration; Wage and Hour Division

29 CFR Part 530

Employment of Homeworkers in Certain Industries; Extension of Comment Period

AGENCY: Wage and Hour Division, ESA, Labor.

ACTION: Notice of proposed rulemaking; Extension of comment period.

SUMMARY: This document extends the period for filing comments on the notice of proposed rulemaking concerning Part 530 of Title 29 of the Code of Federal Regulations (29 CFR Part 530). The proposed changes would modify the current restrictions on the employment of industrial homeworkers in six industries.

DATE: Comments must be received on or before December 1, 1986.

ADDRESS: Written comments should be addressed to Paula V. Smith, Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210. Commenters who wish to receive notification of receipt of comments are requested to include a self-addressed, stamped post card.

FOR FURTHER INFORMATION CONTACT: Herbert J. Cohen, Deputy Administrator, Wage and Hour Division, U.S. Department of Labor, Room S-3502, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523-8305. This is not a toll free number.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 21, 1986 (51 FR 30036), the Department of Labor published a proposed rule which amend existing 29 CFR Part 530. The current regulations restrict, pursuant to section 11(d) of the Fair Labor Standards Act, the employment of industrial homeworkers in women's apparel; jewelry manufacturing; gloves and mittens; button and buckle manufacturing; handkerchief manufacturing; and embroideries. These same regulations currently permit the employment of homeworkers in the knitted outerwear industry, provided the employer first obtains a certificate from the Department of Labor. Under the proposed rule, homeworker would be permitted in the six restricted industries under the same certification system used in the knitted outerwear industry. Comments were requested to be submitted on or before October 20, 1986. The agency believes that an extension of the comment period is appropriate because a number of interested parties have requested such an extension in order to permit them to fully examine the notice of proposed rulemaking and provide substantive comments.

Signed at Washington, DC, on this 14th day of October, 1986.

Paula V. Smith,

Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 86-23574 Filed 10-16-86; 8:45 am]

BILLING CODE 4510-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 67

[CC Docket No. 86-297]

Establishment of a Federal-State Joint Board; Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; Extension of time for filing comments and replies.

SUMMARY: The Chief, Common Carrier Bureau, grants a request for a change in the pleading cycle in the Federal-State Joint Board's proceeding proposing

revisions to the Commission's separations rules to conform current procedures to the revised Uniform System of Accounts, published on 51 FR 29126 August 14, 1986.

DATES: The pleading cycle is changed to provide that comments and data on the proposed Class A Separations Manual may be filed on or before October 17, 1986; comments and data on the Class B Separations Manual may be filed on or before October 31, 1986; replies on the Class A Manual may be filed on or before November 3, 1986; replies on the Class B Manual may be filed on or before December 5, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT:

Michael Wilson, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554 (202) 632–7500

Cindy Schonhaut, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, DC 20554 (202) 632–7500

SUPPLEMENTARY INFORMATION: This is a summary of the Bureau's Memorandum Opinion and Order, *Amendment of Part 67 of the Commission's Rules and Establishment of a Federal-State Joint Board*, CC Docket No. 86–297, Mimeo No. 6803, released September 8, 1986, and the Erratum thereto, Mimeo No. 6952, released September 17, 1986. The full texts are available for inspection and copying during normal business hours in the Federal Communications Commission, Dockets Branch, 1919 M Street NW, Room 230, Washington, DC 20554. The complete text may also be purchased from the Commission's copying contractor, International Transcription Service, 2100 M Street NW, Room 140, Washington, DC 20037, (202) 857–3800.

Federal Communications Commission.

Michael Wilson,

Chief, Audits Branch, Common Carrier Bureau.

[FR Doc. 86–23514 Filed 10–16–86; 8:45 am]

BILLING CODE 6712–01–M

Notices

Federal Register
Vol. 51, No. 201
Friday, October 17, 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.

ACTION

Information Collection Request Under Review

Summary:

This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background:

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect informations from the public or impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [requests for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection:

Agency Clearance Officer—Melvin E. Beetle, (202) 634–9318
Agency Address: ACTION, 806 Connecticut Avenue NW., Washington, DC 20525.
Office of ACTION issuing the Proposal: Domestic and Anti-Poverty Operations, Office of Older American Volunteer Programs
Title of Form: Project Grant Application: Older American Volunteer Programs (OAVP includes Foster Grandparent, Senior Companion Program, and Retired Senior volunteer Program
Type of Request: Revision
Frequency of Collection: Annually
General Description of Respondents: State or local governments, non-profit institutions or organizations.
Estimated Number of Annual Responses: 1100
Estimated Annual Reporting or Disclosure Burden: 11,000 hour
Respondent's Obligation to Reply: Required to obtain and retain benefit.
Person responsible for OMB Review: Judy MacIntosh, (202) 395–6880.

Dated: October 9, 1986.

Melvin E. Beetle,

ACTION Clearance Office.

[FR Doc 86–23492 Filed 10–16–86; 8:45 am]

BILLING CODE 6050–28–M

Information Collection Request Under Review

Summary

This notice sets forth certain information about an information collection proposal by ACTION, the national volunteer agency.

Background

Under the Paperwork Reduction Act (44 U.S.C., Chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted the information collection proposal described below to OMB. OMB and ACTION will consider comments on proposed collection of information and recordkeeping requirements. Copies of the proposed forms and supporting documents [request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents] may be obtained from the agency clearance officer.

Information About This Proposed Collection

Agency Clearance Officer—Melvin E. Beetle—202–634–9318
Agency Address: ACTION, 806 Connecticut Avenue NW., Washington, DC 20525
Office of ACTION Issuing Proposal: Domestic Operations/VISTA
Title of Form: VISTA Project Application
Type of Request: Extension
Frequency of Collection: Annually
General Description of Respondents: State or local governments, non-profit institutions, small business or organization.
Estimated Number of Responses: 1,500
Estimated Annual Reporting or Disclosure Burden: 19,000 hours
Respondent's Obligation to Reply: Required to obtain or retain a benefit.
Person responsible for OMB Review: Judy MacIntosh, (202) 395–6880.

Melvin E. Beetle,

Clearance Officer, ACTION.

[FR Doc. 86–23493 Filed 10–16–86; 8:45 am]

BILLING CODE 6050–28–M

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States, to be held at 1 p.m., Friday, October 24, 1986, at the Administrative Conference of the U.S., 2120 L Street, NW. Suite 500, Washington, DC. The committee will meet to consider a draft recommendation on medicare appeals, based on a study by Professor Eleanor Kinney of the Indiana University School of Law. For further information, call Jeffrey S. Lubbers, 202–254–7065.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the committee before, during or after the meeting. Minutes of the meeting will be available on request.

Jeffrey S. Lubbers,

Research Director.

October 5, 1986.

[FR Doc. 86–23602 Filed 10–16–86; 8:45 am]

BILLING CODE 6110–01–M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Ratification of Two Programmatic Memoranda of Agreement Affecting Historic Properties on BLM Lands in Utah and Colorado

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute two Progammatic of Memoranda of Agreement, pursuant to its regulations, "Protection of Historic and Cultural Propertes" (36 CFR Part 800), with the Bureau of Land Management (Colorado and Utah State Directors) and the Colorado and Utah State Historic Preservation Officers, providing for comprehensive means for the Bureau to comply with section 106 of the National Historic Preservation Act (16 U.S.C. 470f) for all Bureau actions affecting historic and cultural properties. Such actions include both Bureau-initiated programs and projects and actions initiated by others with Bureau permit, approval, or issuance of rights-of-way.

Comments Due: November 17, 1986.

ADDRESS: Executive Director, Western Division of Project Review, Advisory Council on Historic Presesrvation, Suite 450, 730 Simms Street, Golden, CO 80401; 303–236–2682 (commercial) or 776–2682 (FTS).

Dated: October 9, 1986.

John M. Flower,

Acting Executive Director.

[FR Doc. 86–23415 Filed 10–16–86; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act of 1974; Amendment of an Existing System of Records

Correction

In FR Doc. 86–22532 appearing on page 35539 in the issue of Monday, October 6, 1986, make the following correction:

In the third column, in the last paragraph, in the third line, "illegally" should read "legally".

BILLING CODE 1505–01–M

Soil Conservation Service

Black Creek Watershed (Hill Portion), MS; Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Black Creek Watershed (Hill Portion), Holmes and Carroll Counties, Mississippi.

FOR FURTHER INFORMATION CONTACT: Louie Pete Heard, Acting State Conservationist, Soil Conservation Service, Suite 1321, A.H. McCoy Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601–965–5205.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Louie Pete Heard, Acting State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for flood control and watershed protection in a partially completed watershed. The planned works of improvement include the remaining land treatment throughout the watershed, 20 floodwater retarding structures, 3 major grade control structures, a levee around an industrial area, channel improvement on minor tributaries through an urban area, flood proofing (raising one house), streambank protection, and minor grade control structures. Planned measures will be installed jointly by the Corps of Engineers and the Soil Conservation Service as a component of a Demonstration Erosion Control Project.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Louie Pete Heard.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(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)

Dated: October 9, 1986.

L. Pete Heard,

Acting State Conservationist.

[FR Doc. 23412 Filed 10–16–86; 8:45 am]

BILLING CODE 3410–16–M

Choctaw Creek Watershed, TX; Availability of a Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: Coy A. Garrett, responsible Federal official for projects administered under the provision of Pub. L. 83–566, 16 U.S.C. 1001–1008, in the State of Texas, is hereby providing notification that a record of decision to proceed with the installation of the Choctaw Creek Watershed project is available. Single copies of this record of decision may be obtained from Coy A. Garrett at the address shown below.

FOR FURTHER INFORMATION CONTACT: Coy A. Garrett, State Conservationist, Soil Conservation Service, 101 South Main, Temple, Texas 76501–7682, telephone (817)–774–1214.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. Executive Order 12372 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: October 9, 1986.

Charles W. Conklin,

State Administrative Officer.

[FR Doc. 86–23469 Filed 10–16–86; 8:45 am]

BILLING CODE 3410–16–M

Perkins Park Improvements Critical Area Treatment RC&D Measure, MI; Environmental Impact Statement

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40

CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Perkins Park Improvements RC&D Measure, Marquette County, Michigan.

FOR FURTHER INFORMATION CONTACT: Mr. Homer R. Hilner, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, telephone 517–337–6702.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. A contact has been made with the State Historical Preservation Officer and concludes that it will have no effect on any cultural resources either eligible for or listed on the National Register of Historic Places. The State Archaeologist will be contacted if any land disturbance associated with this project and archaeological sites, features, or materials are encountered during actual construction. As a result of these findings, Mr. Homer R. Hilner, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns a plan for the installation of measures for flood prevention. The planned works of improvement include the following items: 500 feet of rustic fence, 400 cu. yds. of rock riprap, adding topsoil and planting adapted grasses. Total construction cost is estimated to be $47,000, of which RC&D funds will pay 59% and local funds 41%.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Homer R. Hilner. The FONSI has been sent to various federal, state, and local agencies and interest parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until 30 days after the date of this publication in the **Federal Register.**

(This activitiy is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dated: October 7, 1986.

Homer R. Hilner,

State Conservationist.

[FR Doc. 86–23413 Filed 10–16–86; 8:45 am]

BILLING CODE 3410-16-M

West Orangeburg Watershed, SC; Environmental Impact Statement

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the West Orangeburg Watershed, Aiken and Orangeburg Counties, South Carolina.

FOR FURTHER INFORMATION CONTACT: Billy Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, Telephone (803) 765–5681.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicated that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Billy Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for watershed protection. The planned works of improvement include accelerated technical and financial assistance to apply land treatment measures on 21,300 acres of cropland.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(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.)

Dated: October 6, 1986.

Billy Abercrombie,

State Conservationist.

[FR Doc. 86–23475 Filed 10–16–86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committees (CAC) on the American Indian and Alaska Native Populations, the Asian and Pacific Islander Populations, the Black Population, and the Hispanic Population for the 1990 Census; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a joint meeting followed by separate and jointly held (described below) meetings of the CAC on the American Indian and Alaska Native Populations for the 1990 Census, the CAC on the Asian and Pacific Islander Populations for the 1990 Census, the CAC on the Black Population for the 1990 Census, and the CAC on the Hispanic Population for the 1990 Census. The joint meeting will convene on November 6 and 7, 1986, at the Ramada Hotel, 6400 Oxon Hill Road, Oxon Hill, Maryland 20745.

Each of these committees is composed of nine members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communications between the communities they represent and the Bureau of the Census on the problems and opportunities of the 1990 decennial census.

The committees will draw on the knowledge and insight of their members to provide advice during the planning of the 1990 Census of Population and Housing on such elements as improving the accuracy of the population count, suggesting areas of research, recommending subject content and tabulations of particular use to the populations they represent, expanding the dissemination of census results among present and potential users of census data in their communities, and generally improving the usefulness of the census product.

The agenda for the November 6 combined meeting that will begin at 8:45

a.m. and end at 2:30 p.m. is: (1) Introductory remarks by the Director, Bureau of the Census; (2) Cooperative program with the U.S. Geological Survey; (3) 1990 planning update; (4) 1990 processing office strategy; (5) Reports on observation of content reinterview; and (6) Summary of 1980 law suits and adjustment research.

In their separate meetings that will begin at 2:45 p.m. and end at 5:15 p.m. on November 6, the committees will consider the Census Bureau responses to committee recommendations and information requests from their last meetings.

The agendas for the four committees in their separate meetings that will begin at 8:45 a.m. and end at 12:15 p.m. on November 7 are:

The CAC on the American Indian and Alaska Native Populations for the 1990 Census: (1) Update on American Indian enumeration issues (supplementary questionnaire, reservation boundaries, Alaska plans); (2) Development and discussion of recommendations and suggested agenda for next meeting; and (3) Comments by outside observers.

The CAC on the Asian and Pacific Islander Populations for the 1990 Census: (1) Update on Asian and Pacific Islander population issues (1980 data, non-English materials, southeast Asia immigrant enumeration); (2) Development and discussion of recommendations and suggested agenda for next meeting; and (3) Comments by outside observers.

The CAC on the Black Population for the 1990 Census: (1) Census Community Awareness Program and the Black population; (2) Development and discussion of recommendations and suggested agenda for next meeting; and (3) Comments by outside observers.

The CAC on the Hispanic Population for the 1990 Census: (1) Use of Spanish language questionnaire; (2) Development and discussion of recommendations and suggested agenda for next meeting; and (3) Comments by outside observers.

The agenda for the combined meeting that will begin at 1:15 p.m. and adjourn at 3:00 p.m. is: (1) Comments by outside observers; and (2) Presentation of recommendations and plans and suggested agenda for the next meeting.

All meetings are open to the public, and two brief periods are set aside on November 7 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least 3 days before the meeting.

Persons wishing additional information concerning these meetings or who wish to submit written statements may contact Mr. Russell L. Valentine, Assistant Chief for Outreach and Program Information, Decennial Planning Division, Bureau of the Census, Room 3705, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233). Telephone (301) 763-5855.

Dated: October 15, 1986.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 86-23592 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-351-606]

Postponement of Preliminary Antidumping Duty Determination: Tubeless Steel Disc Wheels From Brazil

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the petitioner in this investigation to postpone the preliminary determination, as permitted by section 733(c)(1)(A) of the Tariff Act of 1930, as amended (the Act). Based on this request, we are postponing our preliminary determination as to whether sales of tubeless steel disc wheels from Brazil have occurred at less than fair value until not later than December 19, 1986.

EFFECTIVE DATE: October 17, 1986.

FOR FURTHER INFORMATION CONTACT: William D. Kane or Charles Wilson, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone (202) 377-1766 or 377-5288.

SUPPLEMENTARY INFORMATION: On June 17, 1986 (51 FR 21952), we announced the initiation of an antidumping duty investigation to determine whether tubeless steel disc wheels from Brazil are being, or are likely to be, sold in the United States at less than fair value. The notice stated that we would issue a preliminary determination by October 30, 1986.

As detailed in that notice, the petition alleged that imports of tubeless steel disc wheels from Brazil are being, or are likely to be sold in the United States at less than fair value. On October 1, 1986, counsel for petitioner, the Budd Company, requested that the Department extend the period for the preliminary determination until not later than 210 days after the date of receipt of the petition in accordance with section 733(c)(1)(A) of the Act. Accordingly, the period for determination in the case is hereby extended. We intend to issue a preliminary determination not later than December 19, 1986.

This notice is published pursuant to section 733(c)(2) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

October 9, 1986.

[FR Doc. 86-23556 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-508-064]

Fresh Cut Roses From Israel; Preliminary Results of Countervailing Duty Administrative Review and Tentative Determination Not To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty Administrative Review and Tentative Determination Not to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on fresh cut roses from Israel. The review covers the period October 1, 1981 through September 30, 1984 and 10 programs.

As a result of the review, the Department has preliminarily determined the total bounty or grant to be 12.03 percent *ad valorem* for the period October 1, 1981 through September 30, 1982, 13.88 percent *ad valorem* for the period October 1, 1982 through September 30, 1983, and 28.72 percent *ad valorem* for the period October 1, 1983 through September 30, 1984. We also tentatively determine not to revoke the countervailing duty order. We invite interested parties to comment on these preliminary results.

EFFECTIVE DATE: October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian or Alan Long, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On January 6, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR

924) the final results of its last administrative review of the countervailing duty order on fresh cut roses from Israel (45 FR 58516; September 4, 1980). We began this review of the order under our old regulations. On October 2, 1985, after the promulgation of our new regulations, the petitioner, Roses, Inc., requested in accordance with section 355.10 of the Commerce Regulations that we complete the administrative review of this order. We published the new initiation on November 27, 1985 (50 FR 48825). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Israeli fresh cut roses. Such merchandise is currently classifiable under items 192.1810 and 192.1890 of the Tariff Schedules of the United States Annotated.

The review covers the period October 1, 1981 through September 30, 1984 and ten programs: (1) The ECIL; (2) Government-guaranteed Minimum Price Program; (3) preferential short-term financing; (4) government funding of AGREXCO; (5) cash payments to growers for greenhouses; (6) cash payments to packing houses; (7) cash payments from the Export Promotion Fund; (8) fuel grants to rose growers; (9) long-term loans to AGREXCO; and (10) a capital fund for AGREXCO.

Analysis of Programs

The Israeli government did not respond to the Department's questionnaires covering the review period. Therefore, we calculated the benefits using the best information available. Sources include information collected during previous administrative reviews, published documents, the final affirmative countervailing duty determination on potassium chloride from Israel (49 FR 36122, September 14, 1984) ("the potash final determination"), and the preliminary determination on oil country tubular goods from Israel (51 FR 21201, June 11, 1986) ("the OCTG preliminary determination").

(1) ECIL

The purpose of the Encouragement of Capital Investment Law ("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. To become eligible for these benefits, individual enterprises must obtain government approval for each investment project.

From previous reviews, we know that the Israeli government has not approved rose growers for ECIL benefits. However, we found that the government had approved ECIL benefits for two rose exporters and eight packing houses. These benefits include:

(A) Ten-Year Exemption From ⅙ of the Property Tax on Stock and Machinery/Equipment

The Israeli government repealed this provision in 1978, but those enterprises approved prior to repeal continued to receive benefits during the review period.

We have no information on the value of equipment for approved enterprises during the review period. Therefore, we used as the best information available the rate calculated for the previous administrative review. On this basis, we preliminarily determine the benefit from this provision to be 0.01 percent *ad valorem* for the review period.

(B) Investment Grants Based on the Cost of Property and/or Machinery/Equipment for an Approved Project

Seven enterprises involved in exporting roses received grants under these provisions beginning in 1977. We have information on the grants received only up to the 1979–80 growing year (*i.e.*, October 1, 1979 through September 30, 1980). To estimate the amount of grants provided during the growing years under review, we used as the best information the highest aggregate grant amount provided to any of the seven companies in any single previously examined period, *i.e.*, 1979–80.

In computing the benefit from the grants, we used the grant methodology outlined in the Subsidies Appendix to the notice of "Final Affirmative Countervailing Duty Determination and Countervailing Duty Order" on certain cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984) ("the Subsidies Appendix"). We allocated the grants over ten years, the average useful life of agricultural assets according to the "Asset Guideline Classes" of the U.S. Internal Revenue Service. For a discount rate, we used as the best information available a rate we determined for the seven companies in the 1979–80 review: The average London Interbank Offer Rate ("LIBOR") prevailing during the growing year in which the grant was received, plus five percentage points.

We multiplied the benefit for each growing year by the ratio of total rose to flower exports and divided the result by the total estimated rose exports of that growing year. Based on these calculations, we preliminarily determine the benefit to be 0.57 percent *ad valorem* for the 1981–82 period, 0.67 percent *ad valorem* for the 1982–83 period, and 0.72 percent *ad valorem* for the 1983–84 period.

(C) Preferential Accelerated Depreciation, and

(D) Income Tax Reductions and Exemptions

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. Another ECIL provision allows income tax reductions and exemptions for approved enterprises.

We used as the best information available the rate calculated for both provisions during the 1979–80 administrative review. We preliminarily determine the benefit from these provisions to be 0.26 percent *ad valorem* for the review period.

(E) "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. Grants are based on a fixed percentage of the investment. From previous Israeli government responses we know that in 1980 one packing house, Bickel, had received an award. The ECIL project approvals of the other packing houses stated that they were not eligible to receive these grants. Because of the infrequent use of this program, we have assumed there were no new grants during any year covered by the current review.

We calculated the benefit from this program in accordance with the grant methodology outlined in the Subsidies Appendix, allocating the grants over ten years and using the same discount rate as described for the property investment grants. We multiplied the benefit for each growing year by the ratio of total rose to flower exports and divided the result by the total estimated rose exports for that growing year. On this basis, we preliminarily determine the benefit to be 0.004 percent *ad valorem* for the 1981–82 period and 0.003 percent *ad valorem* for the 1982–83 and 1983–84 periods.

(2) Government-Guaranteed Minimum Price Program

The Government of Israel provides funds under this program as year-end, lump sum payments. The payments are based on claims submitted to the Ministry of Agriculture after the close of the growing season.

We used as the best information available the rate for cash deposits of estimated countervailing duties from our last administrative review. On this basis, we preliminarily determine the benefit to be 0.38 percent *ad valorem* for the period of review.

(3) Preferential Short-Term Financing

During the period of review, the Bank of Israel provided preferential short-term financing through three export credit funds: The Export Production Fund (for working capital loans); the Imports-for-Export Fund (to finance imported materials used for export production); and the Export Shipments Fund (tied to accounts receivable). 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 allocated the benefits from the following three funds over total rose exports to all makerts:

(A) EPF

Under the Export Production Fund ("EPF"), the Bank of Israel provides loans to exporters to enable them to finance export production. During the review period, EPF financing was available only in Israeli shekels. In the potash final determination, we found that the preferential rate under the EPF was 42 percent. As the best information available, we have applied this rate to the review period.

We based our commercial benchmark on the Bank of Israel's quarterly rates reflecting the cost of overdraft accounts (*see*, potash final determination). These rates include commitment fees, management fees and penalties. The differential between our commercial benchmark rate and the quarterly non-commercial interest rates is 59.50 percent for the 1981–82 period, 65.00 percent for the 1982–83 period, and 183.00 percent for the 1983–84 period.

The Bank of Israel determines maximum eligibility (*i.e.*, a line of credit) for these loans using a "rate-of-credit" formula. To rate-of-credit formula is based on three factors: A value-added rate, a rate-of-financing ratio based on the dollar/shekel exchange rate, and a turnover rate. In our administrative review of the 1979–80 period, we found that rose exporters used the entire amount of credit available to them under this formula.

To calculate the benefit, we multiplied the annual interest rate differential by the rate-of-credit formula. On this basis, we preliminarily determine the benefit to be 7.14 percent *ad valorem* for the 1981–82 period, 7.80 percent *ad valorem* for the 1982–83 period, and 21.96 percent *ad valorem* for the 1983–84 period.

In July 1985, the Bank of Israel discontinued EPF financing in Israeli shekels. EPF loans are now available in U.S. dollars. However, we found in our OCTG preliminary determination that the preferential dollar rates are company-specific and thus not relevant to the firms covered by this review. Therefore, as the best information available, we have used the benefit from the 1983–84 period to establish the rate of estimated countervailing duties for cash deposit purposes.

(B) IEF

Under the Imports-for-Export-Fund ("IEF"), exporters may receive dollar-denominated loans in order to finance imported materials used for export production. We used as our dollar benchmark an interest rate we found in the OCTG preliminary determination: The three-month LIBOR plus two percentage points.

We found in the potash final determination that exporters obtain financing under this fund at an interest rate equal to sixty percent of the twelve-month LIBOR. As the best information available, we consider this rate to be the average preferential interest rate during the review period. We calculated the benefit by multiplying the rate of eligibility (based on another Bank of Israel rate-of-credit formula) by the differential between the preferential interest rate and the commercial benchmark.

On this basis, we preliminarily determine the benefit from this program to be 0.07 percent *ad valorem* for the 1981–82 period, 0.04 percent *ad valorem* for the 1982–83 period, and 0.05 percent *ad valorem* for the 1983–84 period.

(C) ESF

Under the Export Shipments Fund ("ESF"), the Bank of Israel provides loans to exporters to enable them to extend credit in foreign currency to their foreign customers. Financing is granted after shipment of the goods, and for not more than six months. The maximum eligibility rate under this fund is 90 percent of the shipment value. Since fresh-cut rose exporters have not provided information concerning their use of this fund during the review period, we have assumed that they received the maximum amount and that all loans were for six months.

ESF loans are dollar-denominated. We used as our commercial benchmark for this fund the dollar benchmark described under the IEF. We found in the potash final determination that exporters obtain financing under this fund at an interest rate equal to the three-month LIBOR plus 1.5 percentage points. On this basis, we preliminarily determine the benefit from this program to be 0.005 percent *ad valorem* for the 1983–84 period.

(4) Government Funding of AGREXCO

The Ministry of Agriculture provided AGREXCO with funds to finance the expansion of its air freight terminal at Ben Gurion Airport in 1978–79 and 1979–80. The Government of Isreal maintains that these funds represented purchases of equity in AGREXCO. However, in our 1979/80 review, the Israeli government did not provide sufficient evidence to support this contention. We therefore treat the funds as grants. Because of their infrequency, we have assumed that there were no new grants during any growing years covered by the review.

We calculated the benefits using the grant methodology outlined in the Subsidies Appendix, allocating the grants over 10 years and using the same discount rate as described for the property investment grants. We multiplied the benefit for each growing year by the ratio of total rose to flower exports and divided the result by the total estimated rose exports of the corresponding growing year. Based on these calculations, we preliminarily determine the benefit to be 0.15 percent *ad valorem* for the 1981–82 period, 0.14 percent *ad valorem* for the 1982–83 period, and 0.11 percent *ad valorem* for the 1983–84 period.

(5) Cash Payments to Growers for Greenhouses

The Ministry of Agriculture awards grants to flower growers for the establishment and/or expansion of greenhouses. We have information only on grants received between 1975 and 1979. To calculate the benefit for the review period, we allocated all grants received before the growing years under review in accordance with the Subsidies Appendix, using a 10-year period and the same discount rate as described for the property investment grants. To estimate the amount of grants provided during the growing years under review, we used as the best information the highest aggregate grant amount provided to all growers in any single previous

growing year, which was 1978–79. The total benefit for the growing years under review is the sum of the grants allocated to those years.

We then multiplied the benefit for each growing year by the ratio of total rose to flower exports and divided the result by the total estimated rose exports of the corresponding year. On this basis, we preliminarily determine the benefit to be 2.16 percent *ad valorem* for the 1981–82 period, 2.56 percent *ad valorem* for the 1982–83 period, and 2.71 percent *ad valorem* for the 1983–84 period.

(6) Cash Payments to Packing Houses

The Ministry of Agriculture provides grants to packing houses for investments in buildings and machinery. We have information on grants received between 1977 and 1980. To calculate the benefit for each growing year, we allocated all grants received before the growing years under review in accordance with the Subsidies Appendix, using a 10-year period and the same discount rate as described for the property investment grants. To estimate the amount of grants provided during the growing years under review, we used as the best information the highest aggregate grant provided to the growers in any single previous growing year, which was 1977–78. The total benefit for the growing years under review is the sum of the grant amounts allocated to those years.

We then multiplied the benefit for each growing year by the ratio of total rose to flower exports and divided the result by the total estimated rose exports of the corresponding year. On this basis, we preliminarily determine the benefit to be 0.50 percent *ad valorem* for the 1981–82 period, 0.61 percent *ad valorem* for the 1982–83 period, and 0.64 percent *ad valorem* for the 1983–84 period.

(7) Cash Payments From the Export Promotion Fund

The Ministry of Agriculture provides grants to exporters to compensate for export expenses such as advertising, merchandising and public relations. Only AGREXCO has recieved such grants. We have information on grants received by AGREXCO in 1980. The payments are based on exports of all flowers to specific countries. To calculate the benefit for each growing year, we allocated all grants received before the growing years under review in accordance with the Subsidies Appendix, using a 10-year period and the same discount rate as described for the property investment grants. To estimate the amount of grants received during the growing years under review, we used as best information the highest grant provided to AGREXCO in any single previous growing year, which was 1980–81. The total benefit for each growing year under review is the sum of the grants allocated to those years. We multiplied the benefit for each growing year by the ratio of AGREXCO's rose to flower exports to the United States and divided the result by the total estimated rose exports to the United States of that growing year. On this basis, we preliminarily determine the benefit to be 0.01 percent *ad valorem* for the review period.

(8) Fuel Grants to Rose Growers

In 1982 the Israeli Institute for Farm Research published a survey on the profitability of rose prodction in the 1980–81 season. That study stated that the gross income for rose growers included grants for fuel expenses and interest savings on low-cost credit. In the absence of additional information, we assume that this program is countervailable. We determined the total grant for the 1980–81 growing year by adding the amount of fuel grants and the amount of interest savings reported by the Israeli Institute for Farm Research. We treated the interest savings as a grant because we have no information on the terms, interest rate, or length of the low-cost credit.

To estimate the amount of grants provided during the growing years under review, we used as the best information the aggregate grant amount provided during the 1980–81 growing year. In our last review, we expensed the full amount of the 1980–81 grant in the year of receipt. We have now allocated all grants received during the review period in accordance with the Subsidies Appendix, using a 10-year period and the same discount rate as described for the property investment grants. We then divided the benefit for each growing year by the total estimated rose exports of that growing year. On this basis, we preliminarily determine the benefit to be 0.73 percent *ad valorem* for the 1981–82 period, 1.35 percent *ad valorem* for the 1982–83 period, and 1.81 percent *ad valorem* for the 1983–84 period.

(9) Long-Term Loans to AGREXCO

AGREXCO's 1979–80 financial report, obtained during the first administrative review, lists long-term loans at interest rates lower than the commercial interest rates for long-term credit published in the Bank of Israel's 1981 Annual Report. In the absence of other information, we assume that these loans are countervailable.

To measure the benefit, we used as the best information available the rate calculated during the first administrative review. We preliminarily determine the benefit to be 0.04 percent *ad valorem* for the review period.

(10) Capital Fund for AGREXCO

AGREXCO's 1979 financial statement shows a capital fund created from Ministry of Agriculture investment grants. In the absence of information concerning the frequency of grants received under this program, we assume AGREXCO received an equivalent grant during each growing year covered by the period of review.

In our last review, we expensed the entire amount of the fund in the period of review. We have now allocated each new grant over 10 years in accordance with the Subsidies Appendix, using the same discount rate as described for the cost of property investment grants. On this basis, we preliminarily determine the benefit to be 0.002 percent *ad valorem* for the 1981–82 period, 0.004 percent *ad valorem* for the 1982–83 period, and 0.006 percent *ad valorem* for the 1983–84 period.

Preliminary Results of Review and Tentative Determination Not To Revoke Countervailing Duty Order

As a result of the review, we preliminarily determine the total bounty or grant to be 12.03 percent *ad valorem* for the period October 1, 1981 through September 30, 1982, 13.88 percent *ad valorem* for the period October 1, 1982 through September 30, 1983, and 28.72 percent *ad valorem* for the period October 1, 1983 through September 30, 1984. The Department intends to instruct the Customs Service to assess countervailing duties of 12.03 percent of the f.o.b. invoice price on any shipments exported on or after October 1, 1981 and on or before September 30, 1982, 13.88 percent of the f.o.b. invoice price on any shipments exported on or after October 1, 1982 and on or before September 30, 1983, and 28.72 percent of the f.o.b. invoice price on any shipments exported on or after October 1, 1983 and on or before September 30, 1984.

The Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, of 28.72 percent of the f.o.b. invoice price on all shipments of Israeli fresh-cut roses entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This deposit requirement shall remain in effect until publication of the final

results of the next administrative review.

On April 7, 1986, the Government of Israel requested that we revoke the countervailing duty order on fresh cut roses from Israel based on its position that the countervailing duty order is unlawful. The Israeli government argues that because the Department issued the countervailing duty order under section 303 of the Tariff Act without an affirmative injury determination by the International Trade Commission ("the ITC"), because Israel is now a "country under the Agreement" within the meaning of section 701(b) of the Tariff Act, and because the ITC has stated that it lacks authority to conduct an injury determination, the Department must revoke the order. The Israeli government holds that since section 303 provides for the imposition of countervailing duties "*except in the case of an article or merchandise which is the product of a country under the Agreement (within the meaning of section 1671(b),*" section 303 no longer applies to this order. Rather, the Israeli government believes that since September 18, 1985, when the United States formally recognized Israel as a "country under the Agreement," section 701 applies to this order and section 701 does not authorize continuation of this order without an affirmative injury determination by the ITC.

We must look to the statutory scheme to determine whether section 303 orders issued after January 1, 1980 remain valid without an affirmative injury determination once a country acquires "country under the Agreement" status.

In section 104 of the TAA, Congress provided that a request for an injury determination could be made with respect to orders issued under section 303 on products from "countries under the Agreement" if the order was in effect on January 1, 1980 (or issued pursuant to litigation instituted before that date), and the request was made by December 31, 1982. Congress thus set forth specific requirements for "countries under the Agreement" to obtain an injury test for section 303 orders, *i.e.*, it created a "window" for requesting injury tests on existing section 303 orders. Congress also dealt with section 303 orders not yet in existence on January 1, 1980: In section 701 of the Tariff Act, if provided for an injury test for products from "countries under the Agreement" in investigations not yet begun; and in section 102 of the TAA, it provided for an injury test for investigations in progress at the time a country became a "country under the Agreement."

The statutory scheme makes clear that Congress provided an injury test for section 303 orders in existence on January 1, 1980, the date the TAA became effective and the first date on which a country could obtain an injury test on dutiable products, *if it had signed the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code") and thereby become a "country under the Agreement."* But except for this limited situation, Congress did not provide an injury test for section 303 orders on dutiable products from a country which signed the Subsidies Code *after* the issuance of the section 303 order.

In fact, in section 103 of the TAA, Congress amended section 303 to make clear that for orders issued under that section, the injury test requirements of title VII of the Tariff Act would not apply. For section 303 investigations on dutiable products conducted after the effective date of the TAA, Congress did not provide for an injury test unless the exporting country became a "country under the Agreement" prior to the issuance of the order.

The Israeli government asks us to read this failure of Congress to provide for an injury test in this situation as a requirement for revocation of the section 303 order. That is, if Israel, now a "country under the Agreement," cannot receive an injury test, we must revoke the order because international and U.S. law prohibit assessment of duties on products from "countries under the Agreement" without an affirmative injury determination.

To read such a requirement for revocation into the Tariff Act would produce an absurd result, one which we cannot assume Congress intended. If we revoked this order, we would be affording greater rights, *i.e.*, automatic revocation, to later Subsidies Code signatories than to earlier Subsidies Code signatories. The earlier signatories received the *right* to an injury test. They could obtain a revocation of the order only if the determination were negative, whereas later signatories would automatically obtain revocation. Congress could not have intended this result.

Therefore, we conclude that although Congress did grant "countries under the Agreement" the injury test in the limited circumstances specified in sections 102 and 104(b) of the TAA and section 701 of the Tariff Act, Congress cannot be presumed to have required an injury test in this situation. We believe that the statutory scheme is clear and that Congress was not silent on whether a post–1979 section 303 order issued prior to a country's becoming a "country under the Agreement" should be revoked if no injury test is provided. If Congress had intended for such an order to be revoked, it would have explicitly provided for revocation.

The Report of the Committee on Ways and Means on the United States-Israel Free Trade Area Implementation Act of 1985 confirms our conclusions. The Committee stated that:

> Israel upon its accession to the GATT Agreement will become a "country under the Agreement" under section 701(b) of the Traiff Act of 1930 and thereby receive the material injury test under the U.S. countervailing duty law on dutiable imports; the test already applies to duty-free imports from Israel. The test will be applied prospectively, not to existing countervailing duty orders. [H.R. Rep. No. 99–64, 99th Cong., 1st Sess. 8 (May 6, 1985).]

We therefore tentatively determine that section 303 of the Tariff Act remains the valid authority for the order on fresh cut roses from Isreal, that we have the authority to assess countervailing duties on entries of that product, ant that we will not revoke the order.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested will be held 30 days after the date of publication or the first workday following. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556; August 13, 1985).

Dated: October 10, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86–23554 Filed 10–16–86; 8:45 am]

BILLING CODE 3510-DS-M

[C-559-001]

Certain Refrigeration Compressors From the Republic of Singapore; Preliminary Results of Countervailing Duty; Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Countervailing Duty; Administrative Review.

SUMMARY: The Department of Commerce has conducted an administrative review of the agreement suspending the countervailing duty investigation on certain refrigeration compressors from the Republic of Singapore. The review covers the period January 1, 1984 through December 31, 1984 and five programs.

As a result of the review, the Department preliminarily determines that Matsushita Refrigeration Industries (Singapore) Pte. Ltd., Matsushita Electric Trading (Singapore) Pte. Ltd., and the Government of Singapore, the signatories to the suspension agreement, have complied with the terms of the agreement. The Department also preliminarily determines that the net bounty or grant to be offset by the export charge is 8.35 percent of the f.o.b. value of the merchandise. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 17, 1986.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 7, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 51167) a notice of suspension of countervailing duty investigation regarding certain refrigeration compressors from Singapore. On November 26, 1985, the petitioner, Tecumseh Products Company, Inc., requested in accordance with § 355.10 of the Commerce Regulations an administrative review of the suspension agreement. We published the initiation of the administrative review on December 13, 1985 (50 FR 50933). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Singaporean hermetic refrigeration compressors rated not over one-quarter horsepower.

Such merchandise is currently classifiable under item 661.0900 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1984 through December 31, 1984, and five programs: (1) An income tax exemption on export earnings as provided for in Part IV of the Economic Expansion Incentives Act; (2) financing provided by the rediscount facility of the Monetary Authority of Singapore; (3) the payment of technical assistance fees; (4) the transfer of funds between related companies; and (5) accelerated depreciation.

The review covers a producer, Matsushita Refrigeration Industries (Singapore) Pte. Ltd. (MARIS), and its exporter, Matsushita Electric Trading (Singapore) Pte. Ltd. (METOS). These two companies, along with the Government of Singapore, are the signatories to the suspension agreement.

Analysis of Programs

(1) The Economic Expansion Incentives Act—Part IV

Part IV of the Economic Expansion Incentives Act allows a 90-percent tax exemption on a company's profits if the company is designated as an export enterprise. MARIS is so designated and used this tax exemption during the period of review.

MARIS exports all of its refigeration compressors through METOS. To calculate the benefit, we divided MARIS' tax savings from the program by the f.o.b. value of METOS' total exports of refigeration compressors. On this basis, preliminarily determine the benefit from this program to be 8.35 percent of the f.o.b. value of the merchandise.

(2) Financing Through the Monetary Authority of Singapore

The suspension agreement prohibits MARIS and METOS from applying for or receiving any financing provided by the rediscount facility of the Monetary Authority of Singapore for shipments of refrigeration compressors to the United States. We preliminarily determine that neither MARIS nor METOS received any financing through the Monetary Authority during the review period and, therefore, that both have complied with this clause of the agreement.

(3) Technical Assistance Fee Payments

The petitioner, Tecumseh Products Company, alleges that MARIS reduces its reportable profit and thus its tax liability by paying excessive technical assistance fees to one of its Japanese parent companies, Matsushita Electric Industrial Co. ("MEI").

The Economic Development Board ("EDB") and the Inland Revenue Department ("IRD") review technical assistance fees to ensure that they are not excessive. In evaluating these payments, the EDB and the IRD are concerned with the nature of the assistance provided as well as with the amount paid for such assistance. They consider any fee above 10 percent of sales to be excessive.

In our last review, we verified that the EDB and the IRD reviewed and accepted MARIS' technical assistance fee payments. We also reviewed a study done by MEI that outlined the costs incurred from supplying the technical assistance and that supported the amounts it charges MARIS for this assistance. We have no new evidence that these fees are excessive or that they are used to reduce MARIS' tax liability. On this basis, we preliminarily determine that these payments do not confer a countervailable benefit on MARIS.

(4) Transfer of Funds Between Related Companies

Tecumseh alleges that funds received by MARIS from its parent companies, Matsushita Electric Industrial (Japan) and Matsushita Refrigeration Company (Japan), may represent either cash infusions or receipts from overpriced sales and may constitute a countervailable benefit.

A parent company may use several means for providing funds to its subsidiary, such as an increase in equity, intra-corporate purchases of merchandise, payments made through letters of credit, and remittances. Such transfers are normal commercial transations between a parent company and its subsidiary. We do not consider cash infusions or other transfers of funds from a parent company to its subsidiary under normal commercial circumstances to constitute a countervailable benefit. We have no evidence that transfers of funds to MARIS from its parent companies represent anything other than normal commercial transactions. Therefore, we preliminarily determine that MARIS does not receive countervailable benefits from its parent companies.

(5) Accelerated Depreciation

Tecumseh contends that the rate of depreciation reported by MARIS in 1984 may not be in accordance with normal accounting practices or the generally accepted useful life of a depreciated asset and, therefore, may constitute a subsidy in contravention of the terms of the suspension agreement.

The Inland Revenue Department allows all companies in Singapore to select any method of depreciation that is suitable for its company's accounting as long as the method is in accordance with generally accepted accounting principles. MARIS chose in 1983 to change its depreciation schedule from 8 years to 5 years, a practice that is in accordance with generally accepted accounting principles. On this basis, we preliminarily determine that MARIS' method of depreciation is available to more than a specific enterprise or industry or group of enterprises or industries and, therefore, does not constitute a countervailable benefit.

Preliminary Results of Review

As a result of the review, we preliminarily determine that the signatories have complied with the terms of the suspension agreement, including the payment of the provisional export charge of 5.86 percent, for the period January 1, 1984 through December 31, 1984. We also preliminarily determine the net bounty or grant to be 8.35 percent of the f.o.b. value of the merchandise for the review period. The suspension agreement states that the Government of Singapore will offset completely with an export charge the net bounty or grant calculated by the Department.

Following the methodology outlined in section B.4 of the agreement, the Department preliminarily determines that a positive adjustment must be made to the provisional export charge of 5.86 percent established in the notice of suspension of countervailing duty investigation to reflect the difference between the provisional export charge and the final export charge found in this review, which is 8.35 percent of the f.o.b. value of the merchandise. The Government of Singapore shall collect, in accordance with section B.4.c. of the agreement, this amount plus interest, calculated in accordance with section 778(b) of the Tariff Act, within 30 days of notification by the Department.

The Department intends to notify the Government of Singapore that the provisional export charge on all exports to the United States with Outward Declarations filed on or after the date of publication of the final results of this administrative review shall be 8.35 percent of the f.o.b. value of the merchandise.

The agreement can remain in force only as long as shipments covered by it account for at least 85 percent of imports of Singaporean refrigeration compressors into the United States. Our information indicates that the two companies accounted for 100 percent of imports into the United States of this merchandise during the review period.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days after the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday following. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751 of the Tariff Act (19 U.S.C.(a)(1)) and § 355.10 of the Commerce Regulations (50 FR 32556, August 13, 1985).

Dated: October 10, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-23553 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-068R. Applicant: National Bureau of Standards, Gaithersburg, MD 20899. Instrument: Scanning Electron Microscope, Model JSM-840 with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice at 51 FR 25732.

Comments: None received.

Decision: No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides: (1) Simultaneous imaging by light and by scanning electron microscopy and (2) multiple wavelength-dispersive spectrometers. The National Institutes of Health advises in its memorandum dated September 3, 1986 that: (1) These capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23550 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-DS-M

University of California, San Diego; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-072. Applicant: University of California, San Diego, La Jolla, CA 02093. Instrument: Gas Source Isotope Ratio Mass Spectrometer System, Model 251EM. Manufacturer: Finnigan Corporation, West Germany. Intended Use: See notice at 51 FR 5752.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a major beam (mass/charge for CO_2 gas) with an ion current of 2.0×10^{-7}A and a guaranteed internal precision of 0.008°/00 for CO_2 samples as small as 1 microliter. The National Bureau of Standards advises in its memorandum dated September 10, 1986 that: (1) This capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of not other instrument or apparatus of equivalent scientific value

to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23551 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; University of Oklahoma et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket number: 85-259R. Applicant: University of Oklahoma, 660 Parrington Oval, Norman, OK 73019. Instrument: Mass Spectrometer, Model MS-25 with Accessories. Manufacturer: Kratos Analytical Instruments, United Kindgom. Original notice of this resubmitted application was published in the **Federal Register** of August 26, 1985.

Docket number: 86-323. Applicant: Mt. Sinai School of Medicine of the City University of New York, 1 Gustave L. Levy Place, New York, Ny 10029. Instrument: Micromanipulator, Model PM20H. Manufacturer: Biomedizinische Instrumente, West Germany. Intended use: The instrument will be used in experiments which involve the monitoring of acid or alkali transport by bladder using electrophysiological techniques while viewing the different cell types of the tissue with a microscope. Once a particular cell type is located, its intracellular electrical parameters will be monitored by means of a glass microelectrode which has been inserted into that cell. The research objectives are the identification of the cell(s) which produce and regulate urinary acid-base excretion. Application received by Commissioner of Customs: September 22, 1986.

Docket number: 86-327. Applicant: Department of the Interior, U.S. Geological Survey—Western Region, 345 Middlefield Road, MS-285, Menlo Park, CA 94025. Instrument: Mass Spectrometer, Model Series 216. Manufacturer: Mass Analyzer Products Limited, United Kingdom. Intended use: The instrument is intended to be used of studies for argon isotopes, both naturally occurring and produced by irradiation with fast neutrons, in rocks and minerals. The isotopic composition as a measure of geologic age and thermal history will be investigated. Experiments will be conducted to determine precise ages for mineral, especially those that can be obtained in very small quantities, to determine valid ages from contaminated samples, and to determine thermal histories of rocks using several mineral species from the same rock sample. This information is used in support of programs in mineral resource appraisal, geothermal energy, volcano hazards studies, radioactive waste disposal investigations, and geologic framework investigations. Application received by Commissioner of Customs: September 26, 1986.

Docket number: 86-328. Applicant: The University of Chicago, Section of Pulmonary and Critical Care, 5841 S. Maryland Avenue, Chicago, IL 60637. Instrument: Mass Spectrometer, Model MGA 2000 with Accessories. Manufacturer: Airspec Limited, United Kingdom. Intended use: The instrument is intended to be used to study respiratory heat and water exchange. Experiments will include determination of the sites and magnitudes of respiratory heat and water exchange within canine airways as anesthetized, intubated dogs are mechanically ventilated with inspired gas of various air temperature and water content, and with varying breathing pattern. The instrument will also be used for postdoctoral training of plumonary and critical care research fellows. Application received by Commissioner of Customs: September 26, 1986.

Docket number: 86-329. Applicant: Lehigh University, Department of Geological Sciences, Williams 31, Bethlehem, PA 18015-3188. Instrument: Portable Rock Magnetometer, MS 1. Manufacturer: Molspin Limited, United Kingdom. Intended use: The instrument will be used for studying the direction and intensity of magnetization of sedimentary and igneous rocks and recent glacial, lacustrine and marine sediments. The instrument will also be used for educational purposes in the course Geological Sciences 405, The Earth's Magnetism. Application received by Commissioner of Customs: September 26, 1986.

Docket number: 86-330. Applicant: Texas Tech University, Department of Geosciences, Lubbock, TX 79409-4109. Instrument: Mass Spectrometer, Model SIRA 12 with Accessories. Manufacturer: VG Isogas, United Kingdom. Intended use: The instrument will be used in the following general areas of research:

(i) low temperature geochemistry
(ii) paleoclimatology and paleotemperatures
(iii) carbonate geochemistry
(iv) organic chemistry
(v) physical geography/desert varnish studies
(vi) igneous petrology
(vii) paleoanthropology/diet reconstruction
(viii) paleoecology
(ix) plant nitrogen studies
(x) arid land studies/plant water retention and usage.

In addition, the instrument will be used for educational purposes in graduate and undergraduate research courses and in the following courses:

(1) Geochemistry 5301, Groundwater Geochemistry
(2) Geochemistry 5306, Sedimentary Geochemistry
(3) Geology 5326, Paleoecology

Application received by Commissioner of Customs: September 29, 1986.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23473 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Utah; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-226. Applicant: University of Utah, Salt Lake City, UT 84112. Instrument: Mass Spectrometer, Model VG 7070F with Accessories. Manufacturer: Vacuum Generators Analytical Ltd., United Kingdom. Intended use: See notice at 50 FR 29243.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a guaranteed resolution of 25,000 (10%

Valley), a mass range of 2000 at 6 kV, a sensitivity of $2X10^{-8}$ C/microgram with a standard EI/CI source on ion methyl stearate at 1000 resolution (10% Valley). The National Bureau of Standards advises in its memorandum dated October 29, 1985 that: (1) This capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-23552 Filed 10-16-86; 8:45 am]

BILLING CODE 3510-05-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

October 10, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on October 14, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 30, 1985, January 27, 1986 and March 3, 1986 notices were published in the **Federal Register** (50 FR 53182, 51 FR 3392 and 51 FR 7313), which announced import restraint limits for cotton and man-made fiber textile products in Categories 339 (women's, girls' and infants' cotton knit shirts), 359-V (cotton vests—only T.S.U.S.A. numbers 381.0258, 381.0554, 381.3949, 381.5800, 318.5920, 384.0451, 384.0648, 384.0650, 384.0651, 384.3449, 384.3450, 384.4300, 384.4421, and 384.4422), and 605-T (man-made fiber thread—only T.S.U.S.A. number 310.9500), produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

In accordance with the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 19, 1983, as amended, and at the request of the People's Republic of China, swing is being applied to the restraint limit previously established for cotton textile products in Category 339, increasing it from 992,929 dozen to 1,042,575 dozen, and man-made fiber textile products in Category 605-T, increasing it from 450,000 pounds to 472,500 pounds, for the current agreement year. The limit for Category 359-V is being reduced from 1,134,558 pounds to 1,039,732 pounds to account for the increases applied to Categories 339 and 605-T. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the restraint limits previously established for Categories 339, 359-V and 605-T.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

William H. Houston III

Chairman, Committee for the Implementation of Textile Agreements.

October 10, 1986

Committee for the Implementation of Textile Agreements

Comissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives issued to you on December 24, 1985, January 22, 1986 and February 26, 1986 by the Chairman, Committee for Implementation of Textile Agreements, concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in the People's Republic of China and exported during 1986.

Effective on October 14, 1986, the directives of December 24, 1985, January 22, 1986 and February 26, 1986 are hereby further amended to adjust the previously established limits for cotton and man-made fiber textile products in Categories 339, 359-V [1] and 605-T [2], as provided under the terms of the bilateral agreement of August 19, 1983, as amened:[3]

Category	Adjusted 1986 limit [1]
339	1,042,575 dozen
359-V	1,039,732 pounds
605-T	472,500 pounds

[1] The limits have not been adjusted to account for any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-23472 Filed 10-14-86; 11:58 am]

BILLING CODE 3510-DR-M

[1] In Category 359, only T.S.U.S.A. numbers 381.0258, 381.0554, 381.3949, 381.5800, 381.5920, 384.0451, 384.0648, 384.0650, 384.0651, 384.3449, 384.3450, 384.4300, 384.4421 and 384.4422.

[2] In Category 605, only T.S.U.S.A. number 310.9500.

[3] The Agreement provides, in part, that: (1) with the exception of Category 315, any specific limit may be exceeded by not more than 5 percent of its square yards equivalent total, provided that the amount of the increase is compensated for by an equivalent square yard equivalent decrease in one or more other specific limits in that agreement year; (2) the specific limits for certain categories may be increased for carryforward, and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement

DEPARTMENT OF DEFENSE

Department of the Air Force

Receipt of Application of Civilian Employees of the U.S. Army and U.S. Navy Who Participated in the Defense of Bataan and Corregidor During the Period December 7, 1941 Through May 6, 1942

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: "Civilian Employees of the U.S. Army and U.S. Navy who Participated in the Defense of Bataan and Corregidor during the Period December 7, 1941 through May 6, 1942." 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 ducuments 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. 86–23414 Filed 10–16–86; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Request for Data and Information Under the Bilingual Education; State Educational Agency Program for Fiscal Year 1985.

Programmatic Information

This program provides financial assistance to State educational agencies (SEAs) to collect and report data and information on limited English proficient (LEP) persons under section 732 of the Bilingual Education Act (20 U.S.C. 3242), and 34 CFR Part 548, published in the **Federal Register** on August 16, 1985 at 50 FR 33204. SEAs are required to report data and information to the Secretary in accordance with section 732(b) of the Act, and 34 CFR 548.10.

(Approved under OMB control number 1885–0509)

Date for Submitting Data and Information

Fiscal year 1985 SEA grantees are required to submit this report containing data and information on LEP persons to the U.S. Department of Education by November 28, 1986.

Addresses: Information should be sent to Luis A. Catarineau, U.S. Department of Education, Office of Bilingual Education and Minority Languages Affairs, 400 Maryland Avenue, SW. (Room 421, Reporters Building), Washington, DC 20202.

Further Information: For further information contact Luis A. Catarineau. Telephone: (202) 245-2922.

Authority: 20 U.S.C. 3242(b).

Dated: October 14, 1986.

Carol Pendas Whitten,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 86–23543 Filed 10–16–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

National Energy Policy Plan; Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of public hearings on National Energy Policy Plan.

SUMMARY: In accordance with section 801 of the Department of Energy Organization Act (Pub. L. 95–91), the Department of Energy (DOE) is beginning to prepare the sixth biennial National Energy Policy, currently scheduled to be submitted to the Congress early in 1987. To have the benefits of a broad range of public viewpoints in the development of the National Energy Policy, DOE will hold a series of public hearings throughout the Nation. Listed below are the dates, locations, and field contacts for the hearings.

Public Hearings on the National Energy Policy

Salina, Kansas

Date and Time: November 17, 1986, 10:00 a.m. to 7:00 p.m.

Place: Marymount College, Fine Arts Building, East Iron and Marymount Road, Salina, Kansas 67401

Contact: Anne Scheer, Staff Assistant, Kansas City Support Office, U.S. Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106, (816) 374–5533

Philadelphia, Pennsylvania

Date and Time: November 18, 1986, 10:00 a.m. to 7:00 p.m.

Place: Philadelphia Centre Hotel, Hall of Flags, 17th & John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19102

Contact: Fred M. Ramirez, Director of Public Affairs, U.S. Department of Energy, 1421 Cherry Street, Philadelphia, Pennsylvania 19102, (215) 597–3612

New Orleans, Louisiana

Date and Time: November 19, 1986, 10:00 a.m. to 7:00 p.m.

Place: Marriott Hotel, La Gallery, 555 Canal Street, New Orleans, Louisiana 70123

Contact: Nancy Fussell, Public Affairs Office, U.S. Department of Energy, 900 Commerce Road East, New Orleans, Louisiana 70123, (504) 734–4644

Chicago, Ilinois

Date and Time: November 20, 1986, 10:00 a.m. to 7:00 p.m.

Place: Americana Congress Hotel, Lake Shore Room, 520 South Michigan Avenue, Chicago, Illinois 60605

Contact: Gary L. Pitchford, Director, Office of Communications, U.S. Department of Energy, Chicago Operations Office, 9800 South Cass Avenue, Argonne, Illinois 60439, (312) 972–2010

Sacramento, California

Date and Time: November 21, 1986, 10:00 a.m. to 7:00 p.m.

Place: Sacramento Community Convention Center, 1100 14th Street (14th & K), Sacramento, California 95814

Contact: Norma Del Gaudio, Information Coordinator, Energy Information Center, San Francisco Operations Office, U.S. Department of Energy, 1333 Broadway, Oakland, California 94612, (415) 273–4428

Procedure

Written Comment: Interested persons are invited to submit within 45 days of the date of this Notice, data, reviews, or recommendations with respect to the next National Energy Policy Plan. Written comments should be addressed to: Margaret W. Sibley, Director, Office of Policy Integration, Policy, Planning and Analysis, Room 7B084, U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585.

"NEPP–VI" should be written on the outside of the envelope and on documents submitted.

Any information or data considered confidential by the person furnishing it must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information or data and to treat the information or data according to its determination.

Public Hearings: Any person or representative of a group may make a written or oral request for an opportunity to make an oral presentation at the public hearngs. Such requests must be received no later than 3 working days before the appropriate hearing. Requests should be directed to the appropriate hearing contact at the address given above, and should be in accordance with the procedures set forth below. Written requests should be labeled "NEPP–VI" both on the document and on the envelope. No oral requests for presentation will be scheduled until after all written requests are scheduled.

Those who register in advance will be heard first or at times reserved for them. Those present at the hearing who would like to speak but who have not preregistered will be accommodated if time permits. Verbatim transcripts will be made of all sessions.

It would be helpful if persons making the requests would describe briefly the interest concerned; if applicable, indicate why they are the proper representative of the group having such

an interest; and provide a phone number where they may be contacted during working hours.

While an attempt will be made to accommodate all who wish to be heard, it may not be practical to do so, and DOE reserves the right to schedule the presentations of persons to be heard, and to establish the procedures governing the conduct of the hearings. Time allotted to each presentation may be limited, based on the number of persons requesting to be heard.

A presiding officer will be designated to conduct the hearings. These hearings will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings. As a rule, oral presentations shall be limited to 10 minutes. Any additional testimony may be submitted in writing.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

Transcripts

Verbatim transcripts of the hearings will be made and the entire record of the hearings, including the transcripts, will be retained by DOE and made available for inspection at DOE's Freedom of Information Office Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, between the hours of 8 a.m. and 4 p.m., Monday through Friday except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, DC, on October 14, 1986.

William F. Martin,

Deputy Secretary.

[FR Doc. 86-23571 Filed 10-16-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP86-733-000 et al.]

Equitable Gas Co. et al.; Natural Gas Certificate Filings

October 10, 1986.

Take notice that the followings filings have been made with the Commission:

1. Equitable Gas Company, a Division of Equitable Resources, Inc.

[Docket No. CP86-733-000]

Take notice that on September 22, 1986, Equitable Gas Company, a division of Equitable Resources, Inc. (Equitable), 420 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP86-733-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a sales tap in order to provide gas service to a new housing development in Plum Borough, Allegheny County, Pennsylvania, pursuant to its sales tariffs on file with the Pennsylvania Public Utility Commission, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Equitable estimates that the proposed sales tap would cost $25,350, which cost would be financed from cash on hand. It is stated that the customers to be served would be charged the applicable sales rate contained in Equitable's retail distribution tariff on file with and approved by the Pennsylvania Public Utility Commission. Equitable estimates that the gas to be delivered through the proposed sales tap would be 115 Mcf of gas on a peak day and 9,600 Mcf of gas per year. It is indicated that this volume would have an insignificant impact on Equitable's peak day and annual delivery requirements which total approximately 768,000 Mcf of gas and 76,000,000 Mcf of gas, respectively.

Comment date: October 31, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. National Fuel Gas Supply Corp.

[Docket No. CP86-808-008]

Take notice that on September 25, 1986, National Fuel Gas Supply Corporation (National), Ten Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP85-608-008 a petition to further amend its certificate of public convenience and necessity in this proceeding so as to authorize, for an additional two year period commencing January 1, 1987, the transportation of up to 61,624 Mcf of natural gas per day on behalf of National Fuel Gas Distribution Corporation (Distribution) for the account of 38 end users, all as more fully set forth in Appendix hereto and in the petition which is on file with the Commission and open to public inspection.

The petition states that National was authorized by Commission order issued October 31, 1985, as amended, to transport up to 56,485 decatherms of natural gas per day on an interruptible basis for Distribution for delivery to 39 specified industrial and large commercial customers for a term ending on December 31, 1986. The Appendix attached hereto provides details for each of the 38 industrial and commercial customers of Distribution and indicates that Ramco Fitzsimmons Steel Company and Koppers Inc. have been acquired by Cold Drawn Steel Inc. and Neville-Synthesis, respectively. One of the original end-users, Jackson China, Inc., is no longer is business and seven other end-users, AlTech Specialty Steel Corp., Ferro Corp., National Forge Company, Pendrick Laundry, Ralston Purina Co., Spaulding Fibre Co., and The Stackpole Corporation have requested increases totaling 5,139 Mcf of gas per day.

National seeks authorization to continue to provide the service authorized in this proceeding for an additonal two year period commencing January 1, 1987. The petition states that authorization of this extension prior to January 1, 1987, is needed to avert a disruptive suspension of service to National's existing end user shippers.

National states that it would receive the subject transportation volumes at existing receipt points on its system and would redeliver the volumes to Distribution at existing points of redelivery. National requests that the Commission continue to allow it to add or delete receipt points without further authorization.

National adds that it would charge Distribution pursuant to its Rate Schedule T-1 which currently provides for a rate of 26.82 cents per Mcf of gas and 2 percent shrinkage. It is explained that this rate and the treatment of revenues under this proposal would be subject to the outcome of National's current rate filing at Docket No. RP86-136-000.

Appendix

NATIONAL FUEL GAS SUPPLY CORPORATION
END-USER TRANSPORTATION CUSTOMERS

End-user	Location	Maximum daily volumes (Mcf/day)
Airco Carbon Div. of BOC, Inc.	Niagara Falls, NY	2,500
Airco Carbon, Div. of BOC, Inc.	St. Mary's, PA	3,300
AlTech Speciality Steel Corp	Dunkirk, NY	2,750
Angelica HealthCare Service Group.	Batavia, NY	250
Arcata Graphics Co	Depew, NY	1,325
Arco Metals Co., American Brass.	Buffalo, NY	3,000
Bethlehem Steel Corp	Buffalo, NY	7,000
Booth Oil Co., Inc	Buffalo, NY	300
Chautauqua Hardware Corp	Jamestown, NY	215
Cold Drawn Steel Inc. (formerly Ramco Fitzsimmons Steel Co.).	Buffalo, NY	166
Darling and Company	Cheektowaga, NY	300
Erie Wastewater Treatment Plant.	Erie, PA	777
Ferro Corp	Buffalo, NY	800
Great Lakes Carbon Corp	Niagara Falls, NY	1,047
Goodyear Tire and Rubber Co	Niagara Falls, NY	1,500
Hammermill Papers Group	Erie, PA	6,280
Hopes Architectural Products, Inc.	Jamestown, NY	300
Jamestown Metals	Jamestown, NY	110
Kaufman's Bakery, Inc	Buffalo, NY	280
McInnes Steel Co	Corry, PA	1,500
Morgan Services, Inc	Buffalo, NY	167
National Forge Co	Irvine, PA	3,333

NATIONAL FUEL GAS SUPPLY CORPORATION END-USER TRANSPORTATION CUSTOMERS—Continued

End-user	Location	Maximum daily volumes (Mcf/day)
Neville-Synthesis (formerly Koppers Inc.).	Oil City, PA	1,750
O-AT-KA Milk Products Cooperative, Inc.	Batavia, NY	700
Occidental Chemical Corp	Niagara Falls, NY	648
Pendrick Laundry, Inc	Buffalo, NY	90
PPG Industries, Inc	Pittsburgh, PA	7,000
Ralston Purina Co	Dunkirk, NY	1,000
Robbin Industries, Inc	Dunkirk, NY	2,000
Sorrento Cheese Co., Inc	Buffalo, NY	760
Spaulding Fibre Co., Inc	Tonawanda, NY	2,000
Special Metals Corp	New Hartford, NY	640
TAM Ceramics, Inc	Niagara Falls, NY	593
The Stackpole Corp	St. Mary's, PA	1,800
Trico Products Corp	Buffalo, NY	1,310
Union Carbide Corp	Niagara Falls, NY	1,833
Wheatland Tube Co	Wheatland, PA	800
Witco Chemical Corp	Bradford, PA	1,500

Comment date: October 31, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Panhandle Eastern Pipe Line Co.

[Docket No. CP86-748-000]

Take notice that on September 30, 1986, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP86-748-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by removal two compressor units at its Hugoton Compression Station, Stevens County, Kansas (Hugoton), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Panhandle proposes to abandon by removal two Cooper-Bessemer GMVH-10-C compressors and related facilities that are currently located at Hugoton, stating that the units are no longer required. Panhandle explains that, since it has experienced a stabilization of production rates from the gas reservoirs in the Hugoton field and in view of present and anticipated operation of the field, compression previously installed to meet declining reservoir pressures would no longer be required. Panhandle states that abandonment of the two compressor units would not adversely affect Panhandle's ability to meet its contractual obligations. Panhandle estimates that the total cost of the abandonment of facilities would be $375,000.

Panhandle advises that it intends to relocate and use the subject compressor units at its Glenarm Compressor Station in Sangamon County, Illinois, as part of a project to be implemented pursuant to § 2.55(b) of the Commission's Regulations.

Comment date: October 31, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Tennessee Gas Pipeline Co., a Division of Tenneco Inc.

[Docket No. CP86-736-000]

Take notice that on September 23, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-736-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Tenngasco Corporation (Tenngasco), acting as agent for Bunge Corporation (Bunge), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states it has agreed to receive daily, on an interruptible basis, up to 1,250 dekatherms (dt) equivalent of natural gas per day which Tenngasco makes available at the following existing points of receipt:

(1) Vermilion Block 250, Offshore Louisiana (LA),
—Applicant Meter Number 10955
(2) South March Island 60/61, Offshore LA,
—Applicant Meter Number 11119
(3) Ship Shoal Block 198(H), Offshore LA,
—Applicant Meter Number 11180
(4) Ship Shoal Block 182, Offshore LA,
—Applicant Meter Number 11182
(5) Eugene Island Block 348, Offshore LA,
—Applicant Meter Number 11220
(6) Eugene Island Block 215, Offshore LA,
—Applicant Meter Number 11740
(7) Ship Shoal Block 198(J), Offshore LA,
—Applicant Meter Number 11802
(8) Vermilion Block 245, Offshore LA,
—Applicant Meter Number 11366

Applicant further states it would transport and deliver thermally equivalent quantities of gas, less Plant Thermal Reduction quantities delivered at the Blue Water Processing Plant, Acadia Parish, Louisiana, and the Yscloskey Plant, St. Bernard Parish, Louisiana, and less quantities for Applicant's fuel and uses and gas lost and unaccounted for, for Tenngasco, to the existing interconnection between the facilities of Applicant and Entex at Applicant's Meter No. 2-0022 in Quitman County, Mississippi.

Applicant avers it has agreed to accept the associated liquid hydrocarbons (exclusive of oil) produced with the transported volumes when applicable, and to transport and deliver such liquid hydrocarbons for the account of Tenngasco or to Tenngasco's producers separation and storage facilities.

No new facilities would be needed to implement this transportation service, according to the Applicant.

Applicant explains that it would charge Tenngasco for the proposed transportation service a quantity charge equal to the product of the rate (ranging from 21.74 cents per dt equivalent of gas to 26.26 cents per dt equivalent of gas) set forth in Exhibit B of the gas transportation agreement between Applicant and Tenngasco multiplied by the total quantity in dekatherms equivalent of gas delivered by Applicant for the account of Tenngasco from each receipt point. Additionally, Applicant states it would include the GRI surcharge in its charges to Tenngasco and would required Tenngasco to provide gas for Applicant's system fuel and uses ranging from 2.25 percent to 2.44 percent of volumes tendered. Applicant avers that it would also charge Tenngasco for the transportation of liquids, with the rate ranging from $0.622 per barrel to $1.158 per barrel.

Applicant maintains that its proposal is in the public interest because it would assist Bunge in obtaining needed gas supplies at market-clearing prices, enabling Bunge to maintain its business operations on a profitable basis. Applicant relates that Bunge is the single largest employer in the Marks, Mississippi, area, and to become unprofitable would force the plant to close and increase the already high unemployment rate in the area.

Comment date: October 31, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Texas Gas Transmission Corp.

[Docket No. CP86-143-003]

Take notice that on September 30, 1986, Texas Gas Transmission Corporation (Petitioner), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP86-143-003, a petition to amend the Commission's order issued February 14, 1986, 34 FERC ¶ 61,203, pursuant to section 7 of the Natural Gas Act so as to authorize certain changes relating to the transportation of natural gas on an interruptible service basis for certain customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by the order issued February 14, 1986, Petitioner

received authorization to transport gas on an interruptible basis for 52 end-user customers. Petitioner states that it now seeks authority to increase the contract demand of ten of the customers.

Customer Name	Existing contract demand (MMBtu)	New contract demand (MMBtu)
1. Jackson/Procter and Gamble	1,527	3,400
2. Indiana Gas/Fairfield	916	1,016
3. Indiana Gas/U.S. Gypsum	3,257	3,757
4. Indiana Gas/Knauf Fibergias	2,341	2,641
5. Brownsville/Haywood	254	600
6. Elizabethtown/Dow Corning	305	400
7. Western/Phelps Dodge	2,035	2,545
8. Memphis/Velsicol Chemical	1,018	1,650
9. Memphis/Dupont	5,088	17,504
10. Olin Corporation	4,580	5,500

Petitioner further states that with respect to one customer, Texas Gas Exploration Corporation (Exploration), Petitioner requests authorization for: (i) The addition of a new point of delivery at the interconnection between Petitioner and the jointly owned pipeline of ANR Pipeline Company and Tennessee Gas Pipeline Company in Vermilion Block 241, and (ii) the charging to Exploration of any third-party transportation costs Petitioner may incur by reason of the transportation of gas on behalf of Exploration under the subject agreement through Petitioner's capacity in certain third-party pipeline systems.

Comment date: October 31, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

6. Texas Gas Transmission Corporation.

[Docket No. CP86-349-001]

Take notice that on September 23, 1986, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP86-349-001, a petition to amend the Commission's order issued September 11, 1986, in Docket No. CP86-349-000, pursuant to section 7(c) of the Natural Gas Act so as to reflect changes in the interruptible transportation of natural gas to two customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Texas Gas states that by the order issued September 11, 1986, it was authorized to provide interruptible transportation service for ten customers, two for a period extending until June 13, 1988 (Columbia Gas Transmission Corporation and Consolidated Gas Transmission Corporation), and until June 13, 1987, for the remaining eight customers. Texas Gas seeks to alter the original application and order with respect to two of the customers for which authorization to transport gas was granted.

Texas Gas states that one of the ten customers included in the original application, IMC Pipeline Company, Inc. (IMC), an intrastate pipeline, has asked that its request for service under the instant docket be withdrawn, due to the jurisdictional consequences of having gas transported by Texas Gas pursuant to section 7 of the Natural Gas Act. Thus, Texas Gas requests that IMC be deleted from the list of customers for whom service was authorized in this docket.

Texas Gas further states that with respect to another of the ten customers included in the authorized transportation, The Cincinnati Gas and Electric Company (CG&E), Texas Gas requests the addition of a new point of delivery under the applicable transportation agreement. Such delivery point is located on Texas Gas' 26-inch main line system near the community of Fernald, in Hamilton County, Ohio (Fernald Meter Station). It is stated that the new point of delivery would enable CG&E to access existing customers located behind the Fernald Sales Meter Station with low cost gas supplies transported by Texas Gas on behalf of CG&E.

Comment date: October 31, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its disignee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23522 Filed 10-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-159-001]

Blue Dolphin Pipe Line Co.; Compliance Filing

October 10, 1986.

Take notice that on October 7, 1986, Blue Dolphin Pipe Line Company (Blue Dolphin) tendered for filing First Revised Sheet Nos. 42, 44, 57, 58, 90, and 91 to its FERC Gas Tariff, Original Volume No 1.

United indicates that the revised sheets conform to the Commission's order of September 29, 1986 in Docket No. RP86-159-000, and reflect changes specifically prescribed by the Commission, *i.e.*, the correction of specific typographical errors and the deletion in its entierty of a specified provision.

Any person desirning 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 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 17, 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. 86-23524 Filed 10-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-106-001, ER86-570-000, and ER86-570-001]

Idaho Power Co., The Washington, Water Power Co., and Idaho Power Co.; Order Denying Appeal From Staff Action, Accepting Rates, Granting Waivers, Granting Intervention and Establishing Hearing Procedures

Issued: October 10, 1986.

Before Commissioners: Martha O. Hesse, Chairman; Anthony G. Sousa, Charles G. Stalon, Charles A. Trabandt, and C.M. Naeve.

Background

Docket No. ER86-106-001

On January 9, 1986, Pacific Power & Light Company (PP&L) filed, pursuant to Rule 1902 of the Commission's Rules of Practice and Procedure (18 CFR 385.1902 (1986)), a petition for appeal from action taken by the Commission's staff in a letter order issued on December 10, 1985. In that order, the Director of the Division of Electric Power Application Review, Office of Electric Power Regulation, accepted for filing Idaho Power Company's (Idaho Power) tariff for non-firm transmission service tendered on October 31, 1985 in Docket No. ER86-106-000. The order also granted PP&L's untimely motion to intervene, pursuant to Rule 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.214 (1985).[1]

PP&L requests that the Commission find that Idaho Power may not charge PP&L its rate for non-firm transmission service involving facilities for which PP&L allegedly already compensates Idaho Power pursuant to a September 10, 1980 Transmission Services Agreement between the parties. The Company argues that Idaho Power has failed to show why Pacific should pay any additional charge for non-firm transmission or why application of the rate to it will not result in a double recovery. In addition, PP&L requests that the Commission clarify the letter order to state that Idaho Power may not collect its rate for non-firm transmission from signatories to a September, 1973 Intercompany Pool (ICP) Agreement among Idaho Power, PP&L and other utilities located in the western United States. In support of this request, PP&L claims that Idaho Power must propose change in *all* the rates provided for under section 8 of that agreement, which governs payments for the use of other utilities' transmission systems to the other signatories, and submit the changes for their approval and may make a unilateral filing, as here, only in the event the parties are unable to agree. PP&L contends that Idaho Power has failed to follow these procedures.

On January 24, 1986, Idaho Power filed an answer to PP&L's pleading, requesting that the Commission deny PP&L's petition in its entirety. With regard to PP&L's first argument, Idaho responds that under the circumstances presented in its filing, a rolled-in methodology cost of service analysis is justified, and that Idaho Power specifically includes revenues derived from transfer services for which PP&L compensates Idaho Power pursuant to the Transmission Services Agreement to decrease its cost of service when calculating its non-firm transmission service rate. With respect to the ICP Agreement, Idaho Power responds that it is entitled, under the terms of that agreement, to seek a rate change in order to recover its reasonable costs and, further, that it fully compiled with all the obligations of section 8 of that agreement prior to making its filing.

Docket Nos. ER86-570-000 and ER86-570-001

On July 1, 1986, The Washington Water Power Company (WWP), Montana Power Company (Montana Power), PP&L, Portland General Electric Company (Portland), Puget Sound Power & Light Company (Puget), Utah Power & Light (UP&L), and Sierra Pacific Power Company (Sierra) submitted for filing in Docket No. ER86-570-000 a proposed change in transmission rates pursuant to the First Amendment to the ICP Agreement.[2] The filing proposes to increase the rate for non-firm transmission services from 0.75 mills per kWh to 1.50 mills per kWh, and to increase the wheeling rates for forced outages, operating reserves and stored energy from no charge to 0.5 mills per kWh. The filing parties request a waiver of the 60-day notice requirement so that the proposed rates as between the filing parties may become effective July 1, 1986. As to Idaho Power, the non-filing party in Docket No. ER86-570-000, the filing parties propose an effective date of September 1, 1986.

Notice of the filing was published in the **Federal Register** [3], with comments due on or before July 18, 1986.

On July 23, 1986, Idaho Power filed an untimely motion to intervene in the proceeding in Docket No. ER86-570-000. Idaho Power states, *inter alia*, that it does not accept that the rates to be charged are just and reasonable, and the July 1, 1986, or September 1, 1986, effective dates or that the waiver of the 60-day notice requirement by the filing parties is permissible or appropriate.

On August 14, 1986, Idaho Power filed in Docket No. ER86-570-001 a certificate of concurrence submitting a change in transmission rates pursuant to the First Amendment to the ICP Agreement.[4] Idaho Power proposes to decrease its existing non-firm transmission service rate to ICP companies from 1.77 mills per kWh to 1.50 mill per kWh, and to increase Idaho Power's wheeling rates to ICP companies for forced outages, operating reserves and stored energy from no charge to 0.5 mills per kWh. Idaho Power states that its filing signifies agreement on the proposed change in Idaho Power's non-firm transmission service rates and charges among all ICP companies *except* PP&L. As to the proposed rates between WWP, Montana Power, Portland, Puget, UP&L, Sierra and Idaho Power, Idaho Power proposes an effective date of August 15, 1986, and states that these parties request a waiver of the 60-day notice requirement. As ot PP&L, Idaho Power proposes an effective date of October 15, 1986, unless PP&L agrees to waiver of the notice requirements and agrees to an ealier effective date of August 15, 1986.

Notice of Idaho Power's filing was published in the **Federal Register**,[5] with comments due on or before September 10, 1986.

PP&L filed a timely motion to intervene in Docket No. ER86-570-001. PP&L states that it is in general agreement that a uniform rate for non-firm transmisison service among ICP Agreement companies is desirable and does not wish to delay the implementation of such a uniform rate. However, PP&L contests the applicability of the ICP Agreement non-firm wheeling rate to wheeling provided by Idaho Power for PP&L through the Midpoint Substation. PP&L notes that it raised this issue previously in its appeal of staff action in Docket No. ER86-106-001. PP&L states that it agrees to waiver of the notice requirements and consents to an effective date of August 15, 1986 for Idaho Power's proposed ICP Agreement non-firm wheeling charge to PP&L, except as it relates to wheeling

[1] Untimely motions to intervene were also filed in Docket No. ER86-106-000 by the Montana Power Company (December 10, 1985); Portland General Electric Company (December 18, 1985); and Puget Sound Power & Light Company (March 25, 1986). We do not address those motions, as the letter order of December 10, 1985 terminated Docket No. ER86-106-000.

[2] *See* Attachment for rate schedule designations.

[3] 51 FR 25.243 (1986).

[4] *See* Attachment for rate schedule designations.

[5] 51 FR 31,361 (1986).

provided by Idaho Power for PP&L through the Midpoint Substation.

Discussion

Docket No. ER86-106-001

We shall deny PP&L's request that the Commission order Idaho Power not to charge PP&L for certain transactions involving facilities for which PP&L allegedly already compensates Idaho Power. PP&L claims that Idaho Power's charging its non-firm tariff rate for certain transactions involving PP&L will result in double recovery. The Commission cannot know at this time if there is any merit to this claim. The September 10, 1985 Tranmission Services Agreement is not currently on file with the Commission.[6] Moreover, PP&L failed to fully explain its concerns in a timely manner since it did not raise them in its motion to intervene, but rather, presented specific legal and factual quesitons for the first time in its appeal of staff action. Because PP&L's arguments were not before us, and based on the information available at the time, we permitted Idaho Power's rate changes to take effect on December 30, 1985 without exercising our suspension authority. The letter order of December 10, 1985, states that "[t]he filing of a petition appealing this action to the Commission or an application for rehearing as provided in section 313(a) of the Federal Power Act does not operate as a stay of any date specified in this letter except as specifically ordered by the Commission." Since we lack the authority to suspend a rate after it has become effective (*See* 18 CFR 2.4(a) (1986)), we cannot now change our earlier decision not to suspend and make the rate in Docket No. ER86-106-000 subject to refund. In any event, we find no compelling reason to change that decision since Idaho Power should not be forced to remain uncertain of the status of its rates because PP&L failed to fully explain its concerns in a timely manner. *See Minnesota Power & Light Company*, 22 FERC ¶ 61,315 (1983).[7]

We shall further deny PP&L's request for clarification of the December 10, 1985 order regarding the ICP Agreement. The transmittal letter accompanying Idaho Power's October 31, 1985 filing indicated an intent to bring Idaho Power's ICP wheeling rate in line with its non-firm tariff wheeling rate. The company complied with the procedural requirements set forth in section 8, by notifying the ICP parties of the proposed rate change and requesting their approval. Therefore, the letter order of December 10, 1985 accepting Idaho Power's tariff increase amended the ICP Agreement and altered the rates charged pursuant to that agreement.

Docket Nos. ER86-570-000 and ER86-570-001

We shall deem Idaho Power's filing in Docket No. ER86-570-001 to be an amendment to WWP's filing in Docket No. ER86-570-000; thus, both submittals are deemed completed on August 14, 1986.

We find that good cause exists to grant Idaho Power's untimely motion to intervene in Docket No. ER86-570-000, given the early stage of the proceeding and the lack of opposition by the other parties.

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 (1986)), the timely motion to intervene makes PP&L a party to the proceeding in Docket No. ER86-570-001.

We shall accept the ICP revisions submitted in Docket No. ER86-570-000 for WWP, Montana Power, PP&L, Portland, Puget, UP&L and Sierra for filing. Good cause is shown for waiver of the notice requirements. Therefore, the proposed rates shall become effective July 1, 1986. As to the ICP revisions submitted in Docket No. ER86-570-000 for Idaho Power, we shall permit the proposed rates to become effective on September 1, 1986, as requested.

We shall accept the ICP revisions submitted in Docket No. ER86-570-001 for filing. Good cause is shown for waiver of the notice requirements. Therefore, Idaho Power's proposed rates in Docket No. ER86-570-001, except for that portion which would be applied to wheeling provided by Idaho Power for PP&L through the Midpoint Substation, shall become effective August 15, 1986, not subject to refund. In light of the argument raised in PP&L's motion to intervene, we shall suspend for one day that portion of the submittal in Docket No. ER86-570-001 which would be applied to wheeling provided by Idaho Power for PP&L through the Midpoint Substation and permit it to become effective on October 15, 1985, subject to refund. We shall, furthermore, order a hearing for the purpose of addressing PP&L's applicability provision argument. We shall also order Idaho Power to file with the Commission the Transmission Services Agreement with PP&L within 30 days of the date of this order.

The Commission Orders

(A) PP&L's petition for appeal is hereby denied, as discussed above.

(B) Within thirty (30) days of the date of this order, Idaho Power shall file with the Commission the September 10,1980 Transmission Services Agreement with PP&L.

(C) Docket No. ER86-106-001 is hereby terminated.

(D) Idaho Power's untimely motion to intervene in Docket No. ER86-570-000 is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(E) The request for waiver of notice requirements in Docket No. ER86-570-000 is hereby granted for good cause shown.

(F) The submittal in Docket No. ER86-570-000, except as to Idaho Power, is hereby accepted for filing, without suspension or hearing, to become effective on July 1, 1986. As to Idaho Power, the submittal in Docket No. ER86-570-000 is accepted for filing, without suspension or hearing, to become effective on September 1, 1986.

(G) The request for waiver of notice requirements in Docket No. ER86-570-001 is hereby granted for good cause shown.

(H) The submittal in Docket No. ER86-570-001, except for that portion which would be applied to wheeling provided by Idaho Power for PP&L through the Midpoint Substation, is hereby accepted for filing, to become effective on August 15, 1986, without suspension or a hearing.

(I) That portion of the submittal in Docket No. ER86-570-001 which would be applied to wheeling provided by Idaho Power for PP&L through the Midpoint Substation is hereby accepted for filing, and is suspended for one day, to become effective on October 15, 1986, subject to refund.

(J) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and

[6] Insofar as PP&L may be suggesting that Idaho Power's tariff is not, for reasons other than the existence of the 1980 Transmission Services Agreement, applicable to service provided on its behalf, the company's argument is beyond the scope of the proceeding. In its filing of October 31, 1985, Idaho Power did not propose any revisions to the applicability provisions of its tariff, and none were accepted.

[7] PP&L is hereby put on notice that, in future, it should raise clearly any objections to a proposed rate filing in a timely motion to intervene. The Commission will not look favorably on parties who use the appeal process to supplement their interventions.

206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of that portion of Idaho Power's rates in Docket No. ER86-570-001 which would be applied to wheeling provided by Idaho Power for PP&L through the Midpoint Substation.

(K) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within forty-five (45) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Such conferences shall be held for purposes of establishing procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(L) Docket No. ER86-570-000 is hereby terminated.

(M) Docket No. ER86-570-001 is hereby terminated, and Docket No. ER86-570-002 is hereby assigned to the hearing ordered in Ordering Paragraph (J).

(N) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

Docket No. ER86-570—Rate Schedule Designations

Designation	Description
(1) *The Washington Water Power Company*, Supplement No. 4 to Rate Schedule FPC No. 87.	Revised nonfirm wheeling rates among ICP members.
(2) *Idaho Power Company*, Supplement No. 2 to Rate Schedule FPC No. 59.	Do.
(3) *Montana Power Company*, Supplement No. 2 to Rate Schedule FPC No. 37.	Do.
(4) *PacifiCorp/Pacific Power & Light Company*, Supplement No. 3 to Rate Schedule FPC No. 116.	Do.
(5) *Portland General Electric Company*, Supplement No. 3 to Rate Schedule FPC No. 27.	Do.
(6) *Puget Sound Power & Light Company*, Supplement No. 5 to Rate Schedule FPC No. 55.	Do.
(7) *Utah Power & Light Company*, Supplement No. 3 to Rate Schedule FPC No. 112.	Do.
(8) *Sierra Pacific Power Company*, Supplement No. 1 to Rate Schedule FERC No. 16.	Do.

[FR Doc. 86-23525 Filed 10-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-30-000]

Juniper Operating Co.; Petition for Adjustment

October 14, 1986.

Take notice that on August 11, 1986, Juniper Operating Company (Juniper) filed with the Federal Energy Regulatory Commission a petition for waiver of Btu refund obligations, resulting from the promulgation of Order Nos. 399,[1] 399-A,[2] and 399-B.[3]

In support of its petition, Juniper states that it was operator of the well from which sales were made to Liquid Energy Corporation. Further, Juniper states that although it was operator of the subject well it had no interest in the well. Also, Juniper states that the subject well was plugged and abandoned on September 12, 1984, and had been operating at a loss for several months prior to the plugging. Finally, Juniper states that it has been having difficulty contacting former owners of the subject well.

The procedures applicable to the conduct of this adjustment proceeding are set forth in Rules 1101-1117 (18 CFR 385.1101-385.1107 (1986)) of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment 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. 86-23526 Filed 10-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7756-003]

Surrender of Preliminary Permit; Marcal Paper Mills, Inc.

October 15, 1986.

Take notice that the Marcal Paper Mills, Incorporated, permittee for the Marcal Project No. 7756, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 7756 was issued on March 30, 1984, and would have expired on February 28, 1987. The project would have been located on the Little Androscoggin River, in Androscoggin County, Maine.

The permittee filed the request on October 1, 1986, and the preliminary permit for Project No. 7756 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23523 Filed 10-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-8-000]

Northern Natural Gas Company, Division of Enron Corp.; Tariff Filing

October 10, 1986.

Take notice that on October 7, 1986, Northern Natural Gas Company, Division of Enron Corp. (Northern) tendered the following tariff sheets to become a part of its FERC Gas Tariff, Third Revised Volume No. 1:

Original Sheet Nos. 52k, 52k.1 through 52k.10

Original Sheet Nos. 85s, 85s.1 through 85s.5

Original Sheet Nos. 85t, 85t.1 through 85t.5

Northern is filing to establish a new rate schedule, Rate Schedule XD-1, to provide qualifying shippers with an exchange and displacement service that is implemented under section 311 of the Natural Gas Policy Act. Rate Schedule XD-1 is one of several firm and interruptible transportation rate schedules that comprise Northern's open access transportation program proposed by Northern in its Offer of Settlement and Stipulation and Agreement of Settlement in Docket No. RP85-206 and agreed to by the parties therein.

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 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 October 17, 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

[1] 49 FR 37735 (September 26, 1984), FERC Stats & Regs. [Regs. Preambles 1982-1985] ¶ 30,597.

[2] 49 FR 46353 (November 26, 1984), FERC Stats. & Regs. [Regs. Preambles 1982-1984] ¶ 30,612.

[3] 50 FR 30141 (July 24, 1985), FERC Stats. & Regs. [Regs. Preambles 1982-1985] ¶ 30,651.

intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-23527 Filed 10-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI66-601-000 et al.]

TXP Operating Co.; Applicaton

October 14, 1986.

Take notice that on September 29, 1986, TXP Operating Company (TXPO), of P.O. Box 1396, Houston, Texas 77251, filed an application as successor in interest to Exchange Oil and Gas Corporation (EOG), pursuant to section 7 of the Natural Gas Act and § 157.23 *et seq.* of Subpart E of the regualtions of the Federal Energy Regulatory Commission (Commission), for a certificate of public convenience and necessity authorizing TXPO to render service previously authorized by the Commission in all the properties covered by EOG's certificates of public convenience and necessity issued in the dockets listed on the attached Exhibit "A", which is on file with the Commission and open to public inspection. TXPO also requests to be substituted for EOG in any proceedings related to such dockets pending before the Commission and redesignation of EOG's rate schedules listed in the attached Exhibit "A" as the rate schedules of TXPO.

On September 16, 1985, Transco Energy Investment Company (TEIC) purchased all of the issued and outstanding capital stock and business operation of Exchange Oil and Gas Corporation (EOG) pursuant to a Purchase Agreement among Transco and Georgia-Pacific Leasing Corporation and Geogria-Pacific Corporation. Effective as of September 30, 1985, TEIC assigned its interest in all of EOG assets owned by TEIC on that date to TXPO. As a result of such assignment, TXPO acquired all of the interests of EOG in the properties which are subject to the certificates of public convenience and necessity issued to EOG in the dockets listed on the attached Exhibit "A".

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 28, 1986, 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 proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Exhibit "A"

Field/State	Rate schedule No.	Certificate docket No.	Purchaser
Hell Hole Bayou, Vermilion Parish, LA.	3	CI66-601	Texas Gas Transmission.
Franklin Field, St. Mary Parish, LA.	4	CI67-219	Michigan-Wisconsin Pipeline.
West Cameron Block 17, Offshore, LA.	5	CI67-805	Michigan-Wisconsin Pipeline.
Twin Island, Cameron Parish, LA.	6	CI67-1364	Columbia Gas Transmission.
South Lake, St. Mary Parish, LA.	7	CI68-945	Michigan Wisconsin Pipeline.
Twin Island, Cameron Parish, LA.	9	CI68-1430	Trunkline Gas.
Vermilion Block 16 Field, Offshore, LA.	10	CI68-1397	Transcontinental Gas Pipe Line Corp.
Kings Ridge, LaFourche Parish, LA.	18	CI70-620	Southern Natural Gas.
East Lake Decade, Terrebonne Parish, LA.	19	CI72-106	Transcontinental Gas Pipe Line Corp.
Lake Campo (N. Black Bay), Plaquemine Parish, LA.	20	CI72-389	Southern Natural Gas.
South Valentine, LaFourche Parish, LA.	22	CI72-526	Columbia Gas Transmission.
Ship Shoal Block 23 Field, Offshore, LA.	24	CI72-839	Texas Gas Transmission.
Vermilion Block 16, Offshore, LA.	26	CI61-1162	Transcontinental Gas Pipe Line Corp.
South Valentine, LAFourche Parish, LA.	28	CI73-626	Columbia Gas Transmission.
Orange Grove, Terrebonne Parish, LA.	31	CI75-456	Transcontinental Gas Pipe Line Corp.
Bayou Piquant, Terrebonne Parish, LA.	32	CI75-724	Texas Gas Transmission.
Cameron Meadows, Cameron Parish, LA.	33	CI76-12	United Gas Pipeline.
Cameron Meadows, Cameron Parish, LA.	34	CI76-27	Columbia Gas Transmission.
Ship Shoal Block 23 Field, Offshore, LA.	35	CI77-242	Texas Gas Transmission.
Loisel, Iberia Parish, LA.	36	CI78-232	United Gas Pipeline.

[FR Doc. 86-23528 Filed 10-16-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-158-001]

United Gas Pipe Line Co.; Compliance Filing

October 10, 1986.

Take notice that on October 6, 1986, United Gas Pipe Line Company (United) submitted Substitute Fourth Revised Sheet No. 4-E and Substitute Original Sheet No. 48-C1 to its FERC Gas Tariff, First Revised Volume No. 1 in compliance with Ordering Paragraph (B) of the Commission's September 29, 1986 Order issued in the captioned proceeding. This compliance filing eliminates gathering costs in the reservation charge stated on Sheet No. 4-E and eliminates section 3(b)(1) of United's FTS Rate Schedule.

United states that the filing of these substitute sheets is being made under protest and without prejudice to its right to a determination of the appropriateness of the reservation charge and the allocation provisions of section 3(b)(1) of its FTS Rate Schedule.

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. All such motions or protests should be filed on or before October 17, 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. 86-23529 Filed 10-16-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Order Filed for Period of June 23 Through September 19, 1986

During the period of June 23 through September 19, 1986, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the

proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 9, 1986.

Pennzoil Company, Houston, Texas, KRO-0310 Crude Oil

On September 17, 1986, Pennzoil Company, 700 Milam Street, Houston, Texas 77101 filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration (ERA) issued to the firm on August 22, 1986. In the PRO the ERA found that during the period September 1976 through May 1977, Pennzoil misreported its crude oil receipts and runs to stills by excluding volumes of crude oil processed for a non-refiner. Alternatively, the PRO alleges that Pennzoil engaged in practices which resulted in the circumvention or contravention of the Entitlements Program. According to the PRO the violation resulted in $9,023,472 of overcharges.

[FR Doc. 86-23470 Filed 10-16-86; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decision and Order for Period of September 22 Through October 3, 1986

During the period of September 22 through October 3, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

October 9, 1986.

Perry Bros. Oil Co., Inc., Americus, Georgia, KEE-0027

Perry Bros. Oil Co., Inc. filed an Application for exception from the requirement to file Form EIA-821, entitled "Annual Fuel Oil and Kerosene Sales Report." On September 29, 1986, the Department of Energy issued a Proposed Decision and Order which determined that the exception request should be denied.

[FR Doc. 86-23471 Filed 10-16-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3096-4]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 or FTS 382-2712.

SUPPLEMENTARY INFORMATION:

Office of Administration and Resources Management

Title: Procurement Solicitations (RFPs and IFBs) (EPA ICR #1038). (Renewal of a previously approved ICR.)

Abstract: Federal Acquisition Regulations require the issuance of solicitation documents for acquisitions that exceed $25,000. Responses to these solicitations are the basis for EPA determining which offerors/bidders receive contract awards.

Respondents: Contract offerors and bidders.

Office of Pesticides and Toxic Substances

Title: FIFRA Sec. 24(c) Survey Questionnaire for State Special Local Needs Registrations (EPA ICR #1348). (This is a new collection under an existing regulation.)

Abstract: EPA will conduct a questionnaire-type survey of state agencies responsible for FIFRA Sec. 24(c) special local needs programs. The responses will enable EPA to determine if the agencies have the expertise necessary to review the type of 24(c) registrations being granted, and the adequacy of their written procedures. States will also be asked for a data base update of all active 24(c) registrations.

Respondents: State lead agencies.

Office of Solid Waste and Emergency Response

Title: Reporting on Accidental Release Causes and Preventive Techniques (EPA ICR #1331). (This is a new collection.)

Abstract: EPA is gathering information from fixed facilities on the causes and prevention of releases of hazardous substances in order to establish a data base to analyze trends and effects. Those facilities having releases that meet certain criteria will receive a letter requiring this information.

Respondents: Owners of hazardous waste facilities that have accidental spills or releases.

* * * * *

Agency PRA Clearance Requests Completed by OMB

EPA ICR #1262, Water Quality and Health Effects Associated with Shellfish Consumption, was approved 9/08/86 (OMB #2080-0025; expires 6/30/89).

EPA ICR #1344, Survey of Antifouling Paint Use at Boatyards and Shipyards,

was approved 9/26/86 (OMB #2070–0085; expires 10/31/87).

* * * * *

Comments on all parts of this notice may be sent to:

Patricia Minami, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223), Information and Regulatory Systems Division, 401 M Street SW., Washington, DC 20460.

and

Rick Otis (#1038) and Carlos Tellez (all others), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place NW., Washington, DC 20503.

Dated: October 9, 1986.

Daniel J. Fiorino,

Director, Information and Regulatory Systems Division.

[FR Doc. 86–23495 Filed 10–16–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3096–5]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements Filed October 6, 1986 Through October 10, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860413, Draft, IBR, SD, Central South Dakota Water Supply System, Agricultural Irrigation Plan, Pick-Sloan Missouri Basin Program, Due: January 2, 1987, Contact: John Lawson (406) 657–6164

EIS No. 860414, Final, BLM, ID, Eastern Idaho Planning Area, Hell's Half Acre, Hawley Mountain, Black Canyon, Cedar Butte, and Petticoat Peak Wilderness Study Areas, Wilderness Recommendation, Due: November 17, 1986, Contact: O'dell Frandsen (208) 529–1020

EIS No. 860415, Draft, EPA, PR, Arecibo, Ponce, Mayaquez, and Yabucoa Harbors, Ocean Dredge Material Disposal Sites, Designation, Due: December 15, 1986, Contact: Robert Witte (212) 264–5396

EIS No. 860416, Draft, AFS, AZ, Mount Graham Astrophysical Area Development, Approval and Management, Pinaleno Mountains, Coronado National Forest, Graham County, Due: January 20, 1987, Contact: R. B. Tippeconnic (602) 629–6483

EIS No. 860417, Final, COE, MO, Southeast Missouri Port Facility Construction, Mississippi River, Cape Girardeau and Scott Counties, Due: November 17, 1986, Contact: John Brady (314) 263–5711

EIS No. 860418, Draft, COE, CA, Pamo Dam and Reservoir Emergency Water Supply Project, Construction, Santa Ysabel Creek, San Diego County, Due: December 15, 1986, Contact: Joan Drake (213) 894–0245

EIS No. 860419, Final, AFS, UT, WY, Ashley National Forest, Land and Resource Management Plan, Due: November 17, 1986, Contact: Duane Tucker (801) 789–1181

EIS No. 860420, Draft, FHW, OR, I–5/Pacific Highway Improvement, Hayesville Interchange to Battle Creek Interchange, Marion County, Due: December 11, 1986, Contact: Dale Wilken (503) 399–5749

EIS No. 860421, Draft, AFS, WY, Bridger-Teton National Forest, Land and Resource Management Plan, Teton County, Due: February 6, 1987, Contact: Carl Pence (307) 733–2752

EIS No. 860422, FSuppl, USN, GA, Kings Bay Fleet Ballistic Missile Submarine Support Base, St. Marys Entrance Channel Dredging Program Modification, Camden County, Due: November 17, 1986, Contact: Peter Havens (202) 325–7344

Amended Notices

EIS No. 860356, Draft, FRC, ID, Salmon River Basin, Fifteen Hydroelectric Power Projects, Construction, Operation, and Maintenance, Licenses, Due: November 10, 1986, Published FR 9–5–86—Review period extended

EIS No. 860386, Draft, FWS, AK, Selawik National Wildlife Refuge, Comprehensive Conservation, Wilderness Review and Wild River Plan, Wilderness Recommendation, Kotzebue Sound, Due: December 24, 1986, Published FR 9–26–86—Review period extended

EIS No. 860387, Draft, FWS, AK, Nowitna National Wildlife Refuge, Comprehensive Conservation, Wilderness Review, and Wild River Plan, Wilderness Recommendations, Yukon River Valley, Due: December 24, 1986, Published FR 9–26–86—Review period extended

EIS No. 860385, Final, FWS, AK, Togiak National Wildlife Refuge Comprehensive Conservation Plan, and Wilderness Review, Wilderness Designation, Due: November 10, 1986, Published FR 9–26–86—Review period extended

EIS No. 860395, Final, BLM, UT, Warm Springs Resource Area, Resource Management Plan, Millard County, Due: November 10, 1986, Published FR 10–03–86—Review period reestablished.

Dated: October 14, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86–23519 Filed 10–16–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3096–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 29, 1986 through October 3, 1986 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. DS–COE–A36420–00, Rating LO, Tombigbee River and Tributaries, Luxapalila Creek, Phase 2 Channel Modifications, MS and AL. Summary: EPA's review revealed that the environmental consequences of the major design elements of this proposal were adequately addressed in the EIS. EPA hopes that the technical disagreements over mitigation between the Corps and the U.S. Fish and Wildlife Service will be resolved to the satisfaction of both parties.

ERP No. D–COE–B36025–VT, Rating EO2, Missisquoi River Flood Control Plan, VT. Summary: EPA has made a preliminary determination that the recommended plan may not comply with EPA's 404(b)(1) Guidelines under the Clean Water Act, and that the draft EIS does not fully comply with the requirements of NEPA. EPA believes that the project as proposed will cause substantial impacts to aquatic resources. Further, EPA believes the draft EIS is deficient in both its evaluation of these impacts and its analysis of reasonable alternatives. EPA requests that the Corps prepare a supplemental EIS to address the deficiencies identified in EPA's comment letter and give agencies and the public an opportunity to comment on the new information.

ERP No. D–COE–L01003–WA, Rating EO2, Grays Harbor Refinery Construction, Molybdenum Processing, Sect. 10 and 404 Permit, Chehalis and

Hoquiam Rivers, WA. Summary: EPA's major concern was that the draft EIS did not present an adequate alternatives analysis as required by NEPA and the EPA 404(b)(1) Guidelines. EPA requested that the split site alternative be thoroughly evaluated. EPA also recommended revision of the water quality discussion using the most recent ambient water quality criteria and the finalized new source performance standards for molybdenum refineries. EPA suggested that consideration be given to the synergestic effects on aquatic biota due to the mixture of metals in the refinery effluent. Finally, EPA suggested that the Department of Ecology/Corps of Engineers give serious consideration to preparing a revised Draft EIS so that the new information on alternatives and water quality impacts could be subjected to a full peer review.

ERP No. D–ERA–B08002–00, Rating LO, New England/Hydro-Quebec 450 kV Transmission Line Interconnection Phase II, Construction and Operation, 404 Permit, Amendment to Presidential Permit PP–76, NH and MA. Summary: From the standpoint of EPA's areas of jurisdiction and expertise, EPA does not object to the proposed project. However, mitigation of unavoidable wetland losses through creation of wetlands and enhancement of existing degraded wetlands within the transmission line rights-of-way or creation of wetlands offsite should be explored.

Final EISs

ERP No. F–COE–F40286–IL, North-South Tollway Construction, Fill Material Discharge, Lily Cache Creek and Du Page River, Sect. 404 Permit, IL. Summary: EPA's review resulted in no objections to the proposed action. Commendable wetland mitigation has been developed. EPA requested an opportunity to review a draft Record of Decision.

ERP No. F–FHW–D40124–PA, Industrial Highway/PA–291/LR 542 Improvement, Fourth and Price Streets, to Ridley Creek, PA. Summary: EPA's previous concerns have been adequately addressed and, thus, there is no further objection to the proposed project.

ERP No. F–FHW–L40148–OR, 185th Ave. Improvements, Rock Creek Blvd. to Tualatin Valley Hwy., 404 Permit, OR. Summary: The final EIS was unresponsive to the concerns EPA raised at the draft EIS stage. EPA identified water quality impacts associated with secondary commercial and secondary residential growth induced by the project. The final EIS did not evaluate the primary and secondary effects of the project on sewage overflows and urban runoff. EPA suggested a meeting with Washington County to resolve these issues before the Record of Decision is signed.

Regulations

ERP No. RR–DOI–A20022–00, 43 CFR Part 11, Natural Resource Damage Assessments, Type B Standard Procedures for Simplified Assessments Requiring Minimal Field Observations (51 FR 16636). Summary: EPA strongly supports an approach to obtain more appropriate compensation for injury to resources having significant ecological/intrinsic value. However, EPA believes that DOI's original approach and definition of special resources is too restrictive. At a minimum, the special resource definition should be broadened to include resources protected by federal or state administrative action, resources that are identified for special protection under international treaties to which the United States is a party, and multiple use resources. Trustees should also have the flexibility to determine on a case-by-case basis which resources are special even after a release has been detected.

Amended Notice

ERP No. F–COE–L35012–WA, Adoption of USN 1985 Final EIS—Puget Sound Region, Homeporting Project, Carrier Battleship Group, Construction and Operation, Sect. 10 and 404 Permit, WA. Summary: EPA made no formal comments. EPA's major concerns with the U.S. Navy's (USN) final EIS for the Puget Sound Carrier Battleship Group were in relation to the dredge and fill aspects of the project, and EPA recommended that the Corps of Engineers (COE) supplement the USN final EIS before issuing their 404 permit. EPA commented on the dredge and fill aspects of the project in comments provided to the COE on the draft supplemental EIS. Therefore, EPA has not objections to the COE adoption of the USN final EIS for this project.

Dated: October 14, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86–23520 Filed 10–16–86; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3097–1]

Advisory Committee Negotiating the Hazardous Waste Injection Restrictions Rulemaking; Open Meeting

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of an open, two-day meeting of the Advisory Committee negotiating hazardous waste injection restrictions.

The meeting will be held on Wednesday and Thursday, November 5 and 6, 1986, at The Conservation Foundation, 1255 23rd Street, NW., First Floor Library, Washington, DC. Each day, the meeting will start at 9:30 a.m. and will run until 5:00 p.m. The purpose of the meeting is to continue examining regulatory options and working on the substantive issues which the Committee has identified for resolution.

If interested in receiving more information, please contact Kathy Tyson at (202) 382–5352.

Dated: October 10, 1986.

John M. Campbell,

Acting Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 86–23559 Filed 10–16–86; 8:45 am]

BILLING CODE 6560–50–M

[FRL–3096–9]

Advisory Committee Negotiating Regulations Governing Major and Minor Modifications of Resource Conservation and Recovery Act (RCRA) Permits; Open Meeting

As required by section 9(a)(2)of the Federal Advisory Committee Act (Pub. L. 92–463), we are giving notice of an open meeting of the Advisory Committee negotiating regulations governing major and minor modifications of Resource Conservation and Recovery Act (RCRA) permits.

The meeting will be held on Tuesday, November 4, 1986, at The National Institute for Dispute Resolution, 1901 L Street, N.W., Suite 600, Washington, D.C. The meeting will start at 8:30 a.m. and will run until 4:00 p.m. The purpose of the meeting is to continue working on the substantive issues which the Committee has identified for resolution, including categorization, permit application requirements, and modifications involving new waste streams, new capacities, and new processes.

If interested in receiving more information, please contact Kathy Tyson at (202) 382–5352.

Dated: October 10, 1986.

John M. Campbell,

Acting Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 86–23560 Filed 10–16–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. 3507.

Copies of this submission may be purchased from the Commission's duplicating contractor, International Transcription Service, 2100 M Street NW., Suite 140, Washington, DC 20037, telephone (202) 857–3800. Persons wishing to comment on this information collection should contact J. Timothy Sprehe, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, telephone (202) 395–4814. For further information contact Doris Benz, Federal Communications Commission, telephone (202) 632–7513.

OMB No.: 3060–0089
Title: Application for Land Radio Station License in the Maritime Services
Form No.: FCC 503
Action: Revision
Estimated Annual Burden: 2,923 Responses; 2,923 Hours.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 86–23515 Filed 10–16–86; 8:45 am]
BILLING CODE 6712-01-M

[Report No. CL–87–1]

Common Carrier Public Mobile Services Information; Mobile Services Division Releases Guidance Regarding Questions of Real Party in Interest and Transfers of Control for Cellular Applications in Markets Beyond Top 120

October 2, 1986.

In the course of reviewing applications submitted by tentative selectees for cellular licenses in Markets 121 and beyond, recurring questions have arisen concerning the issues of real party in interest and unauthorized transfers of control.

These questions have arisen as a result of arrangements by some of the tentative selectees to obtain services from another company to finance, design, construct, operate and manage the proposed cellular system. In some circumstances such company has the option to purchase controlling interest of the tentative selectee within a set period of time. In other situations the financing is contingent upon the financing entity being allowed to provide all or many of the above components.

The tentative selectees that present these proposals for the most part indicated that any term found not to be in compliance with the Commission's rules will be deleted or modified accordingly.

We are concerned that by entering into one of these arrangements a tentative selectee may have divested itself of substantial responsibility and control of its proposed facility in violation of section 310 of the Communications Act of 1934, as amended. We had indicated in *Guidelines for Settlements and Changes in Ownership of Cellular Systems*, Public Notice of March 24, 1986, p.2, n.1, that:

> Ownership changes involving a party who was not an applicant in the market involved, or who did not acquire its ownership share through an eligible trade, must be evaluated on a case-by-case basis to determine whether a substantial change of ownership has taken place, under the body of case law governing changes in ownership and control. . . . Other factors, such as relative interests of other parties, practical day-to-day control, and the relationships of the parties to each other and to the company's business must be considered.

To facilitate our processing of applications and to guide future applicants, we are issuing the following guidelines.

A Commission licensee must at all times have control of and responsibility for its facility. To determine who has control of a proposed facility the Commission will examine the following factual questions:

1. Does the licensee have unfettered use of all facilities and equipment?
2. Who controls daily operations?
3. Who determines and carries out the policy decisions, including preparing and filing applications with the Commission?
4. Who is in charge of employment, supervision and dismissal of personnel?
5. Who is in charge of the payment of financing obligations, including expenses arising out of operating? and
6. Who receives monies and profits derived from the operation of the facilities?

See, Intermountain Microwave, 94 Rad. Reg. (P&F) 983, 984 (1963).

Where the answers to these questions are such as to indicate that the tentative selectee has given up control of the facilities, its application may be rejected on real party in interest or unauthorized transfer of control grounds. However, since it appears that applicants may have been uncertain as to what the standards concerning these arrangements are, and since we have not previously delineated what provisions would be acceptable, we will permit all tentative selectees in Markets 121 and beyond to file amendments to assure that the arrangement that they propose fully complies with section 310 of the Act, as well as Commission policy. Amendments may include modification of one or more of the elements of the proposed arrangement; however, in no event would the tentative selectee be permitted to provide a new source of financing. Amendments shall be filed within thirty (30) days of this Public Notice.

For further information please contact Gerald M. Goldstein at (202) 632–6444.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 86–23516 Filed 10–16–86; 8:45 am]
BILLING CODE 6712-01-M

Weekly Emergency Broadcast System (EBS) Test Script Change

October 8, 1986.

The Commission recently received a request from radio station WLIF, Baltimore, Maryland, for permission to substitute station call letters in the portions of the weekly EBS testr script worded "this station."

After review of this matter by the staff and a favorable recommendation from the Chairman of the Maryland State Emergency Communications Committee, the Commission finds that granting of the request would better serve the public interest. Therefore, all broadcast stations now have the option of either using the present weekly EBS test script, or substituting their call letters (as authorized in their FCC license) in the portions of the weekly tese script worded "this station."

The EBS Checklist is amended to show the above change, and reads as follows:

Broadcast Announcement

This is a test. This station (optional—insert station call letters) is conducting a test of the Emergency Broadcast System. This is only a test.

Transmit Attention Signal

Broadcast the two-tone Attention Signal (See § 73.906 of the FCC Rules) for from 20 to 25 seconds.

Broadcast Announcement

This is a test of the Emergency Broadcast System. The broadcasters of your area in

voluntary cooperation with Federal, State and local authorities have developed this system to keep you informed in the event of an emergency. If this had been an actual emergency, the Attention Signal you just heard would have been followed by official information, news or instructions. This station (optional—insert station call letters) serves the (operational area name) area. This concludes this test of the Emergency Broadcast System.

All stations are reminded that they must perform this test a minimum of once a week at random days and times between 8:30 A.M. and local sunset, unless they have participated in a state or local EBS activation or coordinated test during the test week period.

For additional information, contact Management Planning & Program Evalualtion Office, (202) 632-3906.

Federal Communication Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-23517 Filed 10-16-86; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1623]

Petitions for Reconsideration and Clarification and Applications for Review of Actions in Rulemaking Proceedings

October 8, 1986.

Petitions for reconsideration and clarification and applications for review have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e) and 1.115. The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800). Oppositions to these petitions and applications must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of the Exemptions in Subpart J of Part 15 of the Commission Rules for controlling the Interference Potential of Computers and Similar Electronic Equipment. (Gen 84-801, RM-4246) Number of petitions received: 1

Subject: Amendment of Part 97 of the Commission's Rules to Permit Volunteer-Examiner Coordinators (VEC's) to Maintain Pools of Questions for Amateur Operator Examinations. (PR Docket No. 85-196) Number of petitions received: 5

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Top Sail Beach and Wilmington, North Carolina) (MM Docket No. 86-27, RM's 5157 and 5364) Number of petitions received: 1

Subject: Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Gary, Indiana) (MM Docket No. 86-80, RM-5303) Number of petitions received: 1

Applications for Review

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (San Clemente, California) (MM Docket No. 84-442, RM-4724) Number of applications received: 2

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-23518 Filed 10-16-86 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of Information Collection: Consolidated Reports of Condition and Income (insured State Nonmember Commercial Banks) (OMB No. 3064-0052).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget Standard Form 83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 and to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, DC 20429.

Comments: Comments on this collection of information should be submitted on or before November 3, 1986.

SUMMARY: The FDIC is requesting OMB approval to extend, for a three-year period, the expiration date of the quarterly Consolidated Reports of Condition and Income (Call Reports) filed by insured state nonmember commercial banks. The OMB clearance for the collection expires on January 31, 1987. There is no change in the method or the substance of the collection.

Section 7 of the Federal Deposit Insurance Act requires all insured commercial banks to file four reports of condition and income each year with their primary Federal bank regulatory authority, either the FDIC, the Office of the Comptroller of the Currency (OCC) or the Board of Governors of the Federal Reserve System (FRB). Insured state nonmember commercial banks submit these reports to the FDIC.

The reporting requirements of the Call Reports for insured commercial banks are jointly developed by the Reports Task Force of the Federal Financial Institutions Examination Council (FFIEC) representing the Federal bank regulatory agencies. The Call Reports are used by the FDIC, the OCC and the FRB both on an individual bank basis and in aggregate form for supervisory/surveillance, regulatory, research/statistical, and informational purposes. Extensive use is made of the Call Reports for off-site monitoring and surveillance of banks. It is estimated that 815,658 hours are spent annually by insured state nonmember commercial banks, collectively, in preparing Call Reports.

Dated: October 10, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-23461 Filed 10-16-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL LABOR RELATIONS AUTHORITY

Federal Employees; Testing of Employees in Certain Occupational Categories To Discover Positive Indicators of Drug Abuse, 5 U.S.C. 7101, et seq.

ACTION: Notice of extention of time for the submission of *amicus* briefs on the negotiability of Union proposals relating to various aspects of agency initiated testing of civilian employees to identify drug use: Extension until January 20, 1987.

SUMMARY: On August 22, 1986, the Federal Labor Relations Authority published notice of the opportunity for all interested parties to file *amicus* briefs by October 22, 1986, in certain proceedings involving the negotiability

of various proposals relating to the testing of civilian employees to identify drug use. 51 FR 30124. Subsequently on September 15, 1986, President Reagan issued Executive Order 12564, requiring a drug-free Federal workplace. In section 3 of the Executive Order, the President directed the head of each agency to establish mandatory and voluntary drug testing programs for agency employees and applicants.

On October 3, 1986, the General Counsel of the United States Office of Personnel Management ("OPM"), and the Assistant Attorney General, Civil Division, Department of Justice, jointly requested the Authority to extend the time for the Executive Branch to submit its views on the negotiability of agency-initiated drug testing of federal employees for ninety days, or until January 20, 1987.

The basis for this request is that under section 6 of Executive Order 12564, the Office of Personnel Management shall, among other things, issue government-wide guidance to agencies on the implementation of the terms of the Order. Further, under section 6(b) of the Order, "The Attorney General shall render legal advice regarding the implementation of this Order and shall be consulted with regard to all guidelines, regulations, and policies proposed to be adopted pursuant to this Order."

The Authority has provided informational copies of the joint OPM/Department of Justice motion to the parties to the cases cited in the August 22, 1986, solicitation of *amicus* briefs.

Executive Order 12564 and the implementation of its provisions by the various agencies responsible for taking actions thereunder have significant implications for the resolution of the matters pending before the Authority and future cases coming before the Authority. Accordingly, the Authority has determined to extend the time for filing *amicus* briefs until January 20, 1987. Persons and organizations which have already filed *amicus* briefs may supplement or replace those filings within the extended time limit.

FOR FURTHER INFORMATION CONTACT: Harold Kessler, Director of Case Management, 500 C Street, Room 238, Washington, DC 20424; (202) 382-0715.

Dated: October 15, 1986

For the Authority.

Harold D. Kessler,

Acting Executive Director.

[FR Doc. 86-23580 Filed 10-16-86; 8:45 am]

BILLING CODE 6727-01-M

FEDERAL RESERVE SYSTEM

Southern National Corp. 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 November 6, 1986.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern National Corporation,* Lumberton, North Carolina; to merge with First Palmetto Bancshares Corporation, Columbia, South Carolina, and thereby indirectly acquire First Palmetto State Bank and Trust Company, Columbia, South Carolina.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *BMR Bancorp, Inc.,* Atlanta, Georgia; to merge with Toombs Bank Shares, Inc., Vidalia, Georgia, and thereby indirectly acquire Brice Banking Company, Vidalia, Georgia.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Illinois Marine Bancorp, Inc.,* Elmhurst, Illinois; to acquire 100 percent of the voting shares of Colonial Bancorporation, Inc., Peru, Illinois, and thereby indirectly acquire Colonial Trust and Savings Bank of Bureau County, Princeton, Illinois, and Colonial Trust and Savings Bank, Peru, Illinois.

2. *Unibancorp, Inc.,* Chicago, Illinois; to acquire at least 95.62 percent of the voting shares of DuPage County Bank of Glendale Heights, Glendale Heights, Illinois. Comments on this application must be received by November 5, 1986.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Financial Banchares, Inc.,* St. Louis, Missouri, and Schmid Brothers Investment Company, Inc., Clayton, Missouri; to acquire at least 89 percent of the voting shares of Oran State Bank, Oran, Missouri.

E. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Houghton Financial, Inc.,* Houghton, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Houghton National Bank, Houghton, Michigan. Comments on this application must be received by November 5, 1986.

F. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Gulfbanks, Inc.,* Corpus Christi, Texas; to acquire 100 percent of the voting shares of Security State Bank of Portland, Portland, Texas.

G. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1 *Hemet Bancorp,* Hemet, California; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Hemet, Hemet, California.

Board of Governors of the Federal Reserve System, October 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23460 Filed 10-16-86; 8:45 am]

BILLING CODE 6210-01-M

The Sumitomo Bank, Ltd., et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of

Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, the outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 5, 1986.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Sumitomo Bank, Ltd.*, Osaka, Japan; to acquire JAIS-California, San Francisco, California, and thereby engage in joint venture data processing activities pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities will be conducted in the State of California.

Board of Governors of the Federal Reserve System, October 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23459 Filed 10-16-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Consumer Protection Appliance Energy Labeling; Information Collection Requirement

AGENCY: Federal Trade Commission.

ACTION: Notice of application to OMB under the Paperwork Reduction Act, 44 U.S.C. 3507, for clearance of information collection requirements contained in an amendment to the Appliance Energy Labeling Rule, 16 CFR Part 305. An amendment of the existing clearance, OMB control No. 3084-0069, has been requested.

SUMMARY: The Appliance Energy Labeling Rule, which implements Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6291, *et seq.*, requires manufacturers and importers of major energy-consuming appliances to disclose energy information to consumers by means of point-of-sale labels. The amendment extends the labeling requirement to air conditioners and heat pumps.

DATE: Comments on this application must be submitted on or before November 17, 1986.

ADDRESS: Send comments to Mr. Don Arbuckle, FTC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503. Copies of the application may be obtained from Public Reference Branch, Room 130, Federal Trade Commission, Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: James G. Mills, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, DC 20580, (202) 376-8934.

By direction of the Commission.

Emily H. Rock,

Secretary

[FR Doc. 86-23535 Filed 10-16-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; November Meetings

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration, HHS.

ACTION: Notice of meetings.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of the agency's initial review committees. These committees will be open for discussion of administrative announcements and program developments. The committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92-463.

Committee Name: Biological and Neurosciences Subcommittee of the Mental Health Research Education Review Committee, NIMH

Date and Time: November 6-7: 9:00 a.m.

Place: Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20814

Status of Meeting:

Open—November 6: 9:00-10:00 a.m.

Closed—Otherwise

Contact: Shirley Maltz, Room 9C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3936

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the area of biological sciences related to mental health with recommendations to the National Advisory Mental Health Council for final review.

Committee Name: Epidemiology Subcommittee of the Epidemiologic and Services Research Review Committee, NIMH

Date and Time: November 12-14: 9:00 a.m.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, Virginia 22209

Status of Meeting:

Open—November 12: 9:00-10:00 a.m.

Closed—Otherwise

Contact: Gloria Yockelson, Room 9C14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services with recommendations to the National Advisory Mental Health Council for final review.

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members may be obtained as follows: NIMH: Ms. Joanna Kieffer, Committee Management Officer, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Dated: October 10, 1986.

Brenda L. Williamson,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 86-23454 Filed 10-16-86; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Antibiotic-Resistant Gonorrhea in the United States; Open Meeting

The Division of Sexually Transmitted Diseases (DSTD), Center for Prevention Services (CPS), Centers for Disease Control (CDC), Atlanta, Georgia, will sponsor a meeting to discuss antibiotic-resistant gonorrhea in the United States. Attendance by the public will be limited to the space available.

Date: December 2–3, 1986
Time: 8:00 a.m.–4:30 p.m.
Place: Centers for Disease Control, Building 1, Room 1003, 1600 Clifton Road, NE., Atlanta, Georgia 30333
Additional information may be obtained from: Mr. Peter Crippen, Program Services Branch, DSTD, CPS, CDC, Atlanta, Georgia 30333. Telephones: FTS: 236–1275. Commercial: (404) 329–1275.

Dated: October 10, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86–23448 Filed 10–16–86; 8:45 am]

BILLING CODE 4160–18–M

Injury Research Grant Review Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee act (Pub. L. 92–463), the Centers for Disease Control announces the following Committee meeting:

Name: Injury Research Grant Review Committee.
Dates: November 3–6, 1986
Place: Hotel Tower Place, 3340 Peachtree Road, N.E., Atlanta, Georgia 30026
Time: 8:30 a.m. — 5:00 p.m.
Type of Meeting: Open 8:30 a.m. — 9:45 a.m., November 3, 1986. Closed 1:00 a.m., November 3 — 5:00 p.m., November 6, 1986
Contract Person: Mark L. Rosenberg, M.D., Executive Secretary of the Committee, Center for Environmental Health, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, GA 30333, Telephone: FTS: 236–4542. Commercial: (404) 454–4542
Purpose: This Committee is charged with advising the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, Centers for Disease Control, regarding the scientific merit and technical feasibility of grant applications relating to the support of injury control research and demonstration projects and injury prevention research centers.
Agenda: Agenda items for the meeting will include announcements, discussion of review procedures, future meeting dates, and review of grant applications. Beginning at 10:00 a.m., Monday, November 3, through 5:00 p.m., Wednesday, November 6, the Committee will conduct its review of grant applications. This portion of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination of the Director, Centers for Disease Control, pursuant to Pub. L. 92–463.

Agenda items are subject to change as priorities dictate.

Dated: October 10, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86–23450 Filed 10–16–86; 8:45 am]

BILLING CODE 4160–18–M

Fall Hazards Associated With Erection of Painted Steel Structural Members; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: November 20, 1986
Time: 10 a.m.–3 p.m.
Place: Room 138–B, Appalachian Laboratory for Occupational Safety and Health, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505
Purpose: To discuss a study to be conducted by the University of Oklahoma pursuant to a contract with NIOSH. This study is to correlate quantitative measurements of the coefficient of friction of painted structural steel members, under various conditions, with the subjectively determined workers' acceptability of slipperiness. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.
Additional information may be obtained from: Ronald Stanevich, Division of Safety Research, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505–2888, Telephones: FTS: 923–4531. Commercial: 304/291–4531

Dated: October 10, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86–23449 Filed 10–16–86; 8:45 am]

BILLING CODE 4160–19–M

Food and Drug Administration

[Docket No. 86F–0362]

Betz Laboratories; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Betz Laboratories has filed a petition proposing that the food additive regulation for boiler water additives be amended to provide for the safe use of a copolymer of methacrylic acid and acrylic acid as an active polymer in boiler water.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–5487.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6A3957) has been filed on behalf of Betz Laboratories, Somerton Rd., Trevose, PA 19047, proposing that § 173.310 *Boiler water additives* (21 CFR 173.310) be amended to provide for the safe use of a copolymer of methacrylic acid and acrylic acid as an active polymer in boiler water.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 3, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–23451 Filed 10–16–86; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

General Hospital and Personal Use Devices Panel

Date, time, and place. November 3, 9 a.m., Rm. 503A, Hubert H. Humphrey

Bldg., 200 Independence Ave. SW. Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 11 a.m.; closed peresentation of data, 11 a.m. to 12 m.; closed committee deliberations, 1:30 p.m. to 2:30 p.m.; open committee discussion, 2:30 p.m. to 4 p.m.; Andrea A. Wargo, Center for Devices and Radiological Health (HFZ–420), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before October 27, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss safety and effectiveness data for a programmable implantable infusion pump.

Closed presentation of data. Trade secret and/or confidential commercial information will be presented to the committee regarding materials, computer software, and manufacturing information. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee will discuss trade secret and/or confidential commercial information on materials, computer software, and manufacturing information. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Radiologic Devices Panel

Date, time, and place. November 24, 9 a.m., Rm. 416, 12720 Twinbrook Parkway, Rockville, MD.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 11 a.m.; closed committee deliberations, 11 a.m. to 12 a.m.; open committee discussion, 1 p.m. to 4:30 p.m.; Robert Phillips, Center for Devices and Radiological Health (HFZ–430), Food and Drug Administration, 8757 Georgia Ave, Silver Spring, MD 20910, 301–427–7514.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or veiws, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 17, and submit a brief statement of the general nature of the evidence or agruments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss premarket approval applications for magnetic resonance imaging devices. The committee will also discuss the requirements for reclassification of devices and generalized requirements for magnetic resonance imaging device premarket approval applications.

Closed committee deliberations. The committee may discuss trade secret and/or confidential commercial information relevant to premarket approval applications for magnetic resonance imaging devices. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's descretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in

certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: October 10, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86–23452 Filed 10–16–86; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), **Federal Register**, Vol. 51, No. 138, pg. 26060–26062, dated Friday, July 18, 1986) is amended to reflect a revision to the Division and Medicare Payments II functional statement. This change will emphasize the financial analysis responsibilities of the division and will help distinguish the difference in functions between the two Medicare Payments Divisions in the Office of Financial Management, Office of Prepaid Health Care.

The specific changes are:

• Section FC.20.D.3., Division of Medicare Payments II, is deleted in its entirety and replaced by a new functional statement for the division to read as follows:

3. Division of Medicare Payments II (FCC3).

Responsible for all activities which involve Medicare prepaid health plan accounting policy implementation and payments for Regions VI through X. Reviews and approves Adjusted Community Rate (ACR) proposals for contractor reimbursement on a risk basis as set out under the Tax Equity and Fiscal Responsibility Act. Provides training for "risk" contractors on the technicalities of ACR determinations. Conducts onsite visits to review contractors' documentation for ACR computations and the overall assessment of contractors' accounting operations. Renders technical guidance, coordinates appeals, and provides assistance concerning prepayment plan cost reimbursement and audit. Recommends new procedures to improve operations, such as guidelines for targeting prepaid health plan audits. Coordinates payment policy formulation with the Bureau of Program Policy and the Office of the Actuary. Reviews health maintenance organizations' annual budget and enrollment forecasts, quarterly cost reports, and final cost reports. Prepares information for sending requests for proposals to independent certified public accounting (CPA) firms, reviews audit reports from CPA firms, and negotiates settlement of audit exceptions with prepaid health plans. Develops and maintains reimbursement forms and manuals, and inteprets reimbursement policy applicable to individual accounting situations. Determines interim payments due prepaid health plans, schedules payments accordingly, and maintains records of payments made. Reviews and analyzes national data on an ongoing basis for the purpose of monitoring prepaid health care in the areas of plan enrollment and payments. Develops and implements an ongoing analysis and review of operational/policy areas that impact upon the office's financial operations.

Dated: September 26, 1985.

Bartlett S. Fleming,

Associate Administrator for Management and Support Services.

[FR Doc. 86–23477 Filed 10–16–86; 8:45 am]

BILLING CODE 4120–03–M

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration, (**Federal Register**, Vol. 49, No. 133, pg. 28120, dated Tuesday, July 10, 1984 and **Federal Register**, Vol. 48, No. 3, dated Wednesday, January 5, 1983), is amended to reflect a change in the organizational structure of the Office of Coverage Policy (OCP), Bureau of Eligibility, Reimbursement and Coverage, Office of the Associate Administrator for Program Development. OCP is being reorganized to reflect additional responsibilities and the consolidation of all currently fragmented aspects of coverage policy pertaining to providers and suppliers of services. The Division of Provider and Supplier Standards (DPSS) will be abolished. The function of DPSS will be divided among the remaining two divisions, the Division of Medical Services Coverage Policy and the Division of Provider Services Coverage Policy.

The specific amendments to Part F. are described below:

• Section FQ.20.3.Q, Division of Provider Services Coverage Policy (FQA71), is deleted in its entirety and replaced by the following:

a. Division of Provider Services Coverage Policy (FQA71).

Develops, evaluates, and reviews national policies and standards concerning the coverage of services and the conditions of participation under Medicare, Medicaid, and other Federal programs for hospitals, skilled nursing facilities (SNFs), intermediate care facilities (ICFs), Christian Science Sanitoriums, home health agencies (HHAs), hospices, and other providers of services. Develops, evaluates, and reviews national policies concerning the coverage of mental health, alcoholism and drug treatment, medical day care, family planning, sterlization, abortion and teenage pregnacy, early and periodic screening, diagnois and treatment (EPSDT), personal care and Indian health services, utilization review, physician certification and prior authorization requirements, and the

comparability of service and state-wideness requirements under the Medicaid program. Develops, evaluates, and reviews national policies and standards concerning States' requests for waivers of Medicaid requirements to provide home and community-based services, and reviews requests from individual States for such waivers to determine whether they should be approved or disapproved. Develops, evaluates, and reviews national policies concerning Medicaid contracts and interagency agreements, and coordinates HCFA program coverage policies and Peer Review Organization (PRO) requirements. Develops, evaluates, and reviews national policies concerning the amount, duration, and scope of services. Reviews related State plan amendment requests under Medicaid. Develops, evaluates, and reviews regulations, guidelines, and instructions required for the dissemination of program policies to program contractors, State agencies, and the health care field. Identifies, studies, and makes recommendations for modifying HCFA program coverage polices and providers' health and safety standards to reflect changes in beneficiary health care needs, program objectives, and the health care delivery system. Analyzes and recommends legislative or other remedies to improve coverage, health and safety, and utilization effectiveness. Coordinates with other components responsible for health and safety standards, program operations, and quality control, professional groups and standard setting organizations, and with other parties and individuals, as appropriate.

• Section FQ.20.A.3.b., Division of Medical Services Coverage Policy (FQA72) is deleted in its entirety and replaced by the following:

b. Division of Medical Services Coverage Policy (FQA72)

Develops, evaluates, and reviews national policies and health and safety standards concerning the coverage of items and services which are provided by physicians (including hospital-based and teaching physician services and resident and intern services), nonphysician practitioners, ambulatory surgical centers (ASCs) health maintenance organizations (HMOs), comprehensive medical plans, rural health clinics (RHCs) comprehensive outpatient rehabilitation facilities (CORFs), outpatient physical therapy/outpatient speech pathology (OPT/OSP) providers, and other alternative health care organizations. Develops, evaluates, and reviews national policies and heath and safety standards concerning the coverage of medical and other health servcies including supplies, drugs, rehabilitation services, eyeglasses, laboratory services, x-ray services, ambulance and other transportation services, and second opinions, new and unusual items and services, dialysis and transplant services for Medicare beneficiaries with End-Stage Renal Disease (ESRD), and those medical items and services which are excluded from coverage. Reviews related State plan amendment requests under Medicaid. Develops, evaluates, and reviews national policies concerning the amount, duration, scope, reasonableness, and necessity for services. Develops, evaluates, and reviews regulations, guidelines, and instructions required for the dissemination of program policies to program contractors, State agencies, and the health care field. Identifies, studies, and makes recommendations for modifying HCFA program coverage policies to reflect changes in beneficiary health care needs, program objectives, and the health care delivery system. Analyzes and recommends legislative or other remedies to improve coverage, health and safety, and utilization effectiveness. Coordinates with other components responsible for health and safety standards, program operations, quality control, and other parties and individuals, as appropriate.

Section FQ.20.A.3.C., Division of Provider and Supplier Standards (FQA73), is deleted in its entirety.

Dated: September 25, 1986.

Bartlett S., Fleming,

Associate Administrator for Management and Support Services.

[FR Doc. 86-23476 Filed 10-16-1986; 8:45 am]

BILLING CODE 4120-03-M

Public Health Services

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of 3-Chloro-2-methylpropene

The HHS' National Toxicology Program today announces the availability of the Technical Report describing the toxicology and carcinogenesis studies of 3-chloro-2-methylpropene, used as an intermediate for the production of plastics, pharmaceuticals, and other organic chemicals and as an insecticide and fumigant for grains, tobacco and soil.

Toxicology and carcinogenesis studies of technical grade 3-chloro-2-methylpropene (containing 5% dimethylvinyl chloride) were conducted by administering the chemical in corn oil by gavage to groups of 50 male and 50 female rats at doses of 0, 75, or 150 mg/kg body weight 5 days per week for 103 weeks. Groups of 50 male and 50 female mice received 3-chloro-2-methylpropene at 0, 100, or 200 mg/kg on the same schedule. Dose-related incidences of basal cell or epithelial hyperplasia of the forestomach and of squamous cell papillomas of the forestomach were observed in rats and mice of each sex; squamous cell carcinomas of the forestomach were observed in high dose male rats and in all dosed groups of mice.

Under the conditions of these 2-year gavage studies, there was clear evidence of carcinogenicity [1] for 3-chloro-2-methylpropene as shwon by the increased incidences of squamous cell neoplasms in the forestomach of male and female F344/N rats and of male and female B6C3F$_1$ mice.

Copies of *Toxicology and Carcinogenesis Studies of 3-Chloro-2-methylpropene in F344/N Rats and B6C3F$_1$* Mice (Gavage Studies) (TR 300) are available without charge from the NTP Public Information Office, MD B2-04, P.O. Box 12233, Research Triangle Park NC 27709. Telephone: (919) 541-3991. FTS: 629-3991.

Dated: October 9, 1986.

David P. Rall,

Director.

[FR Doc. 86-23566 Filed 10-16-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Reestablishment of the National Earthquake Prediction Evaluation Council

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is reestablishing the National Earthquake Prediction Evaluation Council. The purpose of the Council shall be to evaluate predictions made by scientists not on the Council including both Government and non-Government

[1] The NTP uses five categories of evidence of carcinogenicity to summarize the strength of the evidence observed in each animal study: two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

scientists and to advise the Director of the Geological Survey as a basis for his deciding whether to issue a prediction or take other action pertinent to the potential for the occurrence of a future significant earthquake.

Further information regarding the Council may be obtained from the Director, U.S. Geological Survey, Department of the Interior, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

The certification of reestablishment is published below.

Certification

I hereby certify that reestablishment of the National Earthquake Prediction Evaluation Council is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 16 U.S.C. *et seq.*, and 16 U.S.C. 431, *et seq.*

Note.—This notice must be published in the Federal Register at least 15 days prior to the filing of the committee charter with the appropriate committees of Congress. The committee may not meet or take action prior to the time the charter is filed.

Dated: October 3, 1986.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 86-23416 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Plan for the Use and Distribution of the White Earth Band of the Minnesota Chippewa Tribe Judgment Funds

AGENCY: Bureau of Indian Affiars, Interior.

ACTION: Notice. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

EFFECTIVE DATE: This Plan was effective as of September 8, 1986.

FOR FURTHER INFORMATION CONTACT: Terry Lamb, Historian, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Code 440B, 31-SIB, 1951 Constitution Ave. NW., Washington, DC 20245.

SUPPLEMENTARY INFORMATION: The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on May 17, 1985, in satisfaction of the award granted to the White Earth Band of the Minnesota Chippewa Tribe before the United States Claims Court in Docket 188. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated May 12, 1986 and was received (as recorded in the Congressional Record) by the Senate on May 19, 1986, and by the House of Representatives on May 13, 1986. The plan became effective on September 8, 1986 as provided by the 1973 Act, as amended by Pub. L. 97-458, since a joint resolution disapproving it was not enacted. The plan reads as follows:

Plan

To Provide for the Use of the Chippewa Indians of the White Earth Reservation Judgment Funds in Docket 188 Before the United States Claims Court

The funds appropriated on May 17, 1985 in satisfaction of the award granted to the Chippewa Indians of the White Earth Reservation in Docket 188 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be invested by the Secretary of the Interior. The principal, interest, and investment income accrued shall be available for use by the tribal governing body on a budgetary basis, subject to the approval of the Secretary, for tribal administration and program support.

General Provisions

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources, nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted program.

Ronald L. Esquerra,

Deputy to the Assistant Secretary—Indian Affairs (Operations).

[FR Doc. 86-23417 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AA-6703-B]

Alaska Native Claims Selection; Tatitlek 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, 43 U.S.C. 1601, 1613(a), will be issued to The Tatitlek Corporation for approximately 2 acres. The lands involved are in the vicinity of Tatitlek, Alaska.

Copper River Meridian

T. 11 S., R. 9 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Cordova 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, an agency of the Federal government or regional corporation, shall have until November 17, 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 may 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.

Joe J. Labay,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-23418 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-JA-M

[ID-030-06-4332-08; FES 86-39]

Availability of Final Environmental Impact Statement, Eastern Idaho Wilderness

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability of final Environmental Impact Statement (EIS) for the Eastern Idaho Wilderness proposals.

SUMMARY: This EIS assesses the environmental consequences of managing five Wilderness Study Areas (WSAs) as wilderness, not designating them, and designating part of one WSA as wilderness. The alternatives assessed in this EIS include: (1) An "all wilderness" alternative for each WSA, (2) a "no wilderness" alternative for each WSA, and (3) a "partial wilderness alternative for the Hawley Mountain WSA.

The names of the five WSAs analyzed in the EIS, their total acreage, and the proposed action for each are as follows:

—Hells Half Acre: 66,200 acres—all suitable
—Hawley Mountain: 15,510 acres—all nonsuitable
—Black Canyon: 5,400 acres—all nonsuitable
—Cedar Butte: 35,700 acres—all nonsuitable
—Petticoat Peak: 11,298 acres—all nonsuitable

Bureau of Land Management wilderness proposals will ultimately be forwarded by the Secretary of the Interior and President to Congress. The final decision on wilderness designation rests with Congress.

In any case, no final decision on these proposals can be made by the Secretary during the 30 days following the filing of this EIS. This complies with the Council on Environmental Quality Regulation, 40 CFR 1506.10b(2).

SUPPLEMENTARY INFORMATION: A limited number of individual copies of the EIS may be obtained from the District Manager, Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401. Copies are also available for inspection at the following locations:

Department of the Interior, Bureau of Land Management, 18th and "C" Streets, NW., Washington, DC 20240
Bureau of Land Managment, Idaho State Office, 3380 American Terrace, Boise, Idaho 83706

FOR FURTHER INFORMATION CONTACT: Lloyd H. Ferguson, District Manager, Idaho Falls District Office (940), 940 Lincoln Road, Idaho Falls, Idaho 83401, Telephone: (208) 529–1020.

Dated: October 3, 1986.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 86–23483 Filed 10–16–86; 8:45 am]

BILLING CODE 4310-GG-M

Clark County Management Framework Plan

AGENCY: Bureau of Land Management (BLM), Interior (NV–050–07–4131–08).

ACTION: Notice of intent to prepare an amendment to the Clark County Management Framework Plan (MFP) and invitation for public participation in the identification of issues and review of planning criteria; correction.

SUMMARY: This document corrects a previous notice that appeared on page 32853 in the **Federal Register** of Tuesday, September 16, 1986 (51 FR 32853). The timeframe for public comment and participation on the preliminary issues and planning criteria has been extended to October 31, 1986.

FOR FURTHER INFORMATION CONTACT: Ben F. Collins, District Manager, Bureau of Land Management, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 388–6403.

Dated: October 10, 1986.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 86–23453 Filed 10–16–86; 8:45 am]

BILLING CODE 4310-HC-M

[OR120–6310–02; GP7–009]

Coos Bay District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR, Part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Monday, November 17, 1986, beginning at 9:00 a.m. The meeting will be held in the conference room of the Coos Bay District Office, 333 South Fourth Street, Coos Bay, Ore.

Agenda: The agenda for the meeting will include:

1. Updates on old business including; the status of the Dean Creek Wildlife area, the status of the potential land exchange with International Paper Company, and the public comments received to date on the BLM planning process for the 1990s.

2. Discussion of future assignments for the council's consideration.

3. Discussion of the "issues identification" portion of the planning process, review of public comments received and the results of the open house public meeting, and a Council recommendation to the District Manager on the issues to be addressed in the planning process.

4. Arrangements for the next meeting.

The meeting is open to the public and news media. Interested parties may make oral statements to the council from 10:00 a.m. to 10:30 a.m. on Monday, November 17, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business on Monday, November 10, 1986 (Telephone 503–269–5880).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 333 South Fourth Street, Coos Bay, OR 97420.

Minutes of the meeting will be maintained at the District Office and made available during regular business hours (7:45 a.m. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Dated: October 7, 1986.

Robert T. Dale,

District Manager.

[FR Doc. 86–23420 Filed 10–16–86; 8:45 am]

BILLING CODE 4310-33-M

[UT–060–4410–02]

Moab District Advisory Council Tour and Meeting

AGENCY: Bureau of Land Management, Moab.

ACTION: Moab District Advisory Council tour and meeting.

SUMMARY: The Council will conduct a joint tour with the Montrose District Advisory Council on November 19, and a separate meeting on November 20.

SUPPLEMENTARY INFORMATION: The Moab and Montrose District Advisory Councils will meet jointly November 19 to review and discuss a National Park Service (NPS) proposal to expand Hovenweep National Monument.

9:30 a.m. Arrive at Hovenweep National Monument.
10:00 a.m. Convene meeting near Square Tower Unit Ranger Station. Briefing by NPS.
10:30 a.m. Begin field trip.
12:00 p.m. Lunch.
1:00 p.m. Briefing by BLM on planned management of proposed expansion area.
1:30 p.m. Field trip resumes.
4:00 p.m. Field trip ends.
6:30 p.m. Councils resume at Ramada Inn, 666 South Broadway, Cortez, CO.
7:00 p.m. Public Comments regarding Hovenweep proposal.
7:30 p.m. Formulation of joint Council resolution.
8:00 p.m. Adjourn joint Council meeting.

On Thursday, November 20, the Moab District Advisory Council will meet at the BLM, San Juan Resource Area Office, 435 North Main, Monticello, Utah according to the following schedule:

8:00 a.m. San Juan Resource Management Plan (RMP) briefing.
9:00 a.m. San Juan known geologic structures.
9:15 a.m. District coal reserves.
9:30 a.m. Mining claims and Riparian areas along the Colorado River.
9:45 a.m. San Rafael RMP update.
10:00 a.m. Break.
10:15 a.m. Integral vistas update.
10:30 a.m. Off-road vehicle Bill in Utah State legislature.

11:00 a.m. Public comment.
11:30 a.m. Lunch.
1:00 p.m. Resolutions finalized, new business, adjourn thereafter.

All Advisory Council meetings are open to the public. Persons wishing to make a comment to the Council on either day must notify the BLM by November 17. Depending on the number of people desiring to make a statement, a per-person time limit may be established. Members of the public attending the Field Trip must provide their own transportation (Four-Wheel Drive recommended) and lunch.

FOR FURTHER INFORMATION CONTACT: Mary Plumb, Public Affairs Officer, P.O. Box 970, Moab, Utah 84532. Telephone (801) 259–6111.

Gene Nodine,
District Manager.
[FR Doc. 86–23421 Filed 10–16–86; 8:45 am]
BILLING CODE 4310-DQ-M

[CO–030–07–4331–12]

Montrose District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR Subpart 1784, that a meeting of the Montrose District Advisory Council will be held November 19 and 20, 1986 in Cortez, Colorado.

DATES: Requests to present oral comments must be received by November 17, 1986. Meetings are scheduled November 19 and 20, 1986.

ADDRESS: Submit requests to comment or requests for further information to: District Manager, Bureau of Land Management, Montrose District Office, 2465 South Townsend, Montrose, Colorado 81401.

SUPPLEMENTARY INFORMATION: the Montrose and Moab District Advisory Councils will meet jointly on November 19, 1986 to review and discuss the proposed expansion of Hovenweep National Monument. The meeting will convene at 10:00 a.m. near the Square Tower unit ranger station in Hovenweep National Monument. In addition, the Montrose District Advisory Council will hold a separate business meeting at the Anasazi Heritage Center near Dolores, Colorado on November 20, 1986.

Meeting Agenda—November 19

10:00 a.m. Convene meeting at Hovenweep National Monument. Briefing by the National Park Service on the Hovenweep expansion proposal.
10:30 a.m. Begin tour.
12:00 noon Lunch (in the field).
1:00 p.m. Briefing by the Bureau of Land Management on the planned management of the proposed expansion area.
1:30 p.m. Tour resumes.
4:00 p.m. Tour ends.
6:30 p.m. Council meeting resumes at the Ramada Inn located at 666 S. Broadway in Cortez, Colorado.
7:00 p.m. Public comment period.
7:30 p.m. Formulation of joint Council resolution.
8:00 p.m. Adjourn.

Meeting Agenda—November 20

8:30 a.m. Convene meeting at the Anasazi Heritage Center. District Manager's remarks.
9-00 a.m. Update on Resoure Area issues.
12:00 noon Lunch.
1:00 p.m. Public comment period.
1:30 p.m. Discussion.
2:00 p.m. Adjourn.

The tour and meetings of the Council are open to the public. Anyone wishing to make an oral statement must contact the District Manager by November 17, 1986. The Council will accept oral statements on the Hovenweep expansion proposal between 7:00 and 7:30 p.m. on November 19, 1986. Comments on all other topics will be scheduled between 1:00 and 1:30 p.m. on November 20, 1986. Commentors may be required to limit the length of their oral statements.

Members of the public wishing to participate in the tour must provide their own transportation and lunch. For additional information, contact the District Manager.

Dated: October 9, 1986.
Kenneth D. Herman,
Acting District Manager.
[FR Doc 86–23422 Filed 10–16–86; 8:45 am]
BILLING CODE 4310-JB-M

Phoenix District Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Phoenix District Advisory Council.

DATE: Thursday, November 20, 1986 at 9:30 a.m.

ADDRESS: 2015 West Deer Valley Road, Phoenix, AZ 85027, BLM Conference Room.

SUMMARY: The council has been established by and will be managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The agenda for the meeting includes:
The Resources Management Plan of the Phoenix Resource Area
Statewide Wilderness Environmental Impact Statement
Land Exchanges
Management Updates
Business from the floor
Public comments and statements
Future meetings and agenda topics

SUPPLEMENTARY INFORMATION: This is a public meeting and BLM welcomes the presentation of oral statements or the submission of written statements that address the issues on the meeting agenda or related matters.

Summary minutes of the Board meeting will be maintained in the District office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: October 8, 1986.
Paul J. Buff,
Acting District Manager.
[FR Doc. 86–23423 Filed 10–16–86; 8:45 am]
BILLING CODE 4310-32-M

[WY–030–07–4322–14]

Rawlins District, Divide and Medicine Bow Resource Areas, Albany, Carbon, Laramie, and Portion of Sweetwater Counties, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Rawlins District Grazing Advisory Board.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–463 and 94–579 that a meeting of the Rawlins District Grazing Advisory Board will be held. This meeting will consist of discussions of rangeland improvement programs, grazing fees, subleasing and the grazing nonuse policy. There also will be an election of officers and a public comment period.

DATE: November 20, 1986.

ADDRESS: The Green Room, Quality Inn, 2222 East Cedar, Rawlins, Wyoming.

FOR FURTHER INFORMATION CONTACT: Don Glenn, District Range Conservationist, Rawlins District, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301, (307) 324–7171.

SUPPLEMENTARY INFORMATION: The meeting will begin at 10:00 a.m. The agenda will include the following:

An update of the Medicine Bow and Divide RMP/EIS.
Discussion of grazing fees, subleasing and the grazing nonuse policy.
Discussion of the Rangeland Program Summary for the Gas Hills EIS Area.
Discussion of the Rangeland Program Summary Update for the Divide EIS Area.
Lunch
Election of Officers
Discussion of the Rangeland Improvement Program for FY 87.
2:00 p.m.—Public comment period. This meeting is open to the public.

Anyone wishing to make a statement before the board must notify the district manager by November 19, 1986. Written statements may also be filed for the boards consideration.

Richard Bastin,

District Manager.

[FR Doc. 86-23424 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-22-M

[ID-040-4322-02]

Salmon District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Salmon District Grazing Advisory Board.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Grazing Advisory Board.

DATE: The meeting will be held on Wednesday, December 10, 1986, at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467. The meeting will begin at 10:00 a.m.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92-463. The meeting is open to the public; public comments on agenda items will be accepted from 1:00 to 1:30 p.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho 83467, by December 6, 1986.

The agenda items are: An Overview of the Functions of the Grazing Advisory Board, Election of Officers, FY 87 Range Improvement Projects, Pilot Riparian Project, discussion of the use of 8100 funds, and Allotment Management Plans.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Jerry W. Goodman, District Manager, Bureau of Land Management, Salmon District Office, P.O. Box 430, Salmon, Idaho 83467; telephone (208) 756-5400.

Dated: October 8, 1986.

Jerry W. Goodman,

District Manager.

[FR Doc. 86-23425 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-GG-M

[CA-020-4341]

Susanville District Advisory Council; Meeting

In accordance with sec. 309 of Pub. L. 94-579 (Federal Land Policy and Management Act as amended), the Susanville District Advisory Council will meet at 9:00 a.m. on November 6, 1986 in the conference room of the Susanville District Office, 705 Hall Street, Susanville, California.

The meeting agenda will include such topics as the interdisciplinary monitoring policy of the BLM Susanville District and a discussion relating to the Susanville District Advisory Council resolution, September 19, 1986, regarding the Muck Valley Hydroelectric Project.

Public comments and input regarding the Muck Valley Hydroelectric Project will be accepted at the meeting. For those wishing to present input to the Council regarding this project, please contact Louisa Beld, 916/257-5381, prior to close of business on November 5, 1986, to be placed on the agenda. A written copy of comments will be required of anyone presenting input to the Council and will be requested for the public record at the time of the meeting.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

C. Rex Cleary

District Manager.

[FR Doc. 86-23482 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-40-M

[WY-920-06-4990-11-6001; W-78203]

Proposed Reinstatement of Terminated Oil and Gas Lease; Washakie County, Wyoming

October 10, 1986.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatement of oil and gas lease W-78203 for lands in Washakie County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

In lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-78203 effective June 1, 1986, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86-23426 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-22-M

[WY-920-06-4990-11-6001; W-62345]

Proposed Reinstatement of Terminated Oil and Gas Lease, Campbell County, Wyoming

October 10, 1986.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3 (a) and (b)(1), a petition for reinstatment of oil and gas lease W-62345 for lands in Campbell County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $10.00 per acre, or fraction thereof, per year and 18⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W-62345 effective May 1, 1986, subject to the original terms and conditions of the lease and the

increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86-23427 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-22-M

[AZ-940-07-4212-14; A-20631]

Conveyance in Cochise County, AZ

October 9, 1986.

Notice is hereby given that, pursuant to sections 203 and 209 of the Act of October 21, 1987 (90 Stat. 2750, 2757; 43 U.S.C. 1713, 1719), Marcellus W. DuBois and Eva F. DuBois, P.O. Box 897, Willcox, Arizona 85643, have purchased by competitive sale, at the fair market value of $9,450.00, public land situated in Cochise County described as follows:

Gila and Salt River Meridian, Arizona

T. 13 S., R 24 E.,
Sec. 30, lots 5 and 6.
Containing 81.49 acres.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the transfer of land out of Federal ownership.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-23428 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-07-4212-14; A-20630]

Conveyance in Cochise County, AZ

October 9, 1986.

Notice is hereby given that, pursuant to sections 203 and 209 of the Act of October 21, 1976 (90 Stat. 2750, 2757; 43 U.S.C. 1713, 1719), Tri-W Ranch, Route 4, Box 34, Dimmitt, Texas, has purchased by direct sale, at the fair market value of $4,050.00, public land situated in Cochise County described as folows:

Gila and Salt River Meridan, Arizona

T. 12 S., R 23 E.,
Sec. 8, SW¼SW¼.
Containing 40.00 acres.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the transfer of land out of Federal ownership.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-23429 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-07-4212-14; A-19278]

Conveyance in Coconino County, AZ

October 9, 1986.

Notice is hereby given that, pursuant to sections 203 and 209 of the Act of October 21, 1976 (90 Stat. 2750, 2757; 43 U.S.C. 1713, 1719), George P. McCormick, P.O. Box 519, Fredonia, Arizona 86022, has purchased by competitive sale, at the fair market value of $6,932.00, public land situated in Coconino County described as folows:

Gila and Salt River Meridan, Arizona

T. 41 N., R 2 W.,
Sec. 29, lot 5.
Containing 20.14 acres.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the transfer of land out of Federal ownership.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-23430 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-07-4212-13; A-19395]

Exchange of Public and Private Lands in Pinal and Coconino Counties, AZ

October 9, 1986.

Notice is hereby given of the consummation of an exchange between the United States and Magma Copper Company. The Bureau of Land Management transferred the following described lands out of Federal ownership on February 3, 1986, by Patent No. 02-86-0015, pursuant to section 206 of the Federal Land Policy and Management Act of 1976:

Gila and Salt River Meridian, Arizona

T. 8 S., R. 16 E.,
Sec. 25, S½N½SW¼, S½SW¼, SW¼NW¼SE¼, W½SW¼SE¼;
Sec. 26, all remaining public lands;
Sec. 35, all remaining public lands.
Containing 566.10 acres in Pinal County.

In exchange, the following described lands were reconveyed to the United States:

T. 14 N., R. 13 E.,
Sec. 31, lots 9 and 10;
Sec. 33, NW¼NE¼, E½NE¼NE¼NW¼.
Containing 105.60 acres in Coconino County.

The Lands reconveyed to the United States immediately became subject to administration and management of the Forest Service, Department of Agriculture.

At 9:00 a.m. on November 24, 1986, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

This information is provided to all interested parties of the consummation of a land title exchange action.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-23435 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-07-4212-14; A-20240]

Conveyance in Graham County, AZ

October 9, 1986.

Notice is hereby given that, pursuant to sections 203 and 209 of the Act of October 21, 1976 (90 Stat. 2750, 2757; 43 U.S.C. 1713, 1719), Delmar B. and Elizabeth L. Stauffer, 1221 West Relation Street, Safford, Arizona 85546, have purchased by direct sale, at the fair market value of $450.00, public land situated in Graham County described as follows:

Gila and Salt River Meridian, Arizona

T. 8 S., R 26 E.,
Sec. 29, lots 18 and 22.
Containing 3.19 acres.

The purpose of the Notice is to inform the public and interested State and local governmental officials of the transfer of land out of Federal ownership.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-23431 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-943-02-4212-13; A-19263]

Issuance of Land Exchange Conveyance; Document for Exchange of Public and Private Lands, in Mohave County, AZ

October 8, 1986.

Notice is hereby given that the following described land has been transferred out of Federal ownership pursuant to section 206 of the Federal Land Policy and Management Act of 1976 in exchange for privately owned land.

The land transfered to private ownership is described as:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 21 W.,
Sec. 28, N½NE¼, SE¼NE¼, NE¼NW¼, S½S½.
T. 19 N., R. 22 W.,
Sec. 12, S½N½, N½S½.
The area comprises 640 acres in Mohave County, Arizona.

Land acquired by the United States is described as:

Gila and Salt River Meridian, Arizona

T. 18 N., R. 16 W.,
Sec. 1, lots 1–4, incl., S½N½, S½;
Sec. 17, NE¼, S½NW¼.
T. 19 N., R. 16 W.,
Sec. 5, lots 1–4, incl., S½N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 7, lots 1 and 2, NE¼, E½NW¼;
Sec. 9, E½, NE¼NW¼, S½NW¼, SW¼;
Sec. 11, NE¼, S½;
Sec. 25, E½SE¼;
Sec. 33, NE¼, S½.
T. 20 N., R. 16 W.,
Sec. 27, N½, N½SW¼, SE¼;
Sec. 29, NE¼, S½.
T. 18 N., R. 17 W.,
Sec. 7, those portions of lots 5 and 6, 15 and 16 lying easterly of the easterly boundary of the railroad right-of-way;
Sec. 13, all.
T. 19 N., R. 17 W.,
Sec. 7, those portions of lots 1, 10, 11, and 20 lying easterly of the easterly boundary of the railroad right-of-way;
Sec. 15, NE¼;
Sec. 19, those portions of lots 2, 9, 13, and 18 lying easterly of the easterly boundary of the railroad right-of-way;
Sec. 21, N½, N½SW¼, SE¼SW¼, SE¼.
T. 22 N., R. 17 W.,
Sec. 29, SE¼;
Sec. 33, W½.

The area comprises 6707.59 acres in Mohave County, Arizona.

At 9:00 a.m. on November 17, 1986, the reconveyed land described above will be open to operation of the public land laws generally, subject to valid existing rights and the requirements of applicable law.

The land acquired by the United States involves only the surface estate. The mineral estate is owned by the Santa Fe Pacific Railroad Company. The public interest was well served through completion of this exchange. The United States acquired private land adjacent to and partially within a Wilderness Study Area.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–23432 Filed 10–16–86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-07-4212-13; A-20225]

Conveyance of Public Land; Reconveyed Land Opened to Entry in Mohave County, AZ

October 9, 1986.

Notice is hereby given that the following described land has been transferred out of Federal ownership pursuant to section 206 of the Federal Land Policy and Management Act of 1976 in exchange for privately owned land. The land transferred to private ownership is described as:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 18 W.,
Sec. 13, S½S½;
Sec. 14, E½SE¼SE¼, E½W½SE¼SE¼.
T. 21 N., R. 18 W.,
Sec. 34, SW¼.

Comprising 350 acres in Mohave County.

Land acquired by the United States is decribed as:

Gila and Salt River Meridian, Arizona

T. 19 N., R. 18 W.,
Sec. 29, all.

Comprising 640 acres in Mohave County.

The exchange was made based on approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and acquisition of private land by the Federal Government.

The land acquired by the Federal Government in this exchange will be open to entry under the general land laws, at 9 a.m. on November 24, 1986. The mineral estate is owned by the New Mexico and Arizona Land Company.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–23433 Filed 10–16–86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-07-4212-13; A-17295]

Conveyance of Public Land; Reconveyed Land Opened to Entry in Mohave County, AZ

October 9, 1986.

Notice is hereby given that the following described land has been transferred out of Federal ownership pursuant to section 206 of the Federal Land Policy and Management Act of 1976 in exchange for privately owned land. The land transferred to private ownership is described as:

Gila and Salt River Meridian, Arizona

T. 19 N., R. 21 W.,
Sec. 31, lot 8.

Comprising 16.26 acres in Mohave County.

Land acquired by the United States is described as:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 20 W.,
Sec. 3, SW¼SW¼;
Sec. 23, NE¼NW¼;
Sec. 27, SE¼SE¼.

Comprising 120.00 acres in Mohave County.

The exchange was made based on approximately equal values.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and acquisition of private land by the Federal Government.

The land acquired by the Federal Government in this exchange will be open to the operation of the public land laws, subject to valid existing rights, at 9:00 a.m. on November 24, 1986. The mineral estate is owned by the Santa Fe Pacific Railroad Company.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–23434 Filed 10–16–86; 8:45 am]

BILLING CODE 4310-32-M

[AZ-020-07-421-13; A-21572]

Public Land Exchange; Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange, public land, Mohave County, Arizona.

SUMMARY: The following described lands and interests therein have been determined to be suitable for disposal by exchanged under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian

T. 19 N., R. 22 W.,
Sec. 12, N½N½.

Containing 160.00 acres, more or less.

In exchange for these lands, the United States will acquire the following described lands from Walter E. Biewer of Kingman, Arizona:

Gila and Salt River Meridian

T. 18 N., R. 17 W.,
Sec. 9, N½N½, SE¼SW¼, and SE¼.
T. 20 N., R. 20 W.,
Sec. 23, NE¼, N½SE¼, E½SW¼SE¼, and SE¼SE¼.

Containing 660.00 acres, more or less.

The public land to be transferred will be subject to the following terms and conditions:

1. Reservations to the United States: (a). right-of-way for ditches and canals pursuant to the Act of August 30, 1890; and (b). all the oil and gas and with it the right to prospect for, mine, and remove same.

2. Subject to any restrictions that may be imposed by Mohave County Board of Supervisors in accordance with county flood-plain regulations established under Resolution No. 84–10 adopted on December 3, 1984.

Private lands to be acquired by the United States will be subject to the following reservations:

1. All minerals are reserved to the Santa Fe Pacific Railroad Company as set forth in Book 78 of Deeds, pages 259 and 348.

2. The right of the Santa Fe Pacific Railroad Company to appropriate rights-of-way incident to the operation of railroads as set forth in Book 78 of Deeds, page 348.

3. License to Citizens Utilities Company, dated February 1, 1941, for electric transmission line as set forth in Book 78 of Deeds, page 348.

4. An easement for ingress and egress and rights incident thereto as set forth in Book 84 of Deeds, page 497.

Publication of this Notice will segregate the subject lands from all appropriations under the public lands laws, including the mining laws, but not mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of publication of this Notice in the **Federal Register** or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: October 9, 1986.

Henri R. Bisson,

Associate District Manager.

[FR Doc. 86-23436 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-32-M

[M-66519]

Realty Action, Exchange; Montana

AGENCY: Bureau of Land Management, Miles City District Office, Interior (MT-020-06-4212-13; M-66519).

ACTION: Notice of Realty Action M-66519, exchange of public and private lands in Powder River County, Montana.

SUMMARY: The following described 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

T. 8 S., R. 48 E.,
Sec. 21, Lot 13;
Sec. 22, Lot 11;
Sec. 27, Lot 12;
Sec. 28, Lot 14.
T. 8 S., R. 49 E.,
Sec. 21, SE¼SW¼, S½SE¼;
Sec. 27, S½SW¼;
Sec. 28, N½N½, SW¼NW¼;
Sec. 29, SW¼NW¼, SW¼SE¼;
Sec. 32, SE¼NE¼;
Sec. 33, NW¼SW¼, SE¼SW¼;
Sec. 34, SW¼SW¼, S½SE¼;
Sec. 35, SW¼SW¼.
T. 9 S., R. 49 E.,
Sec. 2, W½ NW¼NE¼, S½NE¼, NW¼, N½NW¼SW¼, W½SW¼NW¼SW¼, E½SE¼NW¼ SW¼, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 4, SW¼NW¼, SW¼SW¼, N½NE¼ SW¼SW¼, W½SW¼SW¼, S½SE¼ SW¼SW¼, SE¼SE¼;
Sec. 5, SE¼NE¼, NE¼SE¼;
Sec. 7, NE¼SE¼NE¼, S½SE¼NE¼;
Sec. 9, NW¼NW¼, W½SW¼;
Sec. 10, NE¼SE¼;
Sec. 11, N½NE¼NE¼NE¼, W½NE¼ NE¼, S½SE¼NE¼NE¼;
Sec. 21, E½;
Sec. 22, NE¼SW¼, S½SW¼, SW¼SE¼;
Sec. 25, SE¼NE¼, W½SE¼, SE¼SE¼;
Sec. 27, W½NW¼;
Sec. 28, N½NE¼, SW¼NE¼;
Sec. 35, NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 9 S., R. 50 E.,
Sec. 19, Lots 10 and 11;
Sec. 30, Lots, 1, 2, 6, 9-11, SW¼NE¼, N½SE¼, SE¼SE¼;
Sec. 31, Lots 1-14, S½NE¼, N½SE¼.

Aggregating 4,123.32 acres of public lands.

In exchange for these lands, the United States will acquire the following described lands from E. Amory Hubbard:

Principal Meridian

T. 8 S., R. 48 E.,
Sec. 27, Lot 8;
Sec. 28, Lots 6 and 13, SW¼NE¼, SW¼SE¼.
T. 9 S., R. 48 E.,
Sec. 9, SW¼NE¼;
Sec. 21, NW¼NW¼, S½NW¼, SW¼, S½SE¼;
Sec. 22, S½;
Sec. 23, S½SW¼, SW¼SE¼;
Sec. 25, N½S½, SE¼SW¼, SE¼SE¼;
Sec. 26, N½N½, S½NW¼, W½SW¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 27, SE¼NE¼, W½NW¼, SE¼NW¼, NE¼SW¼, SE¼;
Sec. 28, N½NE¼;
Sec. 34, N½NE¼, SE¼NE¼;
Sec. 35, Lots 1, 2, NE¼, NW¼SE¼.
T. 8 S., R. 49 E.,
Sec. 34, N½NE¼;
Sec. 35, NE¼SW¼, N½SE¼.
T. 9 S., R. 49 E.,
Sec. 18, Lot 1, W½SE¼, SE¼SE¼;
Sec. 20, SW¼NW¼, NW¼SW¼, SE¼SW¼;
Sec. 29, NE¼NW¼, SE¼SW¼, W½SE¼;
Sec. 32, W½NE¼, SE¼NE¼, NW¼SE¼.

Aggregating 3,377.10 acres of private lands.

DATES: For a period of 45 days from the date of this notice, interested parties may submit comments to the Bureau of Land Management, at the address shown below. Any adverse comments will be evaluate by the BLM, Montana 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 the exchange, including the environmental assessment and land report, is available for review at the Miles City District Office, P.O. Box 940, Miles City, Montana 59301.

SUPPLEMENTARY INFORMATION: The publication of this notice segregates the 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 made subject to:

1. A reservation to the United States for right-of-way for ditches or canals in accordance with 43 U.S.C. 945.

2. The reservation to the United States of all minerals in the Federal lands being transferred.

3. All valid existing rights (e.g., rights-of-way, easements, and leases of record).

4. Value equalization by cash payments or acreage adjustments.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

6. Reservation to E. Amory Hubbard of all oil and gas on those private lands held by him having fee minerals.

This exchange is consistent with Bureau of Land Management policies and planning and has been discussed with State and local officials. The public interest will be served by completion of this exchange because it will enable the Bureau of Land Management to acquire lands with high public values, and will increase management efficiency to public lands in the area.

Dated: October 8, 1986.

Bruce Whitmarsh,

Acting District Manager.

[FR Doc. 86-23438 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-DN-M

Availability of White Sands Resource Management Plan; Record of Decision

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, a Record of Decision (ROD) for the White Sands Resource Management Plan/Environmental Impact Statement (RMP/EIS) has been prepared.

The RMP will provide the framework to guide management decisions during the next 10 to 20 years on the White Sands Resource Area's 1.8 million surface acres of public land and 3.6 million subsurface acres. The goal of this RMP is to provide for a combination of resource uses that will protect important environmental values and sensitive resources and at the same time, allow development of resources which produce commercial goods and services. The RMP also describes how the four key resource issues that were identified with public involvement early in the planning process will be resolved. These issues are: (1) Rangeland Management; (2) Special Management Areas; (3) Land Tenure Adjustment; and (4) Access.

In addition to the analysis performed for the EIS portion of the RMP, in compliance with the requirements of the National Environmental Policy Act of 1969, further environmental analysis will be conducted for site-specific plans and actions resulting from implementation of the RMP.

DATE: The ROD was approved by Monte G. Jordan, Acting New Mexico State Director on September 5, 1986.

ADDRESS: Review copies of the Draft and Final RMP/EIS, and copies of the ROD are available from: Area Manager, White Sands Resource Area, 1800 Marquess Street, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: P. Robert Alexander, White Sands Area Manager at the address given above; telephone 505/525-8228, (FTS) 571-8350.

SUPPLEMENTARY INFORMATION: Implementation of the RMP decisions will continue over a period of years. Priorities will be developed to guide the order of implementation for those decisions that cannot be immediately implemented.

The implementation priorities may be revised based upon new administrative policies, new Departmental directions or new Bureau goals.

The ROD formally designates the Sacramento Escarpment Scenic Area of Critical Environmental Concern (ACEC). The ACEC contains 3,640 acres. The Sacramento Escarpment is one of the most conspicuous features of southern New Mexico. The ACEC is designed to protect and prevent irreparable damage and enhance the scenic value of the escarpment. Within the area, the existing No Surface Occupancy (NSO) stripulation for oil and gas and geothermal leasing on 3,300 acres will be retained and an additional 370 acres will be designated NSO. The ACEC will be managed under the objectives of Visual Resource Management Class I, including segregation from all forms of appropriation under the public land laws except the mining and leasing laws; no new rights-of-way easements would be approved; existing small trash dumps will be cleaned up; and the area would be closed to vegetative sale. Off-road vehicle use will be limited to designated roads. Approximately 80 acres of land will be pursued for acquisition to enhance the manageability of the ACEC.

The ROD has been sent to all recipients of the Proposed RMP/Final EIS. Copies of the forthcoming Plan and ACEC Management Plan are available upon request from the Area Manager listed in the address given above.

Dated: October 9, 1986.

Malcolm J. Schnitker,

Acting State Director.

[FR Doc. 86-23419 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-FB-M

[CA-940-06-4212-13; CA 15726

Exchange: of Public and Private Lands in San Diego County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land conveyance document.

SUMMARY: The purpose of this exchange was to obtain non-Federal land for use in Federal programs. The non-Federal land constitutes isolated holdings within the McCain Valley National Land and Wildlife Conservation Area and will serve the national interest by protecting known natural resources and by forming a more logical and efficient land and resource management area.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office (916) 978-4815.

The United States issued an exchange coveyance document to The Trust for Public Land on October 15, 1984, under the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2756; 43 U.S.C. 1716), for the following described land:

San Bernardino Meridian, California

T. 11 S., R. 2 W.,
Sec. 19, Lots 4, 5, and 8.
Containing 86.97 acres of public land.

In exchange for these lands, the United States acquired the following described land from The Trust for Public Land:

San Bernardino Meridian, California

T. 16 S., R. 7 E.,
Sec. 16, N½NE¼NW¼, SE¼NE¼NW¼, NW¼,SE¼NW¼,N½SW¼NW¼, SW¼SW¼NW¼, N½NW¼N E¼,SW¼NW¼NE¼, S½NE¼NE¼, NW¼SE¼NE¼, SE¼, SW¼NW¼S W¼, N½NE¼SW¼, NW¼SW¼SW¼, E½,NW¼SW¼, NE¼SE¼SW¼, SW¼NE¼NW¼;
Sec. 20, NE¼SE¼;
Sec. 21, W½SW¼.
Containing 505.00 acres of non-Federal land.

The values of the public land and non-Federal land in the exchange were equal.

Dated: October 9, 1986.

Sharon N. Janis,

Chief, Branch of Adjudication & Records.

[FR Doc. 86-23437 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-40-M

[CO-942-06-4520-12]

Filing of Plats of Survey; Colorado

October 6, 1986.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, Effective 10:00 A.M., October 6, 1986.

The plat representing the dependent resurvey of the south boundary of section 33, a portion of the west boundary, a portion of the subdivisional lines, and subdivision of certain sections, T. 34 N., R. 4 W., New Mexico Principal Meridian, Colorado, Group No. 744, was accepted September 23, 1986.

This plat was prepared to meet certain administrative needs of the U.S. Forest Service.

The plat, in three sheets, representing the corrective dependent resurvey of

portions of the Lake City Townsite and Samuel Wade et al. placer, the dependent resurvey of a portion of the Eleventh Standard Parallel North (south boundary of T. 45 N., R. 4 W.), a portion of the south boundary, a portion of the east boundary, a portion of the subdivisional lines, the dependent resurvey of the West Lake Townsite and the dependent resurvey of certain mineral claims, and the subdivision of certain sections in T. 44 N., New R. 4 W., Mexico Principal Meridian, Colorado, Group No. 736, was accepted September 26, 1986.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfiled Street, Lakewood, Colorado 80215.

Jack A Eaves,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 86-23439 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-JB-M

[ES-940-07-4520-13; ES-036591, Group 2]

Filing of Plat of Dependent Resurvey; Maine

October 9, 1986.

1. The plat, in two sheets, of the dependent resurvey of the boundaries of the land held in trust for the Passamaquoddy Tribe in Township 5 Northern Division, Bingham's Penobscot Purchase, Washington County, Maine, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on November 24, 1986.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of the dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., November 24, 1986.

4. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $4.00 per copy.

Lane J. Bouman,

Deputy State Director for Cadastral Survey.

[FR Doc. 86-23440 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-GJ-M

[ES-940-07-4520-13; ES-036592, Group 10]

Filing of Plat of Dependent Resurvey; North Carolina

October 9, 1986.

1. The plat of the dependent resurvey of a portion of the Cherokee Indian Land and remonumentation of AP 30, within the 3200 Acre Tract, Swain County North Carolina, will be officially filed in the Eastern States Office Alexandria, Virginia at 7:30 a.m., on November 24, 1986.

2. The dependent resurvey was made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of dependent resurvey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., November 24, 1986.

4. Copies of the plat will be made available upon request and prepayment of the reproduction fee of $4.00 per copy

Lane J. Bouman,

Deputy State Director for Cadastral Survey.

[FR Doc. 86-23441 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-GJ-M

[ES-940-07-4520-13; ES-036593, Group 10]

Filing of Plat of Dependent Resurvey and Survey; North Carolina

October 9, 1986.

1. The plat of the survey of a portion of the Qualla Indian Boundary in swain County and the dependent resurvey of a portion of the Qualla Indian Boundary in Jackson County, North Carolina, will be officially filed in the Eastern States Office, Alexandria, Virginia at 7:30 a.m., on November 24, 1986.

2. The dependent resurvey and survey were made at the request of the Bureau of Indian Affairs.

3. All inquiries or protests concerning the technical aspects of dependent resurvey and survey must be sent to the Deputy State Director for Cadastral Survey, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304, prior to 7:30 a.m., November 24, 1986.

4. Copies of the plat will be made available upon request and repayment of the reproduction fee of $4.00 per copy

Lane J. Bouman,

Deputy State Director for Cadastral Survey.

[FR Doc. 86-23442 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-GJ-M

Filing of Plats of Survey; Oregon/ Washington

October 3, 1986.

AGENCY: Bureau of Land Management, Interior (OR-943-07-4520: GP7-003).

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands have been officially filed in the Oregon State Office, Portland, Oregon on the date hereinafter stated:

Willamette Meridian

Oregon

T. 27 S., R. 3 W., Accepted July 11, 1986
T. 32 S., R. 7 W., Accepted July 18, 1986
T. 12 S., R. 10 W., Accepted July 18, 1986

The above-listed plats were officially filed August 1, 1986.

T. 28 S., R. 4 W., Accepted August 22, 1986
T. 34 S., R. 8 W., Accepted August 22, 1986
T. 37 S., R. 14 W., Accepted August 22, 1986
T. 27 S., R. 43 E., Accepted August 15, 1986

The above-listed plats were officially filed August 28, 1986.

Washington

T. 8 N., R. 15 E., Accepted July 11, 1986, officially filed August 1, 1986.
T. 10 N., R. 31 E., Accepted August 15, 1986
T. 11 N., R. 31 E., Accepted August 15, 1986
T. 10 N., R. 32 E., Accepted August 15, 1986
T. 11 N., R. 32 E., Accepted August 15, 1986

The above-listed plats were officially filed August 28, 1986.

The above-listed plats represent a supplemental plat, dependent resurveys and subdivisions of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: October 3, 1986.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-23443 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-33-M

[OR-943-07-4220-11: GP7-001; WASH-01220]

Washington; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture proposes that a portion of the land withdrawal for the Giant Tree Recreation Area continue for

an additional 20 years. The land would remain closed to mining but would be opened to surface entry and has been and would remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION: The Forest Service, Department of Agriculture proposes that the existing land withdrawal made by Public Land Order No. 1710 of August 6, 1958, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land involved is located approximately 35 miles north of Aberdeen and contains approximately 70 acres within Section 15, T. 23 N., R. 8 W., W.M., Grays Harbor County, Washington.

The purpose of the Withdrawal is to protect the Giant Tree Recreation Area within the Olympic National Forest. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal, except to open the lands to operation of the public land laws generally.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and it so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: October 9, 1986.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–23444 Filed 10–16–86; 8:45 am]

BILLING CODE 4310–33–M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Alaska Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), U.S. Department of the Interior.

ACTION: Notice of the Availability of Environmental Documents Prepared for Outer Continental Shelf (OCS) Minerals Exploration Proposals on the Alaska OCS.

SUMMARY: The MMS, in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA–related Environmental Assessments (EA's) and Findings of No Significant Impact (FONSI's), prepared by the MMS for the following oil and gas exploration activities proposed on the Alaska OCS. This listing includes all proposals for which FONSI's were prepared by the Alaska OCS in the 3-month period preceding this Notice.

Activity/Operator

Exploration Drilling Program for the Eastern Beaufort Sea, Diapir Field (Sale 87) Exxon Company U.S.A., as operator for itself and others.

Location

Exxon is proposing to drill up to 17 exploratory wells utilizing four different platform scenarios. Leases with water depths less than 100 feet would use the Global Marine Concrete Island Drilling System or Canadian Marine Drilling Company's (Canmar) Single Steel Drilling Caisson, either one mounted on a berm or an Arctic Cone system. The Arctic Cone System has only been proposed and has yet to be build. Leases with water depths greater than 100 feet would use either the Canmar drillship Explorer IV, or similar vessel, or the Beaudrill icebreaking semisubmersible vessel, Kulluk. Well sequence will depend upon the results of drilling, testing, and evaluation of the initial well. The location of Exxon's leases is described as follows:

LEASE AND BLOCK NUMBERS

Lease	Protraction No.	Block
OCS–Y 0842	NR–6–4	579
OCS–Y 0844	NR–6–4	581
OCS–Y 0864	NR–6–4	668
OCS–Y 0852	NR–6–4	629
OCS–Y 0853	NR–6–4	630
OCS–Y 0865	NR–6–4	672
OCS–Y 0868	NR–6–4	675
OCS–Y 0869	NR–6–4	676
OCS–Y 0879	NR–6–4	720
OCS–Y 0880	NR–6–4	721
OCS–Y 0881	NR–6–4	722

LEASE AND BLOCK NUMBERS—Continued

Lease	Protraction No.	Block
OCS–Y 0887	NR–6–4	765
OCS–Y 0888	NR–6–4	766
OCS–Y 0921	NR–7–3	749
OCS–Y 0916	NR–7–3	723
OCS–Y 0925	NR–7–3	768
OCS–Y 0899	NR–6–4	640
	NR–7–3	617

Environmental Assessment

EA No. AK 86–03.

FONSI Date

August 14, 1986.

Activity/Operator

A one-time 1986 exception to the existing conditions for the Beaufort Sea Sale 87 Stipulation No. 4 for Union Oil Company of California (UNOCAL), as operator for itself and others. This exception to the existing conditions of the stipulation allows UNOCAL to drill during the bowhead migration and to conduct a study on the possible effects of drilling noise from their drillship on migrating bowhead whales. The proposal will require a one-time exception from the requirements of Sale 87, Stipulation 4 which prohibits exploratory drilling during the bowhead whale migration. The FONSI and associated EA address the possible effects of the exception.

Location

Lease	Block(s)
OCS–Y 0849	NR 6–4 624

Environmental Assessment

EA No. AK 86–04.

FONSI Date

September 12, 1986.

FOR FURTHER INFORMATION CONTACT: Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Alaska OCS are encouraged to contact the MMS office in the Alaska OCS Region.

The FONSI and associated EA are available for public inspection between the hours of 7:45 a.m. and 4:30 p.m., Monday through Friday at: Minerals Management Service, Alaska OCS Region, Library, 949 East 36th Avenue, Room 502, Anchorage, Alaska 99508, phone: (907) 261–4435.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration

for oil and gas resources on the Alaska OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. The EA is used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the qualify of the human environment in the sense of NEPA 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in signficant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This Notice constitutes the public Notice of Availability of environmental documents required under the NEPA regulations.

Dated: October 7, 1986.

Regional Director,

Alaska OCS Region.

[FR Doc. 86-23468 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Oil and Gas Lease Sales; List of Restricted Joint Bidders

Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from November 1, 1986, through April 30, 1987. The List of Restricted Joint Bidders published in the **Federal Register** on April 8, 1986, at 51 FR 11984 covered the bidding period of May 1, 1986, through October 31, 1986.

Group I. Chevron U.S.A. Inc.; Chevron Corporation.

Group II. Exxon Corporation.

Group III. Texaco Inc.; Getty Oil Company; Texaco Oils Inc.; Texaco Producing Inc.

Group IV. Shell Offshore Inc.; Shell Oil Company; Shell Western E&P Inc.

Group V. Mobil Oil Corporation; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Superior Oil Company; Mobil Exploration and Producing North American Inc.

Dated: October 9, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-2364 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Tenneco Oil Exploration and Production

AGENCY: Minerals Management Service.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4397, Block 291, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on October 8, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m. Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Phone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OSC Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: October 10, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-23445 Filed 10-16-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporated Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporation intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A.1. Parent corporation and address of principal office: Emerson Electric Co., 8000 W. Florissant Avenue, St. Louis, Missouri 63136.

2. Wholly-owned subsidiaries which will participate in the operations:

Name and Jurisdiction of incorporation

(a) A.B. Chance Company—Delaware
(b) Appleton Electric Company—Delaware
(c) Automatic Switch Company—Delaware
(d) Beckman Industrial Corporation—Delaware
(e) Branson International Plasma Corp.—California
(f) Branson Ultrasonics Corp.—Delaware
(g) Camco Corp.—Minnesota
(h) Computer Power Systems Corp.—California
(i) Day-Brite Lighting, Inc.—Delaware
(j) Electronic Navigation Industries, Inc.—Delaware
(k) Electronic Speed Control Development Corp.—Missouri
(l) Emerint, Inc.—Delaware
(m) Emerson Contract Division, Inc.—Delaware
(n) Emerson Electric Canada Limited—Canada
(o) Emerson Electric Puerto Rico, Inc.—Delaware
(p) Fusite Corporation—Ohio
(q) Krautkramer Branson Incorporated—Connecticut
(r) Micro Motion, Inc.—Colorado
(s) Morse industrial Corporation—Delaware
(t) Ridge Tool Company—Ohio
(u) Rosemount, Inc.—Minnesota
(v) Skil Corporation—Delaware

(w) Southwest Mobile Systems Corporation—Delaware
(x) Sweco, Inc.—California
(y) Therm-O-Disc, Inc.—Ohio
(z) Vacco Industries—California
(aa) Van Gorp Corporation—Iowa
(bb) Western Forge Corporation—Delaware
(cc) Xomox Corporation—Ohio

B1. Parent corporation and address of principal office: General Fiberglass Supply, Inc., 1335 East Wisconsin Avenue, Pewaukee, Wisconsin 53072.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

Polydyne, Inc., 1606 Pearl Street, Waukesha, Wisconsin 53186 Incorporated: Wisconsin
Epic Resins, a division of General Fiberglass Supply, Inc., 1415 Ellis Street, Waukesha, Wisconsin 53186

Incorporated: Wisconsin (as a division of General Fiberglass Supply, Inc.)

C. 1. Parent corporation and address of principal office: Howes Leather Company, One Batterymarch Park, Quincy, MA 02169.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation: (1) Columbia Tanning Company, 101 Belmont Street, Brockton MA 02401 State of incorporation: Massachusetts.

D. 1. Parent corporation and address of principal office: Koch Industries, Inc., 4111 E. 37th Street, North, P.O. Box 2256, Wichita, Kansas 67201.

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation:

A. Chase Pipe Line Company—Kansas
B. Fincastle Mining, Inc.—W. Virginia
C. Koch Carbon, Inc.—Delaware
D. Kogas, Inc.—Oklahoma
E. Koch Engineering Company, Inc.—Kansas
F. Koch Exploration Company—Kansas
G. Koch Fuels, Inc.—Delaware
H. Koch Gathering Systems, Inc.—Kansas
I. Koch Membrane Systems, Inc.—Massachusetts
J. Koch Oil Company of Texas, Inc.—Texas
K. Koch Process Systems, Inc.—Delaware
L. Koch Refining Company—Delaware
M. Koch Service, Inc.—Kansas
N. Koch Sulfur Products Company—Kansas
O. Matador Coal Company—Delaware
P. Northern Pipe Line Company of Delaware, Inc.—Delaware
Q. Okie Pipeline Company—Kansas
R. Quanah Pipeline Corporation—Texas
S. Quivira Gas Company—Kansas
T. Sterling Hydrocarbon, Inc.—Kansas
U. The Matador Cattle Company—Delaware
V. Wood River Pipeline Company—Delaware

E. 1. Parent corporation and address of principal office: Leggett and Platt Inc., P.O. Box 757, Carthage, MI 64836.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: MPI, Inc., Texas.

F. 1. The Maytag Company and Magic Chef, Inc. have merged to become Maytag Corporation located at One Dependability Square, Newton, Iowa 50208.

2. The wholly owned subsidiaries which will participate in the operation and the states of their incorporation are:

(i) Maytag Company, Delaware
(ii) Jenn-Air Company—Division of Maytag Company
(iii) Jenn Industries, Inc., Delaware
(iv) Hardwick Stove Company—Division of Maytag Company
(v) Magic Chef, Inc., Delaware
(vi) Magic Chef Air Conditioning—Division of Magic Chef, Inc.
(vii) Admiral—Division of Magic Chef, Inc.
(viii) Norge—Division of Magic Chef, Inc.
(ix) Toastmaster, Inc.—Delaware
(x) Warwick Manufacturing Corporation—Virginia
(xi) Ardac, Inc.—Delaware
(xii) Dixie Narco, Inc.—West Virginia

G. 1. Parent corporation and address of principal office: Music Square Church, Inc., P.O. Box 710, Van Buren, Arkansas 72956.

2. Wholly-owned subsidiaries which will participate in the operations, and States of incorporation:

(i) Tennessee Country Boy Distributors (Tennessee—state of incorporation for i through vii)
(ii) Alamo Freight (Tennessee)
(iii) Alamo of Nashville (Tennessee)
(iv) Alamo Construction (Tennessee)
(v) Alamo Ready-Mix (Tennessee)
(vi) Razorback Farms (Tennessee)
(vii) OK Liquidators (Tennessee)

H. 1. Parent corporation and address of principal office: Royal Packaging Industries Van Leer, B.V., Amsterdamseweg 206, Postbus 25, 1180 AA Amstelveen, The Netherlands.

2. Wholly owned subsidiaries which will participate in the operation and State(s) of incorporation:

Keyes Fibre Company, incorporated in Delaware
Van Leer Containers, Inc., incorporated in Delaware

I. 1. Parent corporation and address of principal office: Sears, Roebuck and Co., Sears Tower, Chicago, Illinois 60684.

2. Wholly owned subsidiaries which will participate in the operations and State(s) of incorporation:

Terminal Freight Handling Company, Delaware
Allstate Insurance Company, Illinois
Coldwell Banker Real Estate Group, Inc., Delaware
Dean Witter Financial Services, Inc., Delaware
Sears World Trade, Inc., Delaware
Homart Development Company, Delaware

J. 1. Parent Company: Tootal Thread, Inc., 1266 East Main Street, Stamford, Conn. 06907—State of Incorporation: Delaware

Wholly-Owned Subsidiaries: I. American Thread Company, Inc., 8757 Red Oak Blvd., Suite 201, Charlotte, NC 28210—State of Incorporation: New Jersey

II. Tootal American, Inc., 1266 East Main Street, Stamford, Conn. 06907—State of Incorporation: Delaware

K. 1. Parent Corporation and Address of Principal Office: USG Corporation, 101 South Wacker Drive, Chicago, Illinois 60606

2. Wholly-owned Subsidiaries Which Will Participate in the Operations and States of Incorporation:

Corporation and Principal Office Address—Incorporated in

I. United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606—Delaware
II. Masonite Corporation, 1 South Wacker Drive, Chicago, IL 60606—Delaware
(A) Integrated Ceilings, Incorporated, 11500 Tennessee Avenue, West Los Angeles 90064—California
III. USG Industries, Inc., 101 South Wacker Drive, Chicago, IL 60606—Delaware
IV. USG Interiors Company, 101 South Wacker Drive, Chicago, IL 60606—Delaware
(A) USG Acoustical Products Company, 101 South Wacker Drive, Chicago, IL 60606—Delaware
(B) Donn, Incorporated, 1000 Crocker Road, Westlake, OH 44145—Ohio
(a) American Metals Corporation, 1000 Crocker Road, Westlake, OH 44145—Ohio
(b) American Metals Company, Inc., 1150 Marietta Industrial Dr., N.E., Marietta, GA 30062—Ohio
V. L&W Supply Corporation, 1 South Wacker Drive, Chicago, IL 60606—Delaware
(A) C-S-W Drywall Supply Company, 1 South Wacker Drive, Chicago, IL 60606—Delaware
(B) Stocking Specialists, Inc., 1 South

Wacker Drive, Chicago, IL 60606—Delaware

VI. USG Foreign Investments, Limited, 101 South Wacker Drive, Chicago, IL 60606—Delaware

(A) Canadian Gypsum Company, Limited, 777 Bay Street, Toronto, Ontario M5W 1K8—Canada

VII. A.P. Green Refractories Company, Green Boulevard, Mexico, MO 65265—Delaware

(A) A. Lynn Thomas Company, Incorporated, 10 East Belt Boulevard, Richmond, VA 23225—Virginia

(B) A.P. Green Services, Incorporated, 1250 Maplelawn Drive, Troy, MI 48007-7000—Michigan

(C) Empire Firebrick Company, 219 Murray Street, Fort Wayne, IN 46803-2348—Indiana

Noreta R. McGee,

Secretary.

[FR Doc. 86-23467 Filed 10-16-86; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-122 (Sub-No. 2)]

Lease of Equipment and Drivers to Private Carriers; Petitions for Modification

AGENCY: Interstate Commerce Commission.

ACTION: Modification of policy statement.

SUMMARY: The Commission modifies the policy adopted in Ex Parte No. MC-122 (Sub-No. 2), *Lease of Equipment and Drivers to Private Carriers*, (47 FR 7885, February 23, 1982), 132 M.C.C. 756 (1982), to eliminate the requirement that private carriers and shippers using leased equipment and drivers from a single unregulated source comply with a minimum lease term of 30 days. The five remaining criteria in that decision remain unchanged. Notice of reopening in this proceeding was published at 50 FR 31439, August 2, 1985.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT:

Robert G. Rothstein, (202) 275-7912

or

Louis E. Gitomer, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the full Commission decision. A copy may be purchased from T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423; or by calling toll-free (800) 424-5403, or (202) 289-4357 in the Washington, DC metropolitan area.

Energy and Environmental Statement

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 11107 and 10321 and 5 U.S.C. 553.

Decided: October 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-23464 Filed 10-16-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Trinidad Bascara, M.D.; Revocation of Registration

On July 10, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued to Trinidad Bascara, M.D. of 164 Heather Lane, Princeton, New Jersey 08540, an Order to Show Cause proposing to revoke her DEA Certificate of Registration, AB6851162, and deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). The proposed action was predicated upon Dr. Bascara's controlled substance-related felony conviction on April 10, 1986, in the Superior Court, Mercer County, New Jersey.

The Order to Show Cause was sent to Dr. Bascara by registered mail. DEA received the return receipt which indicated that the Order to Show Cause was received on July 14, 1986. More than thirty days have passed since the Order to Show Cause was served and the Drug Enforcement Administration has received no response thereto. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Dr. Bascara is deemed to have waived her opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57

The Administrator finds that a two count accusation was filed on December 5, 1985, in the Superior Court, Mercer County, New Jersey, charging Dr. Bascara with one count of Medicaid fraud in violation of NJSA 30: 4D-17, and one count of maintaining a drug resort in violation on NJSA 24: 21-21 a(6) and b. The accusation specifically charged that during the period September 9, 1982, through July 31, 1985, Dr. Bascara received medical assitance payments totalling $15,477.97. Dr. Bascara was not entitled to these payments. She knowingly and willfully filed, with the New Jersey Divison of Medical Assistance and Health Services, false statements and representations regarding 618 claims for reimbursement for one-hour pyschotherapy sessions. Dr. Bascara did not in fact provide these services. The accusation further charged that between September 9, 1982, and July 3, 1985, Dr. Bascara knowingly and intentionally kept and maintained premises to be used for keeping and selling controlled dangerous substances.

On December 5, 1985, Dr. Bascara entered a plea of guilty to both counts. On April 10, 1986, Dr. Bascara was convicted on the two counts and ordered to pay a $10,000 fine on each count and to repay the medical assistance payments that she had wrongfully received. The count regarding the maintaining of a drug resort is a felony offense relating to controlled substances. Therefore, there is a lawful basis for the revocation of Dr. Bascara's DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(2).

Dr. Bascara did not respond to the Order to Show Cause. She did not offer any evidence of explanation or mitigating circumstances. Accordingly, the Administrator concludes that the registration must be revoked.

On July 18, 1986, subsequent to the issuance of the Order to Show Cause in this matter, the New Jersey State Board of Medical Examiners ordered that Dr. Bascara surrender her medical license. Even if the ground for revocation based on Dr. Bascara's controlled substance related-felony conviction did not exist, the loss of state licensure requires DEA to revoke the DEA Certificate of Registration. 21 U.S.C. 823 and 21 U.S.C. 824(a)(3). See, *Jerry L. Word, M.D.*, 51 FR 26613 (1986) *Meyer Liebowitz, M.D.*, 51 FR 11654 (1986); *George P. Gotsis, M.D.*, 49 FR 33750 (1986).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AB6851162, previously issued to Trinidad Bascara, M.D., be and it hereby is revoked. In addition, the Administrator orders that any pending applications for registration with the Drug Enforcement Administration be, and they hereby are, denied.

This order is effective November 17, 1987.

Dated: October 14, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-23496 Filed 10-16-86; 8:45 am]

BILLING CODE 4410-09-M

Joseph P. Hutsko, D.O.; Revocation of Registration and Denial of pending Application for Renewal

On May 1, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Joseph P. Hutsko, D.O., of lll West Susquehanna Street, Allentown, Pennsylvania 18103, proposing to revoke his DEA Certificate of Registration, AH4307802, and to deny his pending application for renewal, executed on September 23, 1985, for registration as a practitioner under 21 U.S.C. 823(f). The statutory predicate for seeking the revocation of Dr. Hutsko's current DEA certificate of Registration and the denial of his pending application for renewal is that Dr. Hutsko's continued registration is inconsistent with the public interest, as evidenced by, but not limited to Dr. Hutsko being found guilty on April 8, 1985, in the Pennsylvania Court of Common Pleas for Lehigh County, of nine counts of administering, dispensing or prescribing Phentermine, a schedule IV controlled substance, not in good faith; not within the scope of the patient relationship; not in accordance with treatment principles accepted by a responsible segment of the medical profession, in violation of 35 P.S. 780-113(14), and nine counts of dispensing Phentermine without affixing to the container in which the drug was sold or dispensed, label bearing the name and address of the practitioner, the date dispensed, the name and address of the patient and the directions for the use of the drug by the patient, in violation of 35 P.S. 780-113(17), all felony offenses relating to controlled substances.

The Order to Show Cause was sent by registered mail, return reciept requested, to Dr. Hutsko's last known address. The return receipt indicates that the Order to Show Cause was received and signed for by Dr. Hutsko on May 5, 1985. More than 30 days has elapsed since Dr. Hutsko received the Order to Show Cause and the Drug Enforcement Administration has received no response thereto. Therefore, the Administrator finds that Dr. Hutsko has waived his opportunity for a hearing on the issues raised in the Order to Show Cause, and enters this final order based on the record as it appears. 21 CFR 1301.54(d) and 1301.54(e).

The Administrator finds that on April 8, 1985, in the Pennsylvania Court of Common Pleas for Lehigh County, Dr. Hutsko was found guilty, after lengthy jury trial, of nine counts of administering, dispensing or prescribing Phentermine, a Schedule IV controlled substance, not in good faith; not within the scope of the patient relationship; and not in accordance with treatment principles accepted by a responsible segment of the medical profession, in violation of 35 P.S. 780-113(14), and nine counts of dispensing Phentermine without affixing to the container in which the drug was sold or dispensed, a label bearing the name and address of the practitioner, the date dispensed, the name of the patient, and the directions for use of the drug by the patient, in violation of 35 P.S. 780-113(17), all of the foregoing being felony offenses related to controlled substances. Dr. Hutsko was also found guilty of eight counts of defrauding the Pennsylvania Medical Assistance Program by knowingly and intentionally presenting for payment fraudulent claims for funishing services under Medical Assistance, in violation of 62 P.S. 1407(a) (1), (4), (6), and (7), also felony offenses.

The offenses mentioned above resulted from an undercover investigation of Dr. Hutsko's medical practice. During the investigation, two undercover investigators visited Dr. Hutsko's office and requested diet pills. The investigators were not overweight. Dr. Hutsko did not examine the investigators, although on a few occasions, he did weigh them and take therir blood pressures. Dr. Hutsko routinely dispensed Phentermine to the investigators in plain white envelopes, without explaining proper directions for use. During the visits, one investigator informed Dr. Hutsko that he was giving some of his medication to his wife and requested that the doctor also dispense additional medication for her. Without seeing or examining the investigator's wife, Dr. Hutsko dispensed Pohentermine for her. On each visit, Dr. Hutsko had the investigators complete various Medical Assistance forms. Since weight reduction is not covered by the Pennsylvania Medical Assistance program, Dr. Hutsko reported that the investigators and the wife were treated for various colds or other ailments which were covered under the program.

Although Dr. Hutsko was found guilty more than one year ago, on the several felony changes relating to controlled substances, he has yet to be sentenced. This lack of formal adjudication does not prevent the Administrator from taking action to revoke Dr. Hutsko's current DEA Certificate of Registration and to deny the pending application of renewal, based upon public interest considerations.

Pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Administrator may revoke or deny the registration of a registrant or applicant if he determines that such registration would be inconsistent with the public interest. In determining whether a registration is in the public interest, the Administrator considers the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority;

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances;

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances;

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances; and

(5) Such other conduct which may threaten the public health and safety. 21 U.S.C. 823(f)(1)-(5).

After considering Dr. Hutsko's record in light of the foregoing factors, the Administrator concludes that Dr. Hutsko's continued registration is inconsistent with the public interest.

The Pennsylvania State Board of Osteopathic Medicine has twice suspended Dr. Hutsko's license for the offenses mentioned in this final order. Dr. Hutsko's license to practice medicine was first suspended on May 3, 1985, after he was found guilty of violating state controlled substance laws. His license was reinstated on September 16, 1985. The Board suspended Dr. Hutsko's license again on July 26, 1986, for a period of three months, for defrauding the State Medical Assistance Program.

The Administrator finds that Dr. Hutsko was clearly dispensing controlled substances in an improper and unlawful manner. He dispensed controlled substances for no legitimate propose and without conducting adequate physical examinations; he dispensed controlled substances for persons he had never seen or examined; and he dispensed controlled substances without properly identifying the drugs to the patient and without giving proper instructions for their use. The Administrator finds these dispensing practices constitute a willful abrogation of the responsibilities which accompany a DEA Certificate of Registration.

Although Dr. Hutsko has yet to be sentenced on the numerous felony offenses relating to controlled

substances of which he was found guilty, the Administrator concludes, as did the jury, that Dr. Hutsko is guilty of numerous felony offenses relating to controlled substances and that he deliberately violated applicable Federal or State laws relating to the dispensing of controlled substances.

The Administrator also finds that Dr. Hutsko's conduct threatened the public health and safety. Dr. Hutsko dispensed controlled substances for no legitimate purpose, without examining his "patients;" he dispensed controlled substances to persons he had never seen, and who were not even patients; he dispensed controlled substances without affixing proper labels and without affixing instructions for use. Even if Dr. Hutsko was legitimately treating patients, his failure to perform even a normal examination and to take the routine precaution of providing a patient with information on a drug's use demonstrates that his continued registration constitutes a threat to the public health and safety.

For all of the foregoing reasons, the Administrator concludes that there is a lawful basis for the revocation of Dr. Hutsko's current DEA Certificate of Registration and for the denial of his pending application for renewal. The Administrator further concludes that, based on the facts and circumstances presented in this matter, Dr. Hutsko's current registration should be revoked and the pending application for renewal should be denied.

Therefore, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration, AH4307802, previously issued to Joseph P. Hutsko, D.O., be, and it hereby is revoked. The Administrator further orders that the application for renewal, executed on September 23, 1985, be, and it hereby is denied.

This order is effective October 17, 1986.

Dated: October 14, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-23497 Filed 10-16-86; 8:45 am]

BILLING CODE 4410-09-M

Charles P. Maier, D.V.M.; Revocation of Registration and Denial of Pending Applications for Registration

On February 8, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Charles P. Maier, D.V.M., of 1949 Highway 24, East Troy, Wisconsin. The Order to Show Cause proposed to revoke Dr. Maier's DEA Certificate of Registration, AM3576367, and to deny any pending applications for renewal of such registration. The Order the Show Cause was based upon the termination of Dr. Maier's license to practice veterinary medicine in Wisconsin and, consequently, his lack of authorization to handle controlled substances in that state.

Although the Order to Show Cause was delivered to Dr. Maier by registered mail, the Drug Enforcement Administration has not received any response from Dr. Maier. Accordingly, the Administrator concludes that Dr. Maier has waived his opportunity for a hearing on the issues raised by the Order to Show Cause and hereby enters his final order in this matter, pursuant to 21 CFR 1301.54(d) and 1301.54(e), and based upon the record of this matter as it now appears.

The Administrator finds that on July 23, 1984, the Wisconsin Veterinary Examining Board issued an order denying Dr. Maier's application for renewal of his state veterinary license. Subsequently, on December 27, 1984, the Board held a hearing regarding the status of Dr. Maier's application for renewal. Neither Dr. Maier, nor anyone appearing on his behalf, attended the hearing. On January 16, 1986, the Board issued a final order denying Dr. Maier's application. As a result of those proceedings, Dr. Maier's license to practice veterinary medicine in Wisconsin was terminated. Consequently, he is not authorized to handle controlled substances in that state.

The Administrator has consistently held that when a DEA registrant loses his license to practice and his authority to handle controlled substances under the laws of the state in which he is registered, the Drug Enforcement Administration is without lawful authority to maintain the registration. See *Avner Kauffman, M.D.*, Docket No. 85-5, 51 FR 12751 (1985); *Kenneth K. Birchard, M.D.*, 48 FR 33778 (1983); and *Thomas E. Woodson, D.O.*, Docket No. 81-4, 47 FR 1353 (1982). Since Dr. Maier is no longer licensed to practice veterinary medicine and to handle controlled substances under the laws of the State of Wisconsin, DEA must revoke his registration under the Federal Controlled Substances Act. 21 U.S.C. 824 (a)(3). Likewise, any pending applications for renewal of such registration must be denied, 21 U.S.C. 823(f).

Having concluded that there is a lawful, indeed mandatory, basis for revoking Dr. Maier's DEA Certificate of Registration, and for denying any pending applications for renewal of that registration, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that DEA Certificate of Registration AM3576367, previously issued to Charles P. Maier, D.V.M be, and it hereby is, revoked. It is further ordered that any pending applications for renewal of that registration be, and they hereby are, denied.

Since Dr. Maier cannot lawfully dispense, administer or prescribe controlled substances under the laws of the State of Wisconsin, this order is effective October 17, 1986.

Dated: October 14, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-23498 Filed 10-16-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 85-49]

William J. Powell, M.D.; Revocation of Registration

On October 1, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued to William J. Powell, M.D. (Respondent) of Powell Clinic, 300 Bishop Avenue, Richardson, Texas 75081, an Order to Show Cause proposing to revoke his DEA Certificate of Registration, AP2238500 and deny any pending applications for renewal of such registration. The Order to Show Cause alleged two reasons for the proposed action. First, Respondent was convicted of controlled substance-related felony offenses on February 8, 1985, in the 283d Judicial District Court of Dallas County, Texas. Second, Respondent was without authority from the Texas State Board of Medical Examiners to handle controled substances in the State of Texas.

By letter dated October 25, 1985, Respondent's counsel requested a hearing on the issues raised by the Order to Show Cause. In this letter, Respondent acknowleged that the Texas State Board of Medical Examiners had indeed revoked his medical license but asserted that an appeal had been taken to the 160th Judicial District Court of Dallas County, Texas. The District Court granted an order staying the action of the Texas Board pending final determination of the appeal to the Court.

This matter was placed on the docket of Administrative Law Judge Francis L.

Young. During a telephonic prehearing conference, it was decided that since Respondent was effectively still authorized to handle controlled substances by the State of Texas, Government counsel would continue in this proceeding, relying only on Respondent's conviction as a ground for revocation of his DEA registration and denial of any pending renewal application. Following the prehearing proceedings, a hearing was held on March 5 and 6, 1986, in Fort Worth, Texas.

Subsequent to the hearing in this matter, both sides submitted proposed findings of fact, conclusions of law and written argument pursuant to 21 CFR 1316.64. Thereafter, in a letter dated May 21, 1986, Government counsel asserted that on May 9, 1986, the 160th Judicial District Court of Dallas County, Texas, entered a judgment affirming the Order of the Texas State Board of Medical Examiners revoking Respondent's license to practice medicine. In this letter, Government counsel requested that the Administrative Law Judge consider the fact that Respondent had now lost his state authorization to handle controlled substances, but that the decision in this case not be based on this ground alone. Over Respondent's objections, Judge Young decided to take Respondent's lack of state authorization to handle controlled substances into consideration in rendering his recommended decision. In addition, Judge Young ordered that a copy of the Texas State Court's judgment affirming the Board's revocation of Respondent's medical license be placed in the record.

On July 24, 1986, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law, ruling and decision. No exceptions were filed and, on August 22, 1986, the Administrative Law Judge transmitted the record of these proceedings to the Administrator. The Administrator has considered this record in its entirety and pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact, and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that Respondent is a general surgeon and has practiced medicine in Richardson, Texas for 27 years. The Richardson Police Department has been concerned about the legitimacy of Respondent's medical practice for a number of years. Officers of the Richardson Police Department noticed a number of people going to Respondent's clinic very late at night or in the early hours of the morning. Respondent admitted at the hearing in this matter that he would not make appintments to see patients but instead, would call patients in the middle of the night to arrange an office visit at that time.

In the late 1970's and early 1980's, Respondent reported several burglaries and robberies of his clinic involving controlled substances to the Richardson Police Deprtment. After some of the break-ins, Respondent did not provide detailed information to the police of the items and drugs allegedly stolen. It has always been Respondent's practice to stock a large amount of controlled substances in his clinic to dispense to his patients. This practice continued even after Respondent reported these numerous alleged thefts.

The Richardson Police Department received information from a known drug addict that the addict received Dilaudid, a Schedule II controlled substance, from Respondent on a number of occasions, for no legitimate medical need in exchange for money, stolen jewelry and other forms of payment.

In 1983, as a result of cumulative information such as described above, the Richardson Police Department initiated an investigation into Respondent's controlled substance prescribing practices. A Richardson Police Deprtment informant made seven visits to Respondent's office between May 18, 1983, and September 20, 1983. She was closely monitored by officers of the Richardson Police Department on each occasion. On each visit, the informant received controlled substances from Respondent, without any physical examination being performed and for no legitimate therapeutic need. Respondent dispensed a number of controlled substances to the informant including Dexedrine, Preludin and Tuinal, all Schedule II controlled substances; and meprobamate and Dalmane, both Schedule IV controlled substances.

On November 1, 1983 an undercover Dallas police officer went to Respondent's clinic. The undercover officer told Respondent that he was a truck driver and needed something to help him stay awake. Respondent ordered that some lab tests be performed to determine whether the undercover officer might suffer from narcolepsy. Before Respondent received the results from these tests, he prescribed Dexedrine for the undercover officer. On January 12, 1984, the undercover officer returned to Respondent's office. The officer told Respondent this time that he had gained ten pounds from "pigging out over the holidays." The officer was not overweight. Respondent prescribed or dispensed Dexedrine and Phenobarbital without first trying to have the undercover officer lose the weight through diet and exercise.

Respondent first came to DEA's attention in 1980 or 1981 when drug suppliers forwarded copies of order forms to DEA indicating that Respondent was purchasing large quantities of Schedule II controlled substances. As a result of this information, on March 6, 1984, a DEA Diversion Investigator went to Respondent's office to conduct an accountability audit of Schedule II controlled substances.

The audit covered the period from January 26, 1982, through March 6, 1984. Respondent was unable to provide an inventory figure for all of the substances to be audited. 21 U.S.C. 827(a) and 21 CFR 1304.13 require that registrants take complete and accurate biennial inventories of all controlled substances in their possession. Respondent had not conducted such a biennial inventory and, therefore, was in violation of the law. Respondent was able to arrive at inventory figures for some of the substances to be audited. For those substances where no inventory figure was available, a zero inventory balance was used. A zero inventory balance works in Respondent's favor, since it assumes that he did not have any of the substances in stock at the start of the inventory period, when it is likely that he did have such substances. By looking at the inventory figures and the amount of purchases Respondent had made, the investigator was able to determine the type and amount of Schedule II controlled substances that Respondent was accountable for during the audit period.

On January 1, 1982, a state law became effective in Texas requiring that all Schedule II controlled substances prescribed, dispensed or administered must be written or documented on a triplicate prescripion form. One copy of the prescription is kept by the doctor, another copy is kept by the pharmacy or by the doctor if he, himself, dispenses the substance and one copy must be sent to the Texas Department of Public Safety. The failure of a physician to execute a triplicate prescription form when directly dispensing Schedule II controlled substances is a felony under state law. The Texas Department of Public Safety notified practictioners of the new law in a letter mailed to them in October 1981.

To determine the quantity of controlled substances Respondent could

account for, the Investigator took a physical inventory of drugs on hand March 6, 1984. Respondent was also given credit for drugs he claimed had been stolen, even though he had failed to report the alleged theft as required by 21 CFR 1301.76(b).

In order to ascertain the quantities of audited Schedule II controlled substances that Respondent dispensed during the audit period, the investigator looked only at Respondent's triplicate prescription records. These records are required by law in Texas and the triplicate prescription law was in effect during the entire period covered by the accountability audit.

The audit revealed large shortages of seventeen Schedule II controlled substances, including: 1,500 Ritalin 20 mg. or 100% of the amount for which Respondent was accountable; 5,200 Dexedrine 15 mg. or 86.67% of the amount for which he was accountable; 3,060 Percodan or 85% of the amount for which he was accountable; 3,072 Meperidine 50 mg. or 82.47% of the amount for which he was accountable; and 2,401 codeine 30 mg. or 82.06% of the amount for which he was accountable.

During the audit, the investigator discovered several additional violations of Federal law and regulations with respect to entries on DEA order forms. 21 CFR 1305.06. These order forms are used by registrants to order Schedule II controlled substances from suppliers. On at least one occasion, Respondent failed to sign the order form and on several occasions he failed to endorse the order forms with the quantity or date of receipt of the controlled substances.

In addition, while checking copies of triplicate prescriptions during the audit, the investigator noticed that some individuals were receiving combinations of substances not usually dispensed at the same time in legitimate medical practice. In one instance, Respondent wrote four triplicate prescriptions on December 26, 1983, for one woman. These prescriptions indicated that Respondent dispensed Percodan, Tuinal, phendimetrazine tartrate and meperidine hydrochloride to this one woman all on the same day. It is unusual in legitimate medical practice to dispense two types of narcotics, a sleeping pill and an appetite suppressant, all at one time. At the hearing in this matter, Respondent admitted giving this woman these substances even though she had not been in to see him in well over a year and even though he made no effort to find out whether she was under the care of another physician in California, where she then resided.

As a result of the investigations by the Richardson Police Department, Dallas Police Department and DEA, a Dallas County Grand Jury, during the July 1984 Term, returned ten indictments against Respondent charging him with violations of Texas law regarding triplicate prescriptions and with unlawfully dispensing controlled substances without a valid medical purpose. On February 8, 1985, Respondent pled guilty to, and was convicted of, two charges of dispensing controlled substances in violation of the triplicate prescription law. These are felony offenses under Texas law. Therefore, there is a lawful basis for the revocation of Respondent's registration. 21 U.S.C. 824(a)(2).

As noted above, the Texas State Board of Medical Examiners revoked Respondent's license to practice medicine in the State of Texas. On May 9, 1986, the 160th Judicial District Court of Dallas County, Texas affirmed the decision of the Board. As of that date, Respondent was without state authority to handle controlled substances in the State of Texas. This is an additional statutory basis for the revocation of Respondent's registration. 21 U.S.C. 824(a)(3).

The Administrative Law Judge concluded that Respondent has amply demonstrated that he cannot be entrusted with a DEA registration. Respondent kept most unusual office hours. He made no appointments and habitually saw patients in the middle of the night. Respondent freely dispensed highly abusable Schedule II controlled substances for no legitimate therapeutic purpose, sometimes taking stolen property in return for the drugs.

In addition, an audit of Respondent's stock of controlled substances revealed enormous shortages of very dangerous drugs. The law requires that a physician keep track of the drugs in his possession by maintaining certain required records. The shortages discovered during the audit reveal, at the very least, that Respondent ignored the recordkeeping requirements of both Texas and Federal law.

The Administrative Law Judge recommended that Respondent's DEA registration be revoked and that any pending applications for renewal of such registration be denied. The Administrator adopts the recommended ruling, findings of fact, conclusions of law and decision of the Administrative Law Judge in their entirety. The registration must be revoked and any pending applications denied.

Having concluded that there is a lawful basis for the revocation of Respondent's registration and denial of any pending applications, and having further concluded that under the facts and circumstances presented in this case the registration should be revoked and any applications denied, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AP2238500, previously issued to William J. Powell, M.D., be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of such registration are hereby denied. This order is effective November 17, 1986.

Dated: October 14, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86-23499 Filed 10-16-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Board and Committees; Meetings and Agenda

The regular fall meetings of the Board and Committees of the Business Research Advisory Council will be held on October 29 and 30, and November 20, 1986. All of the meetings will be held in the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW., Washington, DC.

The Business Research Advisory Board and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, October 29, 1986

9 a.m.—Committee on Price Indexes: Room N3437 A & B

1. Consumer Price Index Revision
2. Consumer Expenditure Estimate Comparisons
3. Status Reports for Other Programs
4. Other Business

1 p.m.—Committee on Economic Growth; Room S4215 A & B

1. Election of Chairperson and Vice Chairperson
2. Review of Work in Progress
3. Discussion of Assumptions for Next Round of Projects
4. Other Business

1 p.m.—Committee on Wages and Industrial Relations; Room N3437 A & B

1. PATC Expansion: First Year Results
2. Employee Benefit Survey (EBS): An Update on Results and Plans
3. Today's Pension Plans: How Much Do They Pay?
4. Proposed Compensation Cost Levels for the Employment Cost Index
5. Review of Concepts in BLS Compensation Programs
6. Other Business

Thursday, October 30, 1986

9:30 a.m.—Committee on Productivity/Foreign Labor; Room S4215 A & B

1. Developmental Work on Measuring Productivity in Hospitals
2. Extension of Hours Worked Survey in 2-Digit Industries
3. Work on the Obsolescence Hypothesis
4. International Training Program
5. Other Business

9:30 a.m.—Committee on Employment and Unemployment Statistics; Room N5437 A & B

1. Plans for the Standard Industrial Classification Revision
2. Plans for the National Longitudinal Survey
3. Discussion of Current Labor Force Topics:
   a. Statistics on Homework
   b. Update on Temporary Help Industry Statistics
4. Review of Dislocated Worker Data Initiatives
   a. Secretary's Task Force on Economic Adjustment
   b. Mass Layoff Report Results
5. Update on Local Area Unemployment Statistics Methodology Research
6. Other Business

1:30 p.m.—BRAC Board; Room N5437 A & B

1. Chairperson's Opening Remarks
2. Commissioner's Remarks—Janet L. Norwood
3. Committee Reports:
   a. Price Indexes
   b. Economic Growth
   c. Wages and Industrial Relations
   d. Productivity/Foreign Labor
   e. Employment and Unemployment Statistics
4. Other Business
5. Chairperson's Closing Remarks

Thursday, November 20, 1986

1 p.m.—Committee on Occupational Safety and Health Statistics; Room N3437 A & B

1. Annual Survey Results
2. Status of National Academy of Sciences Panel
3. Records Audit
4. Guidelines/Outreach
5. Health Interview Survey Follow Up
6. State Health Department Project
7. Other Business

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523–1347.

Signed at Washington, DC, this 14th day of October 1986.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 86-23540 Filed 10-16-86; 8:45 am]

BILLING CODE 4510-24-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931 as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Connecticut:
CT86-1 (Jan. 3, 1986) ..... pp. 64–68.

Massachusetts:
MA-86-3 (Jan. 3, 1986) ..... p. 376.
New Jersey:
NJ86-2 (Jan. 3, 1986) ..... pp. 580-588, p. 597.
NJ86-3 (Jan. 3, 1986) ..... pp. 599-603, pp. 605-606, p. 620.
NJ86-4 (Jan. 3, 1986) ..... pp. 622-626, p. 630.
New York:
NY86-2 (Jan. 3, 1986) ..... pp. 645-648, p. 651.
NY86-5 (Jan. 3, 1986) ..... pp. 677-678.
NY86-13 (Jan. 3, 1986) ..... pp. 752-758.
Pennsylvania:
PA86-4 (Jan. 3, 1986) ..... p. 822.
PA86-10 (Jan. 3, 1986) ..... p. 880.
PA86-14 (Jan. 3, 1986) ..... p. 895.
PA86-19 (Jan. 3, 1986) ..... p. 920, pp. 922-923.
PA86-23 (Jan. 3, 1986) ..... pp. 948-951.
Rhode Island:
RI86-1 (Jan. 3, 1986) ..... pp. 965-966.

Volume II

Illinois:
IL86-9 (Jan. 3, 1986) ..... p. 137.
IL86-12 (Jan. 3, 1986) ..... p. 152.
IL86-13 (Jan. 3, 1986) ..... p. 162.
IL86-15 (Jan. 3, 1986) ..... p. 182.
IL86-16 (Jan. 3, 1986) ..... p. 192.
Missouri:
MO86-1 (Jan. 3, 1986) ..... p. 542.

Volume III

Arizona:
AZ86-1 (Jan. 3, 1986) ..... pp. 11-12, 15.
AZ86-3 (Jan. 3, 1986) ..... pp. 29-31, p. 33.
California:
CA86-4 (Jan. 3, 1986) ..... p. 66.
Oregon:
OR86-1 (Jan. 3, 1986) ..... pp. 257-260.
Washington:
WA86-2 (Jan. 3, 1986) ..... p. 239.
WA86-3 (Jan. 3, 1986) ..... pp. 339-340.
WA86-9 (Jan. 3, 1986) ..... 365f.

General Wage Determination Publication

General wage determination issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 10th day of October 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-23345 Filed 10-16-86; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

National Council on the Arts Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on October 31—November 1, 1986, from 9:00 a.m.—5:30 p.m.; and on November 2, 1986, from 9:00 a.m.—3:00 p.m. in room M-09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on Friday, October 31, from 9:00 a.m.—5:30 p.m.; and on Saturday, November 1, from 9:00 a.m.—5:30 p.m. The topics for discussion will include: Program Review/Guidelines for Locals, Design Arts, Visual Arts, Media Arts, Advancement, Challenge, Music Presenters and Festivals and Dance/Inter-Arts/State Programs Touring/Presenting Initiative; Five-Year Plan—Emerging Issues; and State of the Arts Study.

The remaining sessions on Sunday, November 2, 1986, from 9:00 a.m.—3:00 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information in reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/632-5433.

John H. Clark,

Director Council and Panel Operations National Endowment for the Arts.

October 9, 1986.

[FR Doc. 86-23447 Filed 10-16-86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. STN 50-455 and STN 50-456]

Commonwealth Edison Co.; Byron Station, Unit 2, Braidwood Station, Unit 1; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a partial exemption from the requirements of Appendices A and J to 10 CFR Part 50 to Commonwealth Edison Company (the applicant) for Byron Station, Unit 2, located in Ogle County, Illinois, and Braidwood Station, Unit 1, located in Will County, Illinois.

Environmental Assessment

Identification of Proposed Action: One exemption would eliminate the full pressure text required by Paragraph III.D.2(b)(ii) of Appendix J following normal air locking opening and substitute a seal leakage test to be conducted at a pressure specified in the Technical Specifications. The proposed exemption is in accordance with the applicant's request in the Final Safety Analysis Report in the response to Question 022.78. The proposed exemption was found acceptable in section 6.2.6 of both "Safety Evaluation Report Related to the Operation of Byron Station, Unit 2," dated February 1982, and "Safety Evaluation Report Related to the Operation of Braidwood Station, Units 1 and 2," dated November 1983 (NUREG-0876 and NUREG-1002, respectively).

The other exemption is from the requirements of General Design Criteria (GDC) 13 and 17 of Appendix A that instrumentation be provided to monitor variables and systems over their anticipated ranges and that provisions be included to minimize the probability of losing electric power. The proposed exemption is in accordance with the

applicant's request dated October 9, 1986, and was found acceptable in section 9.5.4.1 of both Supplement No. 5 to NUREG–0876 and Supplement No. 1 to NUREG–1002.

Need for Proposed Action: The proposed exemption to Appendix J is required to provide the applicant with greater plant availability over the lifetime of the plant. The proposed exemption to Appendix A is required to provide the applicant with additional time to qualify the emergency diesel generator controls and instrumentation.

Environmental Impact of the Proposed Action: The proposed exemption to Appendix J grants the substitution of an air lock seal test for an air lock pressure test while the reactor is in a shutdown or refueling mode. When no maintenance has been performed on the air lock that could affect its sealing capability, the air lock doors have been properly closed, and the periodic 6-month test at Pa required by Paragraph III.D.2(b)(i) of Appendix J has been performed on schedule, there is no reason to expect the air lock to leak excessively just because it has been opened while the reactor is in a shutdown or refueling mode. Performing the door seal leak test of Paragraph III.D.2(b)(iii) of Appendix J is sufficient, in this case, to demonstrate the continuing integrity of the air lock.

With respect to this exemption from Appendix J, the increment of environmental impact is related solely to the potential increased probability of containment leakage during an accident. This could lead to higher offsite and control room doses. However, this potential increase is very small, due to the added seal leakage test and the protection against excessive leakage afforded by the other tests required to Appendix J.

The proposed exemption to Appendix A allows additional time to meet the requirements of GDC 13 and GDC 17. The proposed exemption allows the applicant until startup from the first refueling outage of Byron Station, Unit 2 and Braidwood Station, Unit 1 to dynamically qualify the diesel generator controls and monitoring instrumentation for their present location, or install them on a free-standing floor mounted panel in such a manner (including the use of vibration isolation mounts if necessary) that any induced vibrations will not result in a cyclic fatigue failure for the expected life of the instrument. The staff does not expect that there will be enough induced vibrations prior to startup from the first refueling outage to cause cycle fatigue of the instruments. Thus, the staff concludes that granting this exemption will not prevent the diesel generators from functioning as required during the first cycle of plant operation, and that there is no environmental impact with respect to this exemption.

Alternative to the Proposed Action: Because the staff has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternative to these exemptions will have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. This would not reduce environmental impacts of plant operations and would result in reduced operational flexibility and unwarranted delays in power ascension.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in the Final Environmental Statement related to operation of both Byron Station, Units 1 and 2, and Braidwood Station, Units 1 and 2.

Agencies and Persons Contacted: The NRC staff reviewed the applicant's request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the: (1) Request for the exemption dated October 9, 1986, (2) NUREG–0876, dated February 1982, (3) NUREG–1002, dated November 1983, (4) Supplement No. 5 to NUREG–0876, dated October 1984, and (5) Supplement No. 1 to NUREG–1002, dated September 1986 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Local Public Document Rooms located in the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103 and in the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Dated at Bethesda, Maryland, this 14th day of October, 1986.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Project Directorate No. 3, Division of PWR Licensing–A.

[FR Doc. 86–23598 Filed 10–16–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 40–8697]

Rocky Mountain Energy Co.; Final Finding of No Significant Impact Regarding Termination of Source Material License SUA–1338 for the Reno Creek R&D In Situ Leach Facility Located in Campbell County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of finding of no significant impact.

(1) Proposed Action

The U.S. Nuclear Regulatory Commission (the Commission) is terminating Source Material License SUA–1338 for the Rocky Mountain Energy Company's Reno Creek R&D in situ leach facility located in Campbell County, Wyoming.

(2) Reasons for the Finding of No Significant Impact

The Commission's Uranium Recovery Field Office has reviewed the Rocky Mountain Energy Company's decommissioning report which was prepared in accordance with the Rocky Mountain Energy Company's decommissioning plan. The plan was approved by the Commission on May 2, 1985, and the report is dated August 13, 1986. Based on the decommissioning report, the Commission has determined that no significant impact will result from the proposed action, and therefore, an environmental impact statement is not warranted.

The following statements support the finding of no significant impact and summarize the contents of the decommissioning report:

(a) Two test patterns were utilized in the Reno Creek R&D project. Test Pattern I was operated with a sulfuric acid lixiviant. Test Pattern II was operated with a sodium bicarbonate lixiviant using hydrogen peroxide as the primary oxident.

Test Pattern I was operated for nine months in 1979 and was restored with a ground water sweep. Restoration was completed and approved by the Commission on February 24, 1986.

Test Pattern II was operated for three months in 1980. Restoration of Test Pattern II was completed and approved by the Commission on April 12, 1982 after utilizing ion exchange and ground water sweep methods.

Post restoration stability monitoring was performed for twelve months prior to the Commission approval of restoration of both test patterns.

(b) The decommissioning report addressed well abandonment, the

removal of process equipment, evaporation reservoir removal, contamination surveys, soil sampling and environmental monitoring.

The wells from Patterns I and II were abondoned in accordance with the Wyoming State Engineer's Office permit requirements. Following cementation, each well casing was cut two feet below the ground surface. The tops were capped and the area was backfilled and seeded.

All process tanks, columns, pipes and associated equipment as well as the evaporation reservoir were removed and disposed of at a nearby licensed tailings impoundment. Area gamma surveys indicated contaminated soil which was subsequently removed and disposed of in the licensed tailings impoundment.

Soil samples were collected to a 15 centimeter depth from each former well pattern site and the evaporation reservoir site. Radium-226 concentrations did not exceed the limits specified in 40 CFR Part 192. Environmental monitoring for airborne radionuclides and direct gamma radiation continued through the decommissioning process with results well below the respective maximum permissible concentrations for unrestricted areas.

(c) Final decontamination tasks were completed in June of 1986. Utilities were disconnected, remaining buildings were cleaned and final radiation surveys were performed. Independent verification of site cleanup was performed by the USNRC on August 15, 1986.

Accordingly, the Commission's Uranium Recovery Field Office has determined that termination of Source Material License SUA–1338 will not have a significant effect on the quality of the human environment. This determination is based on the fact that all contamination has been cleaned up and removed from the site.

In accordance with 10 CFR 51.33(a), the Director, Uranium Recovery Field Office, made the determination to issue a Draft Finding of No Significant Impact. A Draft Finding of No Significant Impact was published on September 8, 1986, and no comments were received.

In accordance with 10 CFR 51.32, the Director, Uranium Recovery Field Office, made the determination to issue a Final Finding of No Significant Impact. This finding, together with the decommissioning report setting forth the basis for the finding and other related environmental documents, are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC.

Dated at Denver, Colorado, this 8th day of October 1986.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, Region IV.

[FR Doc. 86–23567 Filed 10–16–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40–8728]

UNC Teton Exploration Drilling, Inc.; Final Finding of No Significant Impact Regarding Termination of Source Material License SUA–1373 for the Teton Leuenberger R&D in Situ Leach Facility Located in Converse County, WY

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of final finding of no significant impact.

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(1) Proposed Action

The U.S. Nuclear Regulatory Commission (the Commission) is terminating Source Material License SUA–1373 for the UNC Teton Exploration Drilling, Inc. (UNC Teton) facility located in Converse County, Wyoming.

(2) Reasons for the Final Finding of No Significant Impact

The Commission's Uranium Recovery Field Office has reviewed the UNC Teton's decommissioning report which was prepared in accordance with the UNC Teton's decommissioning plan. The plan was approved by the Commission on May 13, 1985 and the report was received at the USNRC on August 14, 1986. Based on the decommissioning report, the Commission has determined that no significant impact will result from the proposed action, and therefore, an environmental impact statement is not warranted.

The following statements support the finding of no significant impact and summarize the contents of the decommissioning report:

(A) One test pattern was utilized in the N ore zone formation (220–270 feet deep.) Lixiviant consisted of sodium bicarbonate. This test pattern was operated during the first six months of 1980. Restoration of this test pattern was completed in November of 1980 after performing a ground-water sweep. Fourteen months of post restoration stability monitoring was performed prior to the Commission's approval of restoration which occurred on February 28, 1983.

(b) Three test patterns were operated in the M ore zone formation (320–390 feet deep) during eleven months in 1980 and the first two months in 1981. Restoration methods utilized included filtration of recovered solutions, ion exchange, reverse polarity electrodialysis and reinjection of diluted solution. Post restoration stability monitoring was performed for nine months prior to the Commission's approval of the restoration which occurred on February 22, 1983.

(c) The decommissioning report addressed well abandonment, the removal of process equipment, evaporation pond removal, contamination surveys, disposal methods, soil sampling and environmental monitoring.

The wells from the four test patterns were abandoned in accordance with the Wyoming State Engineer's Office permit requirements. Each well casing was cut two feet below the ground surface. Plugging material consisted of bentonite with a top layer and cap of cement.

All process tanks, columns, pipes and associated equipment as well as the two evaporation ponds were removed and disposed of at several nearby licensed tailings impoundments. Area gamma surveys indicated contaminated soil which was subsequently removed and disposed of in these licensed tailings impoundments.

Soil samples were collected to a 15-centimeter depth from each former well pattern site, the evaporation pond sites and other locations as indicated by the area gamma surveys. Radium-226 concentrations did not exceed the limits specified in 40 CFR 192. Environmental monitoring for airborne radionuclides continued throughout the decommissioning process with results well below the respective maximum permissible concentrations for unrestricted areas.

(d) Final decontamination tasks were completed in June of 1986. Utilities were disconnected, the remaining building was cleaned and final radiation surveys were performed. The entire project site was recontoured, covered with topsoil and reseeded. Independent verification of site cleanup was performed by the USNRC on June 17, 1986.

According, the Commission's Uranium Recovery Field Office has determined that termination of Source Material License SUA–1373, will not have a significant effect on the quality of the human environment. This determination is based on the fact that all

contamination has been cleaned up and removed from the site.

In accordance with 10 CFR 51.33(a), the Director, Uranium Recovery Field Office, made the determination to issue a Draft Finding of No Significant Impact. A Draft Finding of No Significant Impact was published in the **Federal Register** on September 5, 1986, and no comments were received.

In accordance with 10 CFR 51.32, the Director, Uranium Recovery Field Office, made the determination to issue a Final Finding of No Significant Impact. This finding, together with the decommissioning report setting forth the basis for the finding and other related environmental documents are available for public inspection and copying at the Commission's Uranium Recovery Field Office at 730 Simms Street, Golden, Colorado, and at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC.

Dated at Denver, Colorado, this 8th day of October, 1986.

For the Nuclear Regulatory Commission.

Harry J. Pettengill,

Chief, Licensing Branch 2, Uranium Recovery Field Office, Region IV.

[FR Doc. 86-23568 Filed 10-16-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-219]

GPU Nuclear Corp. and Jersey Central Power and Light Co., Oyster Creek Nuclear Generating Station; Modification of January 13, 1981 Order, December 19, 1981 Order and January 19, 1982 Order

I

The GPU Nuclear Corporation and Jersey Central Power and Light Company (the licensees) are the holders of Provisional Operating License No. DPR-16 which authorizes GPU Nuclear Corporation (the licensee) to operate the Oyster Creek Nuclear Generating Station (the facility) at power levels not in excess of 1930 megawatts thermal (rated power). The facility is a boiling water reactor located in Ocean County, New Jersey.

II

On January 13, 1981 the Commission issued an Order modifying the license requiring: (1) The licensee to promptly assess the suppression pool hydrodynamic loads in accordance with NEDO-21888 and NEDO-24583-1 and the Acceptance Criteria contained in Appendix A to NUREG-0661 and (2) design and install any plant modifications needed to assure that the facility conforms to the Acceptance Criteria contained in Appendix A to NUREG-0661. The Order, published in the **Federal Register** on January 26, 1981 (46 FR 8139) required installation of any plant modifications needed to provide compliance with the Acceptance Criteria in Appendix A to NUREG-0661 be completed not later than December 31, 1981 or, if the plant is shut down on that date, before the resumption of power operation thereafter.

On December 19, 1981 a 45-day extension of this January 13, 1981 Order, published in the **Federal Register** on January 6, 1982 (47 FR 702) was granted by the Director of the Division of Licensing pending Commission approval of a staff generic proposal to extend the completion dates for the Mark I long-term program containment modifications for all affected licensees.

On January 19, 1982, an extension of this January 13, 1981 Order, published in the **Federal Register** on January 26, 1982 (47 FR 3656) was granted by the Director of the Division of Licensing. This was to extend the completion of the major modifications to prior to the start of Cycle 10 and the completion of the remaining modifications to prior to the start of Cycle 11.

III

On October 31, 1979, the staff issued an initial version of its acceptance criteria to the affected licensees. These criteria were subsequently revised in February 1980 to reflect acceptable alternative assessment techniques which would enhance the implementation of this program. Throughout the development of these acceptance criteria, the staff has worked closely with the Mark I Owners Group in order to encourage partial plant-unique assessments and modifications to be undertaken.

Since the development of these acceptance criteria, significant progress has been made by the licensee in meeting the Order requirements. However, by letter dated July 26, 1985, the licensee requested that it not complete all the plant modifications by the start of Cycle 11 to meet the Order requirements. The Cycle 11 Refueling (Cycle 11R) outage was a major outage with large blocks of work of higher safety priority than the remaining work to meet the Order. This included completion of all remaining Appendix R Fire Protection modifications, a series of activities to enhance the plant piping to be less susceptible to intergranular stress corrosion cracking, substantial work in the control room and a number of other modifications, including work to meet the Order requirements. The few remaining plant modifications to complete the Order requirements are being deferred because they are less important than the high safety priority work being completed in the outage and will significantly delay the restart from the Cycle 11R outage.

The major modifications, which are those associated with the torus, vent system, internal structures and safety relief valve piping and which comprise approximately 75 percent of the total program effort, have been completed. Of the remaining minor modifications, only two items will not be completed by the start of Cycle 11. These remaining two items are: (1) The upgrading of the existing torus bulk water temperature indication which will be done during the Cycle 12R outage and (2) the remaining torus attached piping support modifications that do not require a plant shutdown which will be done during the operating Cycle 11 but no later than the Cycle 12R outage. Of all the torus attached piping supports to be done, thirty-two (57%) will be done in the Cycle 11R outage and twenty-four (43%) would be done in operating Cycle 11. These twenty-four supports are for the following piping: Crossover piping for the core spray system, test return piping for the core spray system, relief valve discharge piping for the reactor water cleanup system demineralizer, reference leg piping for the torus water level indication, reactor building-to-torus vacuum relief line, minimum flow line for containment spray system pumps and test return piping for the containment spray system. Thus, 85 percent of the total program effort will be completed prior to the start of Cycle 11. These remaining modifications are minor modifications of the Mark I containment program.

The Commission believes that substantial improvements have already been made in the margins of safety of the containment systems and expects improvements will continue to be made during the period until all the modifications required for compliance with this Order are completed. The Commission further believes an acceptable balance has been achieved between completion of most of the major modifications, which provide significant improvement in the safety margin, and the granting of additional time for completion of the remaining modifications which fully restore the originally intended safety margin.

The Commission has, therefore, determined to modify the January 13, 1981 Order, as modified by the Orders of December 29, 1981 and January 19, 1982, to extend the previously imposed

completion dates for needed plant modifications.

IV

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, including sections 103 and 161i, and the Commission's rules and regulations in 10 CFR Parts 2 and 50, it is ordered that the completion date specified in Section V of the January 13, 1981, "Order for Modification of License," is hereby changed to read as follows: "Prior to start of Cycle 10 for completion of the major modifications and prior to the start of Cycle 11 for completion of the remaining modifications except for: (1) Upgrading the existing torus bulk water temperature indication by the start of operating Cycle 12, and (2) completing the torus attached piping supports, not requiring a plant shutdown, in operating Cycle 11 but no later than the start of operating Cycle 12." The Order of January 13, 1981, as modified December 19, 1981, and January 19, 1982, except as modified herein, remains in effect in accordance with its terms.

The Director, Division of BWR Licensing, may in writing grant further extensions of time for completing the above items if the request is timely and provides good cause for the requested action.

V

The licensees or any other person who is adversely affected by this Order may request a hearing on this Order within 20 days of the date of publication of this Order in the **Federal Register**. Any request for a hearing shall be addressed to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy of the request shall also be sent to the Office of the General Counsel—Bethesda, at the same address.

If a hearing is requested, the Commission will issue an order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether the completion date specified in Section V of the January 13, 1981, "Order for Modification of License", should be changed to "Prior to start of Cycle 10 for completion of the major modifications and prior to the start of Cycle 11 for completion of the remaining modifications except for: (1) Upgrading the existing torus bulk water temperature indication by the start of operating Cycle 12, and (2) completing the torus attached piping supports, not requiring a plant shutdown, in operating Cycle 11 but no later than the start of operating Cycle 12."

This Order shall become effective upon expiration of the period within which a hearing may be requested or, if a hearing is requested, on the date specified in an order issued following further proceedings on this Order.

Dated at Bethesda, Maryland, this 6th day of October 1986.

For the Nuclear Regulatory Commission.

Robert M. Bernero,

Director, Division of BWR Licensing.

[FR Doc. 86-23569 Filed 10-16-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Certain Specialty Steel Products From Sweden; Decision not to Initiate Investigation

AGENCY: Office of the United States Trade Representative.

ACTION: Decision not to initiate an investigation.

The United States Trade Representative has determine not to initiate an investigation at this time under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) with respect to a petition filed on August 26, 1986, concerning imports of certain specialty steel pipe and tube and wire products from Sweden. This determination is deemed appropriate because of the recent initiation of a countervailing duty investigation by the Department of Commerce. The countervailing duty law is specificially designed to address the issue of domestic subsidies provided to the Swedish specialty steel industry and will provide expeditious relief if subsidized imports from Sweden cause or threaten to cause injury to the domestic industry. Thus, we believe that the countervailing duty investigation is the appropriate forum for resolving the problems presented in this Section 301 petition.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Assistant General Counsel, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC; telephone (202) 395-3432.

EFFECTIVE DATE: October 10, 1986.

Judith Hippler Bello,

Chairman, Section 301 Committee.

[FR Doc. 86-23500 Filed 10-16-86; 8:45 am]

BILLING CODE 3190-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Economic Forecasting Advisory Committee Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Economic Forecasting Advisory Committee, to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Presentation and discussion of a staff issue paper, Status Report of the Regional Economy and Loads.
- Discussion of Economic Forecasting activities and future committee business.
- Public comment, followed by adjournment.

DATE: Friday, October 24, 1986, 1:00 p.m. to 4:00 p.m.

ADDRESS: The meeting will be held at the Council's Central Office, 850 SW. Broadway; Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Debbie Kitchin, (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 86-23410 Filed 10-16-86; 8:45 am]

BILLING CODE 0000-00-M

PENSION BENEFIT GUARANTY CORPORATION

[Case No. 120-570]

Exemption From Bond/Escrow Requirement Relating to Sale of Assets By an Employer That Contributes to a Multiemployer Plan; CHF Industries, Inc. (Cameo Curtains)

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974 to CHF Industries, Inc. A notice of the request for exemption was published in the **Federal Register** on August 13, 1986 (51 FR 29026). The effect of this notice is to

advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the Public Affairs Office, Pension Benefit Guaranty Corporation, Suite 7100, 2020 K Street NW., Washington, DC 20006, between the hours of 9:00 a.m. 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (38000) at the above address.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202–778–8850 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Under section 4204(a)(1) of the Employee Retirement Income Security Act of 1974 ("ERISA"), a sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser furnish a bond or escrow for five plan years after the sale.

ERISA section 4204(c) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on variances for sales of assets (29 CFR Part 2643), the PBGC will approve a request for an exemption if it determines that approval of the request is warranted, in that it—

(1) would more effectively or equitably carry out the purposes of Title IV of ERISA; and

(2) would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of an exemption request in the **Federal Register**, and to give interested parties an opportunity to comment on the proposed exemption.

Decision

On August 13, 1986 (51 FR 29026), the PBGC published a notice of the pendency of a request from CHF Industries, Inc. ("CHF"), for an exemption from the bond/escrow requirement of ERISA section 4204(a)(1)(B), in connection with the purchase by CHF of the assets of M&MR Corp. (formerly Cameo Curtains, Inc.) ("M&HR") on January 3, 1983. (The request antedates the amendments to 29 CFR Part 2643 that were published in the **Federal Register** on May 31, 1984 (49 FR 22635).) No comments were received in response to the notice of pendency.

In connection with the sale, CHF assumed M&HR's obligation to contribute to the ILGWU National Retirement Fund ("the Fund"). The Fund has informed CHF that the amount of the bond or escrow required of CHF under section 4204(a)(1)(B) is $43,687. The estimated amount of the withdrawal liability that M&HR would otherwise incur as a result of the sale if section 4204 did not apply to the sale is $345,000.

CHF stated that the request for an exemption should be granted on a *de minimis* basis. Based on information provided to CHF by the Fund, the average annual contributions made by all employers to the Fund for the three plan years preceding the plan year in which the sale occurred were $144,505,961. Thus, the amount of the bond/escrow is about three-hundredths of one percent of the amount of employer contributions.

Based on the facts of this case and the representations and statements made in connection with the exemption request, the PBGC has determined that this request is *de minimis* in nature and thus an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the Fund. Therefore, the PBGC hereby grants the request for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) with respect to CHF's purchase of assets from M&HR. The granting of such an exemption does not constitute a determination by the PBGC that the transaction satisfies the other requirements of section 4204(a)(1). That is a determination to be made by the plan sponsor.

Issued at Washington, DC, on this 2nd day of October, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–23411 Filed 10–16–86; 8:45 am]

BILLING CODE 7708–01–M

POSTAL RATE COMMISSION

[Order No. 713, Docket No. C86–2]

Complaint of The Sacramento Bee, The Des Moines Register, The Tennessean, and Nashville Banner; Order Setting Date of Comments and Interventions

Issued: October 10, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Bonnie Guiton, Vice-Chairman; John W. Crutcher; Henry R. Folsom; Patti Birge Tyson.

On August 21, 1986, The Sacramento Bee, The Des Moines Register, The Tennessean, and Nashville Banner filed a complaint concerning change by the United States Postal Service in the eligibility standards for second class mail in violation of 39 U.S.C. 3623. On September 22, 1986, United States Postal Service filed a motion to dismiss the complaint as moot, stating the complained about regulation had been superseded. Postal Service reserved the right to answer the complaint should its motion to dismiss be denied.

An answer in opposition to this motion was filed by complainants on October 1, 1986. That answer alleged the controversy was not mooted by the adoption of new restrictive language, and that this new restrictive language was inappropriate also. Two other documents were submitted commenting on the Postal Service motion, one from Third Class Mail Association and one from Advo-System, Inc.

On October 3, 1986 Postal Service filed a Notice in which it stated that complainants had raised new arguments in their answer to the motion to dismiss, and that complainants were seeking to amend their complaint. Postal Service expressed an intent to respond to the complainants' answer on or before October 20.

The arguments raised in pleadings filed to date indicate that a decision on whether to proceed to initiate evidentiary hearings in conformity with 39 U.S.C. 3624 will involve interpretation of the Commission's responsibilities under 39 U.S.C. 3662. Prior to making such a decision, we would like to receive the advice of all interested members of the public. Therefore we invite any member of the Public interested in intervening to do so, and to file its comments, if any, on the appropriate procedural steps to follow in this controversy, on or before November 5, 1986. Any party that has already filed comments with the Commision shall be deemed to have intervened pursuant to Rule 20.

It Is Ordered

(A) Noitices of intervention shall be filed on or before November 5, 1986.

(B) Interested persons wishing to file comments on: (1) Whether Docket No. C86–2 should be set for hearings; (2) the motion to dismiss this complaint filed by the Postal Service on September 22, 1986; or (3) the response the Postal Service will file by October 20 responding to complainants' answer, may do so by November 5, 1986.

By the Commission

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 86–23502 Filed 10–16–86; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash (202) 272–2142

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549

Extension

Rule 17f–1(g)

No. 270–30

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17f–1(g) (17 CFR 240.17f–1(g) under the Securities Exchange Act of 1934 (15 U.S.C. 78 et seq.) which requires reporting institutions registered in the Lost and Stolen Securities Program to retain for three years certain records necessary to permit appropriate regulatory agencies to monitor compliance with Rule 17f–1. The potential affected persons are approximately 19,602 reporting institutions.

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.

Jonathan G. Katz,

Secretary.

October 10, 1986.

[FR Doc. 86–23557 Filed 10–16–86; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34–23686; File No. SR–DTC–86–4]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of The Depository Trust Co.

On April 22, 1986, The Depository Trust Company ("DTC") filed with the Securities and Exchange Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). Notice of the proposal was published in Securities Exchange Act Release No. 23215.[1] No comments were received. As discussed below, the Commission is approving the proposed rule change.[2]

I. Description

The proposed rule change modifies DTC's procedures regarding: (1) The crediting of cash dividend and interest payments to participants' cash accounts; (2) the charging back of certain dividend payments to participants' cash accounts; and (3) the monthly refunding of dividend investment income to paying agents. The proposal also allows DTC to pass through to participants charges by DTC's interest collection agent for interest costs incurred from late bearer municipal bond interest payments.

Under the proposal, DTC will credit all corporate cash dividend and interest payments on payable date, subject to certain exclusions.[3] DTC will have the right to withhold crediting participants' accounts any payments owed by paying agents that historically do not make dividend and interest payments in good funds on payable date. DTC, however, plans to credit participants' accounts on payable date for payments from paying agents owing DTC less than $5 million unless DTC's projected same-day funds is insufficient to meet its next day's payment obligation.[4]

As part of the proposal to credit dividend and interest payments, DTC will allow certain charge-backs of payments previously credited to participants. DTC will charge back previously credited payments upon written request from a paying agent within ten (10) business days of the payable date for: (1) An error by the paying agent; (2) a failure by the issuer to provide the paying agent with sufficient funds to cover the payments; or (3) the bankruptcy of the issuer on or prior to the payable date. DTC also may charge back any errors made by DTC as a result of erroneous announcements of calculations of payments credited to participants in anticipation of payments which have not been received by DTC 10 business days after payable date. For charge-backs resulting from a paying agent's written request, DTC will notify a participant one business day prior to the date DTC enters the charge-back in the participant's daily money settlement account.[5] Although DTC usually will attempt to verify the facts stated in the notice from the paying agent, DTC does not have any obligation to do so. If the paying agent notifies DTC more than 10 business days after payment date, DTC is not required to charge back a participant's account but will cooperate with the paying agent and the participant to resolve the matter. For DTC initiated charge-backs, DTC also will give participants a one business day notice if the charge-back will occur within 10 business days after payable date. Otherwise, DTC will notify participants five (5) business days prior to entry of the charge-back.

The proposal also modifies refund payment procedures to participants who also are payors of dividend and interest payments ("paying agents"). The proposal revises the present formula into a two-part test: (1) to determine if a paying agent qualifies for a refund; and (2) to determine the amount of the refund due a paying agent. To qualify for a refund, the paying agent must have paid, in same-day funds on payable date, at least 90% of the amount due DTC on payable date, based on the average experience during the preceding three months. (This reflects DTC's current test to determine if the paying agent is entitled to a rebate of 100% of its *pro rata* share of investment income.) To determine the amount of the monthly refund, the proposal establishes a new formula that will reduce the paying agent's *pro rata* refund by the precentage of funds the paying agent failed to pay DTC on payable date plus the percentage of funds not paid in same-day funds. DTC will calculate this new formula monthly to determine the exact amount of a paying agent's refund.

[1] (May 7, 1986), 51 FR 17699 (May 14, 1986).

[2] On April 18, 1986, DTC filed an identical proposal (DTC–86–03) seeking approval on a temporary basis until the Commission could review and approve the present proposal. *See* Securities Exchange Act Release No. 23219 (May 18, 1986), 51 FR 17845 (May 15, 1986), granting temporary approval.

[3] Bearer and registered municipal bond interest payments will continue to be credited on payable date.

[4] DTC expects to make a determination by approximately 2:00 p.m. concerning same-day funds available to meet its next day's payment obligations.

[5] DTC will notify the participant through the Participant Terminal System ("PTS") and by placing the notice in the Participant's box at DTC.

For example, if a paying agent makes 95% of its payments on payable date (a 5% shortfall) and 96% of its payments in same-day funds (a 4% shortfall) its refund for that month will be reduced by 9%. In addition, as part of DTC's efforts to have all paying agents meet these standards, DTC will telephone a paying agent who falls significantly from its present level of payment and who therefore will be subject to a reduction in its monthly refund from DTC.

The proposal also allows DTC to pass through to participants the interest collection agent's costs from late payments (called a "funds usage charge"). DTC channels all coupons for bearer municipal bonds to a central interest collection agent ("Agent"). On payable date the Agent pays DTC the total interest payments regardless of whether the Agent has collected all the funds from the various paying agents. Under the proposal, the Agent will charge DTC a funds usage charge and DTC will pass the charge on a *pro rata* basis to participants that received those particular payments.

II. DTC's Rationale

DTC believes that the proposed rule change is consistent with Section 17A of the Act because it will enhance the timeliness of dividend and interest payments to DTC participants and will improve processing and recordkeeping by DTC and it participants. DTC also believes the proposal is consistent with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible.

DTC received letters from 12 commenters concerning various aspects of the charge-back proposal. Most commenters expressed concerns about receiving timely notice of the charge-back from DTC. Many out-of-town participants stated that it was not unusual to receive such notices the day of or the day after the charge-back occurred. Several commenter suggested that sending those notices through PTS will ensure timely notice. Subsequent to the filing of this proposal, DTC agreed to notify participants through PTS and by placing the notice on the participant's box at DTC at least one day prior to the charge-back.

Some commenters stated that DTC should verify the facts surrounding a charge-back before debiting a participant's account. DTC, while not required to verify the fact, will attempt to verify claims from paying agents. Other commenters expressed concern with imposing the charge-back before the participant's customer returns the payment. DTC believes that charge-backs of this type will arise infrequently and are offset by the benefits derived from encouraging paying agents to continue making payments to DTC on payable date in same-day funds.

III. Discussion

The Commission agrees with DTC that the proposal is consistent with Section 17A of the Act and should be approved. In addition, the proposal will enable DTC to continue its efforts to improve the timely collection and payment of dividends and interest.

The proposal is part of DTC's continuing effort to distribute all dividend and interest payments to participants on payable date. In 1985, DTC received $80.5 billion in corporate dividends and interest payments and $14.7 billion in municipal bond interest payments from approximately 1,000 bank and corporate paying agents for credit to its participants. In 1985, DTC processed more than 250,000 payments, including more than 13,000 payments on some peak days. DTC has increasingly strived to work with paying agents to obtain all dividends and interest due DTC in same-day funds on payable date. Because of these initiatives, participants often receive dividend and interest payments more quickly than if payments were received directly from paying agents. DTC's processing of dividend and interest payments also spares participants the time and expense of maintaining facilities to process these payments.

1. Dividends and Interest Credits on Payable Date and Charge-Backs of Funds Usage Charges

One aspect of the proposal would extend to corporate dividend and interest payments DTC's policy of disbursing payments on the issuer's announced payable date, as is the case for disbursements of interest on municipal securities, rather than upon receipt. The Commission believes that DTC's decision to implement this aspect of the proposal reflects an appropriate balance of potentially competing concerns. On the one hand, crediting participants on payable date benefits those participants by establishing a presumption that dividend and interest payments will be made on payment date, thereby enabling participants to manage their funds more carefully and to disburse funds to their customers in a more timely fashion. On the other hand, this practice could increase DTC's financing costs and expose DTC to financial risk in the event of issuer defaults or paying agent failures. As discussed below, the proposal appears to incorporate appropriate protections to reduce those risks.

First, the proposal would authorize DTC to withhold dividend and interest credits if DTC believes that payments will not, for any reason, be received in time to satisfy DTC's payment obligations to participants. For example, DTC would be authorized to withhold credits to participants if DTC historically receives funds from a particular issuer or paying agent after DTC disburses settlement credits. [6]

Second, DTC's experience in collecting dividend and interest payments indicates that a substantial majority of all such payments are received in good funds on payable date, thereby reducing DTC's potential financial exposure and financing costs. Indeed, approximately 92% of corporate dividend and interest payments are received on payable date in good funds and 96% are received in either good funds on payable date or the next business day.

Third, DTC's experience during a six month pilot of crediting corporate dividend and interest payments on payable date indicates that the policy can be administered in a safe and responsible manner. During 3½ months of the pilot, DTC disbursed approximately $39.24 billion incorporate dividend and interest payments without financial loss. [7]

Finally, the proposal authorizes DTC to charge its participants for dividend and interest payments previously credited in the event of errors, issuer defaults or paying agents failures. Several DTC participants expressed concern that DTC provide adequate notice of DTC's intention to charge-back participants for previous dividend and interest credits. Accordingly, DTC revised the proposal to undertake to notify participants, through its participant terminal system, one day before any proposed charge for previously credited dividend and interest payments. [8]

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[6] DTC settles payment obligations in clearing house funds that are valued as of the next business day. Accordingly, if DTC received dividend or interest payments on the day after payable date in clearing house funds, those funds generally could not be used to satisfy DTC's payment obligation to its participants reflecting amounts credited on payable date.

[7] Indeed, the Midwest Securities Trust Company, another registered clearing agency, adopted a similar credit policy with respect to dividend and interest payments in April 1982 (*See* Securities Exchange Act Release No. 18864 (April 19, 1982), 47 FR 17700 (April 23, 1982) and has experienced no financial losses to date.

[8] Several DTC participants also noted that the lack of finality associated with dividend and interest credits could increase their financial risks in safekeeping customer securities. Because of

Continued

The proposal also will allow DTC to pass through an interest collection agent's costs from late payments (called a "funds usage charge") to participants. While DTC currently incurs a fund usage charge from its interest collection agent, DTC does not pass that charge on to its participants. As bearer bond eligibility increases, DTC believes those costs will increase and thus should be passed through, on a *pro rata* basis, to the participants that received those payments. Thus, the Commission believes that passing through the funds usage charge to participants receiving payments is consistent with Section 17A of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges.

2. Refunds of Investment Income

Another aspect of the proposal would revise DTC's policy and formula for allocating income from overnight investment of dividend and interest payments that are received on payable date in same-day funds. As noted above, DTC encourages paying agents to make dividend and interest payments in same-day funds on payable date. DTC's settlement system, however, credits payments to participants in next-day funds on payable date. As a means to come as close as practicable to passing these payments on to participants in same-day funds, DTC invests the funds overnight and refunds the investment income to participants in proportion to the dividend credits they received from DTC. In 1985, DTC's refunded to participants over $46 million of investment income from cash dividend and interest payments.

The proposal modifies DTC's rebating of investment income to encourage paying agents to make those payments in same-day funds on payable date. Currently, paying agents that have paid DTC, over the past three months, at least 90% of the dollar amount owed DTC in same-day funds on payable date receive a full refund. DTC's proposal will no longer grant full refunds to paying agents that pay less than 100% of the dollar amount owed DTC in same-day funds on payable date but will reduce the payments of those agents that pay less than 100% but at least 90% of the dollar amount owed DTC in same-day funds on payable date. DTC will reduce a paying agent's *pro rata* refund by the percentage of funds the paying agent fails to pay DTC on payable date plus the percentage of funds not paid in same-day funds. This change, in light of DTC's new policy of disbursing payments on the issuer's announced payable date rather than on receipt, will reduce DTC's financing costs since DTC will finance most shortfalls with same-day funds which otherwise would be available for investment overnight.

Under the proposal, a reduction in the refund to any particular paying agent occasionally might be greater than DTC's cost of financing that paying agent's shortfall. DTC believes that the reduction covers not only the cost of financing but also the uncertainty in the timing and method of paying agents' payments to DTC. While a particular paying agent's refund reduction may be greater or less than the costs to finance the associate shortfall in a particular month, DTC has chosen to mutualize the financing cost among paying agents that pay less than 100% of payments owed DTC in good funds on payable date. In addition, paying agents can continue to receive a full refund by paying DTC 100% of the dollar amount owed DTC in same-day funds on payable date.

The Commission understands that some paying agents have expressed concerns that the proposal will reduce refunds to paying agents without some type of notice. DTC has assured the Commission, however, that it will contact paying agents who fall significantly below the standard for full refunding and, consequently, will incur a reduction in their monthly refunds from DTC.[9] In addition, if DTC receives all payments in same-day funds on payable date, the amount of funds available for overnight investment and subsequent refunds will be higher. Thus, the Commission agrees with DTC that the proposed rule change concerning refunds, by allowing DTC to mutualize certain financing costs among paying agents that pay less than 100% of payments owed DTC in good funds on payable date, should encourage the timely payment of dividends and interest to DTC in good funds.

IV. Conclusion

For the reasons discussed above, the Commission believes that the proposed rule change is consistent with Section 17A of the Act. The Commission believes that the proposal is a significant step in DTC's continuing effort to collect and disburse all dividend and interest payments on payable date. Because participants generally will receive payments on payable date, the Commission believes that the proposal will allow participants to make payments to their customers, the beneficial owners, in a more timely manner and, therefore, will have a positive impact on the Commission's immobilization efforts. Also, the Commission believes DTC has struck an appropriate balance between the various concerns and benefits of the proposal and has reached a reasonable decision that is consistent with the Act. The Commission therefore finds that the proposal is consistent with the Act, and in particular, with Section 17A of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–DTC–86–04) be, and it hereby is, approved.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: October 7, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–23486 Filed 10–16–86; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 34–23688; File No. SR–OCC–86–21]

Self-Regulatory Organizations; Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78(b)(1), notice is hereby given that on September 16, 1986, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change described below. The proposal modifies and amends OCC's member agreements. The

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DTC's authority, in effect, to reverse dividend and interest credits, some commenters noted that participants who credit their customers with immediately available funds may not be able to collect those funds from their customers in the event DTC determines a credit reversal is appropriate. The Commission believes that those risks appear to be insufficient to justify a wholesale change in participants' payment policies. First, as discussed above, experience indicates that issuer defaults, paying agent failure and dividend and interest credit reversals are extremely rare; indeed, none have occurred to date. Second, the Commission expects that DTC will continue to monitor paying agent performance and will, where appropriate, exercise its authority to withhold dividend and interest credits rather than reversing those credits after the fact. Finally, the Commission understands that accepted commercial practice among banks and brokers is to collect dividend and interest payments for customers on an agency, rather than guaranteed, basis. The Commission also understands that most customers who receive dividend and interest payments from banks and brokers have a sufficient nexus with their custodians that significantly reduces the risks that customers will fail to honor a request, in the unlikely event of a credit reversal, to return part or all of a dividend or interest payment.

[9] During those telephone conversations, paying agents will have an opportunity to discuss their payment performance and any refund reduction.

Commission is publishing notice to solicit comment on the rule change.

The proposed rule change will modify OCC's Foreign Clearing Member's Agreement by replacing the terms "Foreign Clearing Member" and "Foreign Regulatory Agency" with "Non-U.S. Clearing Member" and "Non-U.S. Regulatory Agency", respectively. The document will now be titled "Non-U.S. Clearing Member Agreement." The change reflects OCC's response to requests that OCC adopt more neutral labels in their documents for non-U.S. entities. References to "liens" and "security interests" in the Non-U.S. Clearing Member Agreement have been replaced by a new document entitled "Security Agreement," to be signed by non-U.S. Clearing Members. This Agreement spells out the extent of OCC's security interests in the Non-U.S. Clearing Member's OCC Settlement Accounts and does not substantively change those security interests in any way. Previously, Non-U.S. Clearing Members would have to review several provisions of OCC's By-Laws and Rules to learn the full extent of OCC's Security Interests. The Agreement will greatly simplify the review by centralizing in one document descriptions of OCC's most important security interests.[1]

This rule change has become effective, pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors or otherwise in furtherance of the purposes of the Act.

You may submit written comments within 21 days after notice is published in the **Federal Register.** Please file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR-OCC-86-21 and should be submitted by November 7, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: October 7, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23488 Filed 10-16-86; 8:45 am]

BILLING CODE 8010-01-M

[1] Finally, the proposal also contains several other technical and grammatical corrections to OCC's Clearing Member's Agreement and Non-U.S. Clearing Member Agreement.

[Rel. No. 34-23687; File No. SR-PSE-86-14]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc. Order Approving Proposed Rule Change of

On July 17, 1986, the Pacific Stock Exchange, Inc., ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, a proposed rule change to amend its rules regarding appeal of disciplinary actions governing floor citations and summary proceedings after a default of a respondent.

The proposed rule change was noticed in Securities Exchange Act Release No. 23470 (July 28, 1986), 51 FR 27622, (August 1, 1986). No comments were received on the proposed rule change.

The PSE state that since the inception of the Rules governing options trading, there has been an ongoing need to revise certain aspects of the Rules to conform them to the natural evolution of regulation in this relatively new trading environment. This proposed rule change in an example of such a need.

The proposed rule change has the effect of first, consolidating all references to the procedure of appealing a sanction issued by a floor citation into one rule, Rule XX, Section 11.

Originally, Section 84 was drafted to allow members to request a review or hearing for what was termed "Exchange action other than disciplinary actions and arbitrations." This term was intended to cover those types of actions that are now dealt with by the use of Floor Citations.

Citations are issued on the floor of the Exchange by Floor Officials whose duty it is to see that members do not violate any of the specific rules dealt with by citations. However, because Section 84 was drafted prior to the establishment of the citation system, it is not stated that the section applies to Floor Citations.

Accordingly, the first part of the rule change is designed to update Section 84 to ensure that it is applicable to the current procedures of the Exchange. The Exchange also has added the ability to request witnesses at a hearing on these matters, at the discretion of the panel, to further protect the members' rights and to ensure a fair hearing.

Two additional changes appear in paragraph (c) of the current Section 84, "Procedure following Applications for Hearing and Review." The first change is to paragraph (c)(1) which deletes the provision that requires a copy of the Application for Hearing and Review to be sent to the Board of Governors.

When an application for a hearing or review is made, the appropriate commitee grants the review automatically. Therefore, sending the application to the Board has no effect because the review will take place regardless of whether the Board receives the application or not. Once a Member submits an application for hearing or review, a 3-member Hearing Panel is selected to hear or review the matter. The Panel's decision is then submitted to the full committee for their review, and is reported in the subsequent minutes. Because the Board receives the minutes of the Committee and then has the opportunity to review the Decision, the Exchange considers the initial referral of all applications to the Board to be an unnecessary duplication.

The second change to paragraph (c) of Section 84 is in (c)(1) which sets forth a deadline for review of a decision by the Board, on its own motion, within thirty days after issuance of the decision. The Exchange is concerned with the fact that there are times when, due to various factors, the Board may not see the decision within the thirty days after issuance. If that occurred, the Board would be precluded from reopening a decision if they felt it was incorrect. The Exchange has therefore added the provision to allow the Board to reopen the matter either within thirty days from the date of the decision, or upon presentation to the Board, whichever is later. This will ensure that the decision can be reopened by the Board at the time it is presented to them.

In (c)(1) of Section 84, the Committee will now be able to appoint a hearing panel composed of *other* approved members besides the current members of the Committee. This will allow hearings to be held without the delay caused by the inability of Committee members to find the time to serve as hearing panelists.

Finally, the entirety of Section 84 will be transferred to Rule XX Section 11, "Disciplinary Proceedings" in order to consolidate all disciplinary matters.

In the second part of the proposal, the Exchange is amending Rule XX, Section 5, which sets out the procedures to be followed in the course of Exchange disciplinary actions. Section 5 of the Rule allows for summary determinations to be made by a Hearing Committee when a Member fails to answer any formal complaint issued by the Exchange Committee. This default provision only comes into use when the Member has failed to exercise his right to respond after several requests from the Exchange staff. Once a determination as to penalty is made, however, the Member must be notified of the penalty and is given ten days to ask for a Hearing.

While the Exchange is mindful of protecting the due process rights of the Member, it is also aware that Section 5 is overboard in that respect. As a matter of practice and courtesy, Exchange staff notifies Members of matters which could subject them to disciplinary action even before they initially are brought to an Exchange Committee, and affords them the opportunity to state their case. A Committee, composed of their peers, then deliberates on the merits of the case and considers the Members' response if they choose to submit one.

If a Committee issues a Complaint, a Member has at least 15 days to file an Answer. The PSE represents that it is lenient with respect to the granting of extensions, and also does not require a high level of formality with respect to the Answer. If no Answer is received, the Member is again contacted and asked to supply the Answer. If, at that time, no Answer is yet given, the same Committee then imposes a penalty based upon finding the Member in default.

The Exchange is of the belief that sufficient safeguards are in place to protect the due process rights of the Members even without the provision in Section 5 which allows a defaulting Member to set aside the determination of the Committee. For example, once a default penalty has been imposed by the Committee, a Member may still petition the Board of Governors for a rehearing, irrespective of the default provision found in Section 5. In addition, any member who is disciplined by the Exchange may petition the Commission for yet another review. The Exchange feels that such a rule change will have the practical effect of saving a substantial amount of staff time that could be allocated to other needs.

The Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Securities Exchange Act of 1934 in that it is designed to foster cooperation and coordination with the members of the PSE and the Exchange's regulatory staff; and in accordance with Section 6(b)(7) in providing a fair procedure for the disciplining of members and those associated with members.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 7, 1986.

Jonathan G. Katz,

Secretary

[FR Doc. 86-23489 Filed 10-16-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by Philadelphia Stock Exchange, Inc.

October 10, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission purusant 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 stock:

SunTrust Banks, Inc.

Common Stock, $1.00 Par Value (File No. 7-9253)

This security is 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 November 4, 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, DC 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, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23490 Filed 10-16-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23697; File No. SR-PHILADEP 86-04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Depository Trust Co. Relating to the Disposition of Unclaimed Dividends and Other Distributions

Pursuant to section 19(b)(1), of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 4, 1986, the Philadelphia Depository Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the self-regulatory organizations. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a proposal to adopt new Philadelphia Depository Trust Company ("PHILADEP") Rule 29 to govern the disposition of unclaimed dividends and other distributions, and a corresponding amendment to PHILADEP Rule 2 relating to participants and pledgees.

The following is the full text of the proposed rule change. (New language is italicized; deleted language is [bracketed].)

PHILADELPHIA DEPOSITORY TRUST COMPANY RULES

* * * * *

Participants and Pledgees

Rule 2. Section 1. * * *

An entity whose application to become a Participant has been approved by the Corporation shall pay to the Corporation its orginal contribution to the Participants Fund determined in accordance with the provisions of Rule 4 and shall sign and deliver to the Corporation and instrument in writing whereby such applicant shall agree: * * *

(e) That the Participant shall authorize the Corporation to retain for the Corporation's use the amount of any dividend or other distribution

outstanding and unclaimed after five years from the date of such dividend or distribution as set forth on the Corporation's books and records and the Participant shall waive any claim to any such dividend or distribution except as the Corporation may otherwise provide in accordance with the By-Laws and rules.

[(e)] *(f)* * * *
[(f)] *(g)* * * *
[(g)] *(h)* * * *
[(h)] *(i)* * * *
[(i)] *(j)* * * *
[(j)] *(k)* * * *
[(k)] *(l)* * * *
[(l)] *(m)* * * *
[(m)] *(n)* * * *

* * * * *

Unclaimed Dividends and Other Distributions Rule 29.

Section 1. The Corporation shall make a payment equal to any dividend or other distribution at the time of the receipt thereof by the Corporation to any Participant whose entitlement thereto then appears on the books and records of the Corporation.

Section 2. The Corporation shall recognize any other claims relating to, and in the amount of, any dividend or other distribution for a period of five years from the date of such dividend or distribution.

Section 3. The Participant shall be deemed to waive any claim to the amount of any dividend or distribution for which he has not made a claim within a five year period expired prior to the adoption of this Rule 29.

Section 4. No claim shall be deemed made hereunder unless a written application is made to the Corporation for the return of any such amounts. The application shall include satisfactory evidence of Participant's claim, adequate indemnification to the Corporation against any claim by another person and expenses arising therefrom (including attorneys' fees) from the return of such amount to the Participant, and such other terms and conditions as the Corporation may prescribe.

II. Self-Regulatory Organization's Statement Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concering the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of the Statutory Basis of the Proposed Rule Change

The rule change modifies PHILADEP's contractural relationship with participants with respect to unclaimed dividends and other distributions. The purpose of the rule change is establish a mechanism for the fair and orderly consideration and payment of claims to distributions of the entire PHILADEP participant community. The rule change authorizes PHILADEP's access to funds in its custody that otherwise would remain in an unsettled status for an unnecessarily long period. This rule change permits funds that have remained unclaimed for five years to be put to use by the Depository. While PHILADEP would reserve the discretion to use the funds to cover costs of any depository function, PHILADEP anticipates that the funds would be used to cover costs of replacing lost securities and deficits in the distribution accounts that may not be covered by insurance or other resources of PHILADEP. The funds also could be used to reduce the magnitude and frequency of participant fee increases as well as reduce the dependence on other funding sources. This source of non-earmarked funds in particularly useful in light of the extremely limited uses of other funding sources such as PHILADEP's Participants Fund.[1]

PHILADEP also notes that the proposed rule change establishes procedures for reclamation of unclaimed distributions for up to five years from the date of such dividend or distribution.

As noted above, the proposed rule change will make available to PHILADEP for depository-related use unclaimed funds in its possession. The rule change also would protect those who may have a legitimate right to reimbursement of those funds by providing them with an opportunity to claim funds within a reasonable time period.

When the proposed rule is approved, PHILADEP intends to retain any existing funds that have remained in an unclaimed distributions and overpayment status for at least five years and will retain and put to similar use any remaining preexisting funds as these funds mature to over five years. Prior to taking this action, PHILADEP will take reasonable steps to notify participants so that they may raise any legitimate claims as to the unclaimed distributions, including mailing a notice to each past and present participant of this matter.

In this regard, the proposed rule change, in so far as it provides an additional source of working funds for depository operations and enhancements, is consistent with section 17A(b)(3)(F) of the Act in that it improves the operation of the depository and perfects the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions. In addition, since the Commission has approved rules of another registered clearing agency substantively identical to PHILADEP's proposed rule change,[2] approval of the latter will promote the "maintenance of fair competition among . . . clearing agencies . . . [and] assure equal regulation under this title of registered clearing agents."[3] Furthermore, approval of the rule change is consistent with "the development of uniform standards and procedures for clearance and settlement [which] will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors."[4]

B. Self-Regulatory Organizations Statement on Burden on Competition

The proposed rule change is procompetitive in that it establishes a policy and practice similar to that in effect at another registered clearing agency.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the proposed rule change have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i)

[1] PHILADEP Rule 4, Sec. 2 provides that "[t]he Participants Fund shall be used for the protection of the Corporation against loss in the performance of its function as a custodian or as an agent or attorney-in-fact in connection with the depository system."

Sec. 3(c) provides that the Participants Fund generally "shall not be used for the protection of the Corporation against losses from day-to-day operating expenses."

[2] *See* Midwest Securities Trust Company ("MSTC") Rule 11.

[3] Section 17A(a)(2) of the Act.

[4] Section 17A(a)(1)(D) of the Act.

as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to whch the self-regulatory organization consents, the Commission will: (A) by order approve such proposed rule change, or (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washigton, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted November 7, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: October 9, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23485 Filed 10-16-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24211]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

October 9, 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 November 3, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address 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.

Granite State Electric Company (70-7288)

Granite State Electric Company ("Granite"), 33 West Lebanon Road, Lebanon, New Hampshire 03766, an electric utility subsidiary of New England Electric System, a registered holding company, has filed a declaration pursuant to section 6(a) and 7 of the act and Rule 50(a)(5) thereunder.

Granite proposes to issue and sell to an institutional investor(s), on or before December 31, 1987, a long-term promissory note(s) ("Note") in an aggregate principal amount not exceeding $5 million. The Note will be issued pursuant to a Note Agreement, the specific terms of which will be negotiated with the purchaser. The Note Agreement may provide for a sinking fund and may also prohibit redemption for a period of up to ten years, depending upon market conditions. Granite may retain an investment banking firm to assist in placement of the Note. Granite may negotiate the sale of the Note pursuant to an exception from the competitive bidding requirements of Rule 50, as requested.

Monongahela Power Company et al. (70-7300)

Monongahela Power Company ("Monongahela"), 1310 Fairmount Avenue, Fairmount, West Virginia 26554, The Potomac Edison Company ("Potomac"), Downsville Pike, Hagerstown, Maryland 21740, and West Penn Power Company ("West Penn"), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601, (collectively, the "Companies"), wholly owned electric utility subsidiaries of Allegheny Power System, Inc., a registered holding company, have filed an application-declaration pursuant to section 6(a), 6(b), and 7 of the Act and Rule 50 thereunder.

Monongahela, Potomac, and West Penn propose to issue and sell, pursuant to the alternative competitive bidding procedures, their first mortgage bonds in the maximum aggregate principal amounts of $105 million, $70 million, and $35 million, respectively. Alternatively, the companies may, by amendment, seek authorization to negotiate the terms and conditions of the bonds. The bonds will be issued in one or more series from time to time not later than December 31, 1987, with maturities of from five to thirty years. The proceeds of the bonds will be used by the Companies to effect the optional redemption, prior to maturity, of certain series of their currently outstanding first mortgage bonds (or for the repayment of short-term borrowings or replenishment of internally generated funds used for that purpose) and for general corporate purposes.

New Orleans Public Service, Inc. (70-7303)

New Orleans Public Service, Inc. ("New Orleans"), 317 Baronne Street, New Orleans, Louisiana 70112, a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a declaration with this Commission pursuant to sections 6(a) and 7 of the act and Rule 50(a)(5) thereunder.

New Orleans proposes to issue and sell up to $30 million in aggregate principal amount of secured notes ("Secured Notes"). New Orleans requests, pursuant to Rule 50(a)(5) under the Act, that the proposed issuance and sale of the Secured Notes be excepted from the competitive bidding requirements of Rule 50, and that it be authorized to effect a private placement of the Secured Notes with institutional investor(s). The company may negotiate the terms and conditions of the issuance and sale of the Secured Notes.

It is proposed that the net proceeds derived from the issuance and sale of the Secured Notes will be used to finance a portion of New Orlean's 1986 capital requirements, including: (i) The financing of that portion of its allocated costs associated with Unit No. 1 of the Grand Gulf Nuclear Electric Station which is not currently being recovered through retail rates; (ii) The financing of New Orleans' construction program; (iii) The satisfaction of sinking fund requirements on preferred stock; and (iv) Other corporate purposes.

The Secured Notes will mature not more than nine months from the date of

issuance thereof. In addition, the Secured Notes may be subject to optional termination of the proposed borrowing arrangements up 90 days' prior written notice, and optional and/or mandatory prepayment of the Secured Notes, in whole or in part, upon the occurrence of specified events.

It is stated that the Secured Notes will be secured by a lien on, and prior perfected security interest in, all accounts receivable of New Orleans arising from sales of electric energy and natural gas. The maximum principal amount of Secured Notes outstanding at any one time will not exceed the lesser of (1) $30 million or (2) 90% of the outstanding eligible electric and gas accounts receivable of New Orleans, as determined from time to time.

Repayments of the Secured Notes, and termination of the borrowing arrangements will occur upon consummation of permanent financing to be effected in 1987. Such permanent financing is expected to include one or more of the following: (i) The sale of long-term secured debt; (ii) The sale of preferred stock; (iii) The sale of common stock; and/or (iv) Such other forms of permanent financing as may be determined to be apropriate.

Arkansas Power and Light Company (70-7305)

Arkansas Power and Light Company ("Arkansas"), First Commercial Building, Little Rock, Arkansas 72201, an electric utility subsidiary company of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a pose-effective amendment to its previously filed application pursuant to section 9(a) and 10 of the Act.

Arkansas is currently leasing nuclear fuel, including facilities incident to its use ("Nuclear Fuel"), required for Unit No. 2 at its Arkansas Nuclear One Generating Station from Ozark Fuel Corporation ("Fuel Company"), (HCAR No. 22272, November 13, 1981). Under the current terms of the leasing arrangement between Arkansas and Fuel Company ("Lease"), Fuel Company is committed ("Commitment") to make certain payments for Nuclear Fuel up to a maximum amount of $74 million at any one time outstanding, financed by a Credit Agreement ("Credit Agreement") between Fuel Company and Swiss Bank Corporation, New York Branch ("Bank"), the term of which is currently scheduled to expire on December 1, 1986.

Arkansas now proposes to amend its obligations under the Lease, and Fuel Company will amend its Credit Agreement accordingly, to provide for an increase in the Commitment to $84 million, and an extension of the term of the agreement through December 1, 1987. Fuel Company will pay the Bank commitment and service fees.

For the Commission, by the Division of Investment Management, Pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-23484 Filed 10-16-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Delegation of Authority No. 1-A (Revision 13)]

Delegation of Authority

Delegation of Authority No. 1-A (Revision 12) is hereby revised to read as follows:

(a) Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1985, 72 Stat. 689, as amended, authority is hereby delegated to the following officials in the following order:

(1) Associate Administrator for Procurement Assistance

(2) Associate Administrator for Finance and Investment

(3) General Counsel

to perform, in the event of the absence or incapacity of the Administrator and the Deputy Administrator any and all acts which the Administrator is authorized to perform, including but not limited to authority to issue, modify, or revoke delegations of authority and regulations, except exercising authority under sections 9(d) and 11 of the Small Business Act, as amended.

(b) An individual acting in any of the positions in Paragraph (a) remains in the line of succession only if he or she has been designated acting by the Administrator or Acting Administrator due to a vacany in the position.

(c) This delegation is not in derogation of any authority residing in the above-listed officials relating to the operations of their respective programs nor does it affect the validity of any delegations currently in force and effect and not revoked or revised herein.

EFFECTIVE DATE: October 17, 1986.

Dated: October 10, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-23480 Filed 10-16-86; 8:45 am]

BILLING CODE 8025-01-M

Senior Executive Service Performance Review Boards; List of Members

AGENCY: Small Business Administration.

ACTION: Listing of Personnel Serving as Members of this Agency's Senior Executive Service Performance Review Boards.

SUMMARY: Pub. L. 95-454 dated October 13, 1978, (Civil Service Reform Act of 1978) requires that Federal Agencies publish notification of the appointment of individuals who serve as members of that agency's Performance Review Boards (PRB). The following is a listing of those individuals currently serving as members of this Agency's PRB:

1. James P. Gallogly, Assistant Administrator for Information Resources Management
2. Edwin T. Holloway, Associate Administrator for Finance and Investment
3. Janice E. Wolfe, District Director, Washington
4. Monika Edwards Harrison, Associate Administrator for Procurement Assistance
5. Robert H. Miller, Regional Administrator, Philadelphia
6. Richard L. Osbourn, Director of Personnel (Non-voting Technical Advisor)
7. George H. Robinson, Director of Equal Employment Opportunity and Compliance (Non-voting Equal Employment Advisor)
8. Robert G. Lineberry, Deputy Associate Administrator for Investment
9. June M. Nichols, Regional Administrator, Atlanta
10. Robert J. Moffitt, Deputy Associate Administrator for Procurement Assistance
11. Albert J. Prendergast, Director of Program Analysis and Review
12. Wilfredo J. Gonzalez, Associate Administrator for Minority Small Business and Capital Ownership Development
13. Renald Morani, Deputy Inspector General, Veterans Administration
14. Joseph J. Genovese, Assistant Inspector General for Auditing, Department of Transportation
15. Lawrence Dempsey (Alternate), Assistant Inspector General for Investigations, General Services Administration.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-23478 Filed 10-16-86; 8:45 am]

BILLING CODE 8025-01-M

[License No. 06/06-0292]

Ford Capital Ltd.; Issuance of a Small Business Investment Company License

On May 13, 1986, a notice was published in the Federal Register (Vol. 51 No. 92) stating that an application has been filed by Ford Capital Ltd., with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1986)) for a license as a small business investment company.

Interested parties were given until close of business on June 12, 1986, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 06/06-0292 on October 6, 1986, to Ford Capital Ltd., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 10, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-23479 Filed 10-16-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Soviet and Eastern European Studies Advisory Committee; Meeting

The Department of State announces that the Soviet and Eastern European Studies Advisory Committee will meet on November 12, 1986 starting at 9:30 a.m. in Room 1107, U.S. Department of State, 2201 C Street, NW., Washington, DC.

The Advisory Committee will recommend grant recipients for the advancement of the objectives of the Soviet-Eastern European Research and Training Act of 1983. The agenda will include: opening statements by the Chairman of the Committee and its members; oral statements by interested members of the public and receipt of written statements; and within the Committee, discussion, approval, and recommendation that the Department of State negotiate grant agreements with "national organizations with an interest and expertise in conducting research and training concerning the USSR and Eastern Europe" based on the guidelines amplifying the purposes set forth in the 1983 Act and contained in the Call for Applications published in the Federal Register on August 19, 1986.

The general public may attend the meeting to make and/or submit statements, and to observe the Committee's deliberations subject to the instructions of the Chairman. Public attendance will be limited to the seating available. In that regard, entry into the Department of State building is controlled and must be arranged in advance of the meeting. It is required that prior to the meeting, persons who plan to attend or to make or submit statements, so advise E. Raymond Platig, Executive Director, Soviet and Eastern European Studies Advisory Committee, INR/LAR, Department of State, Washington, DC 20520, (202) 632-2025 or 632-5879. All attendees must use the C Street entrance to the building.

Dated: October 3, 1986.

E. Raymond Platig,

Executive Director, Soviet and Eastern European Studies Advisory Committee.

[FR Doc. 86-23533 Filed 10-16-86; 8:45 am]

BILLING CODE 4710-32-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974; Telephone Station Message Detail Reports

The Department of Transportation herewith publishes a notice relating to the proposed implementation of a system of records on telephone usage for administrative billing purposes. The records will identify Departmental employees use of telephones to place Federal Telecommunications System (FTS) and Commercial Long Distance Calls.

Any person or agency may submit written comments on the proposed system to the Privacy Officer (M-34) Room 7109, U.S. Department of Transportation, 400 Seventh Street, SW. Washington, D.C. 20590. Comments must be received within 30 days from date this notice is issued to be considered.

If no comments are received, the proposed changes will become effective 60 days from the date of issuance. If comments are received, the comments will be considered and where adopted, the document will be republished with the changes.

Issued in Washington, DC, October 14, 1986.

Jon H. Seymour,

Assistant Secretary for Administrator.

Narrative Statement for the Department of Transportation, Assistant Secretary for Administration, Office of Information Resource Management

Telephone Station Message Detail Report

The Department of Transportation proposes to implement a system of records relating to telephone usage for administrative billing purposes.

The records will relate to the use of the Department's telephones to place Federal Telecommunications System (FTS) and Commercial Long Distance calls. They will also identify assignment of telephone numbers and locations of telephones to Department employees.

Only Telecommunication Management Branch personnel within the Office of the Secretary and selected operation and maintenance contract personnel will have access to tapes and records and will be responsible for implementation of necessary safeguards.

The purpose of this report is to comply with the Office of Management and Budget Circular A-130, Appendix I, entitled "Federal Agency Responsibilities for Maintenance of Records about Individuals" (50 FR 52738 (1985)).

DOT/ALL 4

PRIVACY ACT IMPLICATIONS OF CALL DETAIL PROGRAMS; PROPOSED NOTICE:

SYSTEM NAME:

Station Message Detail Reports (SMDR)

SYSTEM LOCATION:

U.S. Department of Transportation, Assistant Secretary for Administration, Room 9112, 400 7th Street, SW, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Transportation employees who make Federal Telecommunications Systems (FTS) and Domestic and International Commercial Long Distance calls from the three Headquarters Buildings: The Nassif and Trans Point buildings and Federal Building—10A.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to the use of the Department's administrative telephones to place FTS and Commercial Long Distance calls, records indicating assignment of telephone numbers to

Departmental employees, and records relating to the location of telephones.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM:

See Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic Tape storage via batch processing.

RETRIEVABILITY:

Records are retrieved by employee name, telephone number, office routing symbol, or administration.

SAFEGUARDS:

Only telecommunications personnel within the Office of the Secretary and operation and maintenance contract personnel have access to tapes and records.

RETENTION AND DISPOSAL:

Records are disposed of as provided in National Archives and Records Administration General Records Schedule 12.

SYSTEM MANAGER(S) AND ADDRESS:

System Manager: Chief, Telecommunications Management Branch, M–33, U.S. Department of Transportation, Office of the Secretary, Office of Information Resource Management, 400 7th Street, SW, Room 9112, Washington, DC 20590.

NOTIFICATION PROCEDURES:

Contact Telecommunications Management Branch, M–33, at the above address.

RECORD ACCESS PROCEDURE:

Contact Telecommunications Management Branch, M–33, at the above address.

Individuals may review their own data upon presentation of a valid Department of Transportation ID card.

RECORD SOURCE CATEGORIES:

Telephone assignment records, call detail listings and results of administrative inquiries relating to assignment of responsibility for placement of specific long distance calls.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–23558 Filed 10–16–86; 8:45 am]

BILLING CODE 4910–62–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 201
Friday, October 17, 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).

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Securities and Exchange Commission	4

1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., October 22, 1986.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Portions closed to the public:

1. Docket No. 85-24—Matson Navigation Company, Inc., Proposed Overall Rate Increase of 2.5 Percent Between United States Pacific Coast Ports and Hawaii Ports—Petition for Reconsideration.
2. Docket No. 86-11—"Neutral Container Rule"—U.S. Atlantic-North Europe Conference—Motion To Terminate Investigation.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,

Secretary.

[FR Doc. 86-23656 Filed 10-15-86; 3:37 am]

BILLING CODE 6730-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, October 22, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: October 14, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-23572 Filed 10-15-86; 8:56 am]

BILLING CODE 6210-01-M

3

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 13, 20, 27, and November 3, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of October 13

Thursday, October 16

1:00 p.m.
Discussion/Possible Vote on Kerr-McGee Sequoyah Facility (Public Meeting)
3:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Review of ALAB-840 (Limerick) (*postponed* from October 9)

Friday, October 17

10:00 a.m.
Briefing on Status of Fort St. Vrain (Public Meeting)

Week of October 20—Tentative

Thursday, October 23

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of October 27—Tentative

Wednesday, October 29

2:30 p.m.
Briefing on Near Term Operating Licenses (NTOLs) (Open/Portion may be Closed)

Thursday, October 30

10:00 a.m.
Briefing on Status of INPO Accreditation of Utility Training Programs (Public Meeting)
2:00 p.m.
Meeting with Members of INPO Plant Managers Course (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, October 31

2:00 p.m.
Briefing on Status of Performance Indicator Program (Public Meeting)

Week of November 3—Tentative

Monday, November 3

10:00 a.m.
Briefing on Initiatives to Improve Maintenance Performance (Public Meeting)
2:00 p.m.
Briefing on GE Containment Program (Public Meeting)

Thursday, November 6

10:00 a.m.
Briefing on Assessment of B&W Plants (Public Meeting)
2:00 p.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting) (Tentative)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, November 7

10:00 a.m.
Discussion/Possible Vote on Davis Besse Restart (Public Meeting)

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.

October 9, 1986.

[FR Doc. 86-23573 Filed 10-15-86; 8:56 am]

BILLING CODE 7590-01-M

4

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 36507; October 10, 1986.

STATUS: Open meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 7, 1986.

CHANGE IN THE MEETING: Deletion/additional items.

The following items will not be considered at an open meeting scheduled for Thursday, October 16, 1986, at 10:00 a.m.

1. Consideration of whether to approve rule proposals submitted by the American Stock Exchange, Inc. and the New York Stock Exchange, Inc. Both proposals would ease restrictions imposed on an approved person

affiliated with a specialist if an adequate "Chinese Wall" were established between the approved person and the specialist. For further information, please contact Sharon Lawson at (202) 272–2910 or Ellen K. Dry at (202) 272–2843.

2. Consideration of whether to issue a release adopting amendments to Securities Exchange Act Rule 15c3–1 that would expand the types of instruments that could be used to create a hedged position in highly rated corporate debt securities. The amendments would also lower the deductions from net worth in arriving at net capital for hedged corporate debt securities positions and would redefine the criteria for determining whether the maturities of two offsetting positions are close enough to consider the combined corporate debt securities position as hedged for purposes of Rule 15c3–1. For further information, please contact Michael P. Jamroz at (303) 272–2398.

The following item will be considered at an open meeting scheduled for Thursday, October 16, 1986, at 10:00 a.m.

Consideration of whether the Commission should hold public hearings on the New York Stock Exchange's proposal (SR–NYSE–86–17) to amend its policy concerning the listing of equity securities with disparate voting rights. For further information, please contact Sharon Lawson at (202) 272–2910.

Commissioner Cox, as duty officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Judith Axe at (202) 272–2092.

Johnathan G. Katz,

Secretary.

October 14, 1986.

[FR Doc. 86–23630 Filed 10–15–86; 2:46 pm]

BILLING CODE 8010–01–M

federal register

Friday
October 17, 1986

Part II

Department of Agriculture

Cooperative State Research Service

National Agricultural Research and Extension Users Advisory Board Meeting; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Office of Grants and Program Systems, Cooperative State Research Service, announces the following meeting:

Name: National Agricultural Research and Extenison Users Advisory Board.

Date: November 6–7, 1986.

Time: 9:00 a.m.–1:00 p.m., November 6, 1986.
8:00 a.m.–5:30 p.m., November 7, 1986

Place:
Prairie View A&M University—November 6, 1986, Prairie View, Texas
Texas A&M University—November 7, 1986, Memorial Student Center, Room 231, College Station, Texas

Type of Meeting: Open to the public. Persons may participate in the meeting and site visits as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be meeting with representatives of the Colleges of Agriculture at Prairie View and College Station. The purpose of this meeting is to help the UAB become better informed on Federally funded research and extension programs in the land-grant system. Special emphasis will be made on integrated range management programs, the application of biotechnology to agricultural problems, how lean beef research is responding to the consumer's changing diet and health attitudes, and emerging irrigation technologies that have the potential to reduce water needs of agriculture.

Contact Person For Agenda and More Information: Marshall Tarkington, Executive Secretary, National Agricultural Research and Extension Users Advisory Board: Room 316–A, Administration Building, U.S. Department of Agriculture, Washington, DC 20250; telephone (202) 447–3684.

Done in Washington, DC, this 25th day of September 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 86–23474 Filed 10–16–86; 8:45 am]
BILLING CODE 3410-MT-M

federal register

Friday
October 17, 1986

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 705

Restriction on Financial Interests of State Employees; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 705

Restriction on Financial Interests of State Employees

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is adopting a final rule regarding certain portions of its regulations which (1) define the responsibilities of employees of State regulatory authorities performing duties or functions under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq. (the Act), concerning financial interests; (2) define "employee" for purposes of 30 CFR Part 705; and (3) set forth requirements applicable to such employees, for filing statements of financial interest. These rules are the final regulatory step in a proceeding which commenced with the filing of a rulemaking petition in 1979.

The amendments require that members of advisory boards and commissions established in accordance with State law or regulation to represent multiple interests, who perform a function or duty under the Act, shall file a statement of employment and financial interest and shall recuse themselves from proceedings which may affect their direct or indirect financial interests. Such members, however, will continue not to be subject to the structures of section 517(g) of the Act regarding proceedings other than those in which they may be directly affected.

EFFECTIVE DATE: This rule is effective November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Miller, Regulatory Development and Issues Management, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240; Telephone: (202) 343-5241.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Discussion of rules adopted.
III. Procedural matters.

I. Background

On August 23, 1977, the Department issued proposed regulations to implement the provision of the Act prescribing financial interest restrictions for State regulatory authority employees under section 517(g) of the Act. Section 517(g) of the Act specifies criminal sanctions for State employees performing any function or duty under the Act knowingly to have a direct or indirect financial interest in any coal mining operation. The Act further directs the Secretary to publish regulations which establish methods for monitoring and enforcing the provision. After publication of proposed rules and a comment period, the final financial interest restriction regulations in Part 705 were published on October 20, 1977 (42 FR 56060).

On December 15, 1978, five environmental organizations—the National Wildlife Federation, Save Our Mountains, Inc., Colorado Open Space Council, Save Our Cumberland Mountains, and Council of Southern Mountains—jointly petitioned the Office of Surface Mining to amend two definitions contained in 30 CFR 705.5 concerning financial interest restrictions. That petition was published for public comment. (44 FR 11795, March 2, 1979).

Petitioners proposed two changes to the definitions:

1. Amend the definition of "employee" to eliminate the exception created therein for "members of advisory boards or commissions established in accordance with State law or regulations to represent multiple interests * * *"

2. Change the definition of "indirect financial interest."

The proposed change to the definition of "indirect financial interest" was rejected by OSMRE on July 12, 1979, in a letter to Mr. Terrence Thatcher of the National Wildlife Federation.

On July 12, 1979, OSMRE granted in part the petition to amend the definition of "employee" contained in 30 CFR 705.5. A notice of proposed rulemaking was published on September 6, 1979. (44 FR 52096-52101). The September 6, 1979 notice contains a summary of the written comments received on the petition during the comment period which closed on April 2, 1979.

The definition of "employee" proposed by OSMRE on September 6, 1979, would have allowed persons with industry or other financially restricted interests to be board members, but not to exceed a majority of the voting members. Under that proposal, all board members would file conflict-of-interest statements to ensure that the majority of the board had no conflict of interest, either direct or indirect, and no board member could act on a matter which related to his or her financial interest.

The public comment period for the September 6, 1979 notice of proposed rulemaking closed on November 5, 1979. Since that time, the Secretary of the Interior has approved 25 programs submitted by States to assume exclusive jurisdiction over the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands under section 503 of the Act. State programs have been operational for periods ranging from two to five years.

On May 30, 1984, OSMRE reopened and extended the public comment period to seek additional public comment on the proposed definition of "employee," based on experience with the approved programs which utilize the current definition of "employee." (49 FR 22498). In the notice reopening the public comment period, OSMRE specifically requested information about States which currently have multiple-interest commissions or boards. OSMRE solicited specific information as to (1) whether the adoption of the proposal or any suggested modification would have the effect of dismembering a substantial number of existing boards; (2) what the effects would be; and (3) whether such results would be justified. In addition, OSMRE requested comments on the proposed revisions and alternative definitions for "employee." OSMRE also sought public comments on two additional alternatives. The first alternative would have deleted the board exemption in its entirety. The final alternative would be to take no action and leave the definition as it presently reads.

In the notice extending the public comment period, OSMRE solicited comments on a modification which would not only prohibit action by board members on matters related to their own financial interests, but would also prohibit participation by board members in proceedings when their financial interests could reasonably cause interested persons to question the impartiality of the proceedings. Comments were requested on the issue of whether impartiality would be assured or best served when boards do not contain a majority of members with similar financial or other interests.

II. Discussion of Rules Adopted

Section 705.4(d) Recusal of multi-interest board members.

Final § 705.4(d) has been added which requires multi-interest board members to recuse themselves from any proceeding which may affect their direct or indirect financial interests. This requirement will minimize disruption of existing state multi-interest board functions, but will ensure that board members do not act on those matters in which they might have a conflict of

interest. Because board members will be required to recuse themselves from proceedings which may affect their interests, interested persons will now have a basis for requesting recusal by a board member, and ensuring that consideration of matters before the board is not biased by members' financial interests. Several States commented favorably on this approach, likening it to the conflict-of-interest prohibitions found in a number of existing state conflict-of-interest laws concerning state officials.

As proposed, this rule would have included the additional requirement that multi-interest board members with coal-related financial interests could continue to participate in board activities so long as the number of members with coal-related financial interests did not exceed 50 percent of total membership.

This additional feature has not been adopted. A commenter noted that the proposed 50 percent limit might require dismantling some multi-interest boards in which more than 50 percent of members have coal-related interests. Such restructuring could require legislative change, as, for example, in those cases where the board is structured to include elected officials or representatives of other state agencies. OSMRE agrees and has concluded that, rather than adopt a percentage limitation that could require dismantling or restructuring of boards or commissions, a recusal requirement directed at the individual members will foster impartiality while not having a significant destabilizing effect.

Another commenter asserted that permitting up to 50% of board members to have coal-related interests would allow a situation where members with industry interests could veto any actions not acceptable to industry. Under the amendment that is being adopted, interested board members must recuse themselves from participation in proceedings that may affect their interests. OSMRE finds that the 50% restriction does not appear to be necessary, so long as members recuse themselves as required.

Several commenters expressed concern as to what connection between the multi-interest board member's interests and the member's actions would invoke the requirement to recuse. They indicated that precise, enforceable language was needed, spelling out when a member with a coal-related interest should recuse himself or herself. For example, what if a decision involves only one industry party, but the precedent to be established will affect other operators (including the operator in which the member has an interest)? Several commenters noted that multi-interest boards which adopt rules and general policies have the most widespread effect and the greatest effect on coal companies, and, thus, this is the type of activity in which avoidance of conflicts of interest is most important.

Guidelines have not been adopted at this time because OSMRE cannot anticipate every type of factual situation in which a conflict of interest might arise. The standard set forth in § 705.4(d) is sufficiently descriptive to enable all affected persons to evaluate whether recusal is required: If the proceeding may affect the direct or indirect coal-related financial interests of a multi-interest board member, then the member must recuse himself or herself. OSMRE anticipates that over time case law will evolve in implementing the standard to provide clear examples of what is required. In the example mentioned by the commenter involving a proceeding where one of the parties is a coal company, a board or commission member would not have to be recused unless that member has a direct or indirect financial interest in the company which is party to the proceeding.

A commenter stated that OSMRE's proposal would allow a board member whose business relies on the health of the mining industry generally, to sit on board actions. OSMRE agrees, and notes that such a result is not prohibited by the Act, so long as the member's interests do not constitute a direct or indirect financial interest in a surface coal mining operation.

Another commenter questioned whether a multi-interest board member would be required to recuse himself or herself from acting on a permit application by a competitor to the coal-related interest in which the member has an investment. OSMRE believes that in most instances actions on permit applications would be performed by employees of the state regulatory authority rather than by multi-interest board members. In the event that a multi-interest board does act upon a permit application and direct, head-to-head competition exists between a permit applicant and a company in which the board member has an interest, recusal would be necessary if the decision on the permit application could in some way affect the member's interest.

Several commenters stated that the recusal requirement is inadequate because the influence of the interested board member can still be felt even if the member refrains from actual voting. That is, if an interested board member participated in discussion on the issue, his or her views may affect the vote, even if he or she does not vote, and objectivity will be jeopardized. With regard to these comments, OSMRE notes that the regulation requires the board member to recuse himself not only from the vote, but also from the entire proceedings of the board, including any hearing, discussion, or decision by the board, which may affect the member's coal-related financial interests.

In addition, a recused board member may not act as counsel for any party to the proceeding. However, if any member of a board or other person subject to 30 CFR Part 705 is otherwise authorized to participate in a proceeding as a party, a witness, an intervenor, or in some other recognized capacity, these regulations do not deprive the board member or employee of that right. To this extent, like any other legitimate participant in the proceedings, the board member or employee may attempt to influence the outcome by his participation.

Section 705.5 Definition of "employee."

The final definition of "employee" remains unchanged and continues to exclude members of multi-interest boards from the requirement not to have certain restricted financial interests. As noted in the preamble to the original rulemaking on Part 705 (42 FR 56060, 56061, October 20, 1977), it is essential to avoid dismembering boards or commissions composed in such a manner as to represent divergent interests. As one commenter stated, continuation of the exclusion will enable such boards to continue to attract well qualified board members with expertise concerning coal mining and related concerns.

The final rule appropriately addresses the concerns of petitioners in the 1978 petition for rulemaking, namely that multi-interest board members should file financial interest statements, and that decisions under the Act should not be made by members whose financial interests would be affected by the decisions. The new requirements for filing of financial statements and recusal from proceedings which may affect financial interests reflect commenter concerns that board or commission decisions should be free from any influence that may stem from direct or indirect financial interests of members, and that decisions of board members should have the appearance of fairness as well as being fair.

Such concerns are also resolved because other safeguards exist. For instance, board decisions are subject to

administrative or judicial review; also OSMRE performs oversight to ensure that state substantive and procedural requirements are met and that board actions are consistent with SMCRA and OSMRE's regulations.

Several commenters offered their views as to whether multi-interest board members should be considered employees, under the Act. Some commenters asserted that any coal mining industry representation on a board is prohibited by the Act. Other commenters asserted that "employee" cannot include members of boards or commissions which oversee the state regulatory authority. Another commenter asserted that Congress did not intend that persons overseeing state programs, approving regulations, or ruling in adjudicatory proceedings should be allowed to hold coal-related interests and not be treated as employees. Another commenter stated that Congress wanted the rules implementing section 517(g) to cover all persons performing governmental functions or duties under the Act. A comment was received which alleged that OSMRE's approach treats state personnel different than Federal, and that no logical reason existed for Congress to expect more from Federal employees than from state employees, particularly in light of Congress' repeated statement that the Act was necessary because of States' failure to develop and enforce effective surface mining controls.

OSMRE has evaluated the legislative history of the Act, the text of section 517(g) of the Act, and the statutory definitions of the terms used in that provision and finds that Part 705 as amended by this rulemaking does not exempt any state personnel required to be covered under the Act.

The legislative history of section 517(g) of the Act is brief and inconclusive as to what state personnel are to be covered. A relevant discussion appears in the Congressional Record in 1975. The discussion compared a version of section 517(g) in an earlier bill, applicable even at that time to "employees of the state regulatory authority," to the predecessor of Section 201(f), the parallel provision applicable to employees of OSMRE or to any other Federal employee performing a function or duty under the Act.[1] In offering the amendment, Representative Heckler stated that—

> This amendment would apply the same conflict of interest regulations to the employees of State regulatory agencies and authorities . . . as applied to Federal regulatory officials. . . . [M]y amendment will ensure that appropriate and conforming conflict of interest regulations apply equitably.

121 Cong. Rec. 7046 (Mar. 18, 1975). Although in a discussion of the predecessor to section 201(f), Representative Dingell stated that the term "employee" should be construed broadly at the Federal level (121 Cong. Rec. 13372, May 7, 1975), little consideration was given precisely to whom the prohibition applied at the state level.

Section 517(g) of the Act uses different language to specify affected State employees than the language used in section 201(f) which defines affected Federal employees. Section 517(g) is directed at employees of the State regulatory authority. Section 201(f) applies to employees of OSMRE and any other Federal employee. The narrower language of section 517(g) allows a more restrictive reading of that section than section 201(f), if such an interpretation is rationally implemented.

Congress declared in section 101(f) of the Act that primary governmental responsibility to develop and enforce rules should vest with the States and in section 102(g) of the Act that the Act is intended to assist the States in developing and implementing a program. Thus support exists in the Act for allowing states to specify the governmental units by which they implement their programs. This proposition also is supported by the following passage in the Conference report on an earlier bill: [2]

> . . . many states already have a particular governmental unit regulating surface coal mining industry. The conferees believe that some aspects of the regulatory program might be carried out on the State level by more than one agency, especially where States with surface coal mining agencies have another agency which regulates surface impacts of underground mines.)

H.R. Rep. No. 93-1522, 93d. Cong., 2d. Sess. 83 (1974).

Since 1977 OSMRE has recognized that a number of states already had resource regulatory boards or commission which regulated matters such as surface coal mining, oil drilling or water quality, and a number of states would designate pre-existing multi-function boards to perform surface coal mining regulatory functions under SMCRA. Therefore, in the initial rulemaking for Part 705, OSMRE exempted members of multi-interest boards from the definition of employee. The original rulemaking for Part 705 was adopted immediately after enactment of the Act, and represented the Secretary's contemporaneous interpretation of Congressional intent as to implementation of financial interest restrictions on state personnel under the Act. To require board members now to divest themselves of all surface coal mining interests or else be subject to fine or imprisonment is a regulatory change without compelling need and which is unreasonable where the statute and legislative history do not clearly establish a requirement that members of such boards be subject to such sanctions.

To ensure that the objectives of SMCRA section 517(g) are met, disclosure and recusal requirements will ensure that such members do not act in situations in which there would be a conflict of interest. This interpretation and application of section 517(g) fairly resolves any uncertainties about the intended scope of the statutory provision; the balance struck ensures that conflicts of interest will not taint the actions of State board members, but does not require dismantling of the boards.

Since 1977, states have had considerable experience in implementation of their respective programs. Although certain commenters stated that perceived conflicts of interest or potential for conflicts of interest exist, specific examples were few. OSMRE has concluded that the use of boards representing multiple interests generally has been successful and that problems that have arisen can be properly addressed by the disclosure and recusal provisions adopted herein.

A commenter stated that the proposed changes to Part 705 would cripple a state's ability to regulate coal mining in the state's best interests because OSMRE is attempting to determine who can be appointed by a state to serve on a board. Under the final rule, OSMRE does not intend to determine who may be appointed by a State to an advisory commission or board. The regulation as adopted will optimize state discretion within the statutory framework, as discussed above.

Several commenters emphasized that the State boards and commissions need members with experience and expertise in order to make sound decisions, and that the multi-interest board exemption

[1] The provision was originally offered as an amendment which would permit state regulatory authority employees a *de minimus* exclusion from conflict of interest prohibitions, for ownership of up to 100 shares of coal-related stock. This exclusion was the same as had been proposed for Federal employees. Both state and Federal *de minimus* exclusions were deleted from SMCRA.

[2] This earlier bill, a precursor to SMCRA, was passed by Congress but vetoed by the President for unrelated reasons.

is essential to make this possible. Other commenters disagreed and took the position that the state regulatory authority will have sufficient staff expertise to advise the board and explain technical and legal matters, and the coal industry is fully capable of adequately representing its position. These commenters also asserted that political or value judgments are best rendered by persons without a vested interest in the industry. As indicated above, OSMRE concludes that the need for stability and expertise is best met by retaining the exclusion for multi-interest boards but utilizing the safeguards set forth in these amendments to avoid conflicts of interest in board proceedings. Many multi-interest boards or commissions were created at the State level prior to the enactment of the Act and represent delicate political judgments and compromises. Where consistent with law, OSMRE should minimize its interference with local decisions and allow such boards and commissions to remain.

One commenter noted that the original rules have been applied to exempt non-advisory bodies, and said that while the Act might not apply to truly advisory bodies, all other boards are covered by SMCRA. OSMRE does not agree. As discussed above, the Act is less than precise concerning its applicability to multi-interest board members, regardless of whether their roles are advisory. The definition of employee consistently has been construed to exclude members of multi-interest boards and commissions even if those members perform decisionmaking functions in accordance with state law. This interpretation will continue, because an exemption is not necessary for solely advisory bodies. Such groups are not covered by Section 517(g), which generally prohibits *decisionmakers* from having any interest in coal mining operations. Under the definition of employee, members of a board established in accordance with State law or regulations to represent various interests such as the coal mining industry, forestry, conservation, agriculture, environmentalists, or landowners, would be considered multi-interest board members.

Another commenter asked for an explanation of OSMRE's legal rationale for the proposed rulemaking. The commenter asked what the rationale and statutory basis was for proposed changes. As mentioned above, the proposal included three different options which were proposed in response to a petition for rulemaking. This preamble sets forth OSMRE's rationale for the option which OSMRE has selected, including: experience with State implementation of the prior regulation, statutory analysis, and policy considerations. The preceding discussion raises certain ambiguities about Congress' precise intent concerning the ambit of section 517(g), and sets forth the policy considerations which form the basis for OSMRE's regulations. Moreoever, the use of a multi-interest board in a state program has already withstood judicial challenge. See *Save Our Cumberland Mountains, et al.* v. *Watt*, No. 80–3723 (M.D. Tenn., 1983), and *Tug Valley Recovery Center* v. *Andrus*, No. 80–2529 (S.D. W.Va., 1982), *aff'd*, 703 F.2d 796 (4th Cir. 1983). Although neither of these cases ruled on the validity of OSMRE's definition of employee at 30 CFR 705.5, both held that the use of multi-interest boards was constitutional and created no due process violations. In addition to Section 517(g), the imposition of recusal and filing requirements for multi-interest board members is also supported by Sections 201(c)(2), 412(a), 501(b) and 503 of SMCRA.

Section 705.11(a) Requirement that members of multi-interest boards file statements of interest.

Section 705.11(a) is amended to require that members of advisory boards and commissions established in accordance with State law or regulations to represent multiple interests, who perform a function or duty under the Act, must file the same statement of employment and financial interests required of state regulatory authority employees. Because a potential for actual conflicts of interest exists involving multi-interest board members, OSMRE is adopting the filing requirement as one of the amendments to address this concern.

A commenter alleged that the proposed rule would impose an increased reporting burden on multi-interest board members. OSMRE acknowledges that these board and commission members will now have to file the same statements as do all other state personnel who are subject to Part 705. However, these disclosure requirements are reasonable and necessary to avoid conflicts of interest and are an appropriate means to implement the purposes of the Act.

A commenter alleged that the disclosure requirement may discourage citizen participation on multi-interest boards because of the filing burden and the invasion of privacy involved in the disclosure requirements. OSMRE does not agree. The administrative procedures involved in filing the statements should be minimal, based on the experience with the filing of such forms by other state personnel. Although perceived privacy interests could be affected, multi-interest board members may welcome the opportunity to verify the absence of any conflict of interest in their actions as public officials. And in any case, the public's interest in avoiding conflicts of interest outweighs any potential reluctance of board members to serve or to provide the information necessary to verify compliance. The financial statements will enable the head of the regulatory authority or OSMRE, either independently or upon request, to determine whether board members are properly acting to recuse themselves in compliance with § 705.4(d). Moreover, the requirement to file financial statements is essential in order to create a record, one purpose of which will be to serve as a basis for determining whether further regulatory changes are desirable.

Section 705.13 Time for filing.

To implement the filing requirement, § 705.13 will be extended to cover members of advisory commissions or boards designated to represent multiple interests. Inasmuch as these regulations are effective on November 17, 1986, multi-interest board members who are newly subject to the requirement to file a statement of employment and financial interests initially will be required to file on (Insert: date 150 days from the date of publication.) Additionally, unless the multi-interest board members are subject to § 705.13 (b) or (c), they will need to file their statements annually on February 1, as set forth in 30 CFR 705.13(a)(2).

Section 705.15 Where to file.

To implement the filing requirement, a conforming amendment is included in 30 CFR 705.15. This amendment specifies that statements that are required to be filed by multi-interest board members under § 705.11 should be filed with the head of the state regulatory authority or other official so designated under state law or regulation.

III. Procedural Matters

Paperwork Reduction Act

The information collection requirements in this final rule were approved by the Office of Management and Budget under 44 U.S.C. 3507 and are assigned Approval Number 1029–0067. The information is needed to meet the requirements of 517(g) of Public Law 95–87, and will be used to assess that no employee of the State regulatory

authority and no member of an advisory board or commission representing multiple interests performing any function or duty under this Act shall have a direct or indirect financial interest in any underground or surface coal mining operations. A technical change is being made to 30 CFR 705.10 to reflect that the relevant section of the Act is section 517(g), and not section 507(g) as erroneously appears in § 705.10.

Executive Order 12291

The DOI has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291. This rule is directed at persons in State government rather than at members of the coal industry. Thus the economic effects of this rule are not major.

Regulatory Flexibility Act

The DOI certifies that this document will not have a significant economic effect on a substantial number of small entities and therefore does not require a regulatory flexibility analysis under Public Law 96–354. This document will not impose any new requirements on surface coal mining operators.

Author

The author of this regulation is Peggy Moran, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue N.W., Washington, DC 20240; Telephone: 202 343–4665 (Commercial or FTS).

National Environmental Policy Act

This final rule is categorically excluded from the NEPA (National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq.) process under 40 CFR 1507.3(b) and section 8.4B(16) of Appendix 8, DOI Department Manual (516 DM 6).

List of Subjects in 30 CFR Part 705

Conflict of interest, Coal mining, Surface mining, Underground mining

Accordingly, 30 CFR Part 705 is amended as set forth below:

Dated: August 4, 1986.

James E. Carson,

Acting Assistant Secretary for Land and Minerals Management.

PART 705—PERMANENT REGULATORY PROGRAM

1. The authority citation for Part 705 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 et seq.).

2. Section 705.4 is amended by adding paragraph (d) to read as follows:

§ 705.4 Responsibility.

* * * * *

(d) Members of advisory boards and commissions established in accordance with State laws or regulations to represent multiple interests, who perform a function or duty under the Act, shall recuse themselves from proceedings which may affect their direct or indirect financial interests.

3. Section 705.10 is revised to read as follows:

§ 705.10 Information collection.

The information collection requirement contained in 30 CFR 705.11 has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029–0067. The information is being collected on Form OSM 23 to meet the requirement of section 517(g) of Pub. L. 95–87, which provides that no employee of the State regulatory authority shall have direct or indirect financial interest in any underground or surface coal mining operation. This information will be used by officials of the State regulatory authority agency to determine whether each State employee complies with the financial interest provisions of Pub. L. 95–87. The obligation to respond is mandatory.

4. Section 705.11 is amended by revising paragraph (a) to read as follows:

§ 705.11 Who shall file.

(a) Any employee who performs any function or duty under the Act is required to file a statement of employment and financial interests. Members of advisory boards and commissions established in accordance with State laws or regulations to represent multiple interests, who perform a function or duty under the Act, must file a statement of employment and financial interests. An employee who occupies a position which has been determined by the Head of the State Regulatory Authority not to involve performance of any function or duty under the Act or who is no longer employed by the State Regulatory Authority at the time a filing is due, is not required to file a statement.

* * * * *

5. Section 705.13 is revised to read as follows:

§ 705.13 When to file.

(a) Employees and members of advisory boards and commissions representing multiple interests performing functions or duties under the Act shall file:

(1) Within 120 days of the effective date of these regulations; and

(2) Annually on February 1 of each year, or at such other date as may be agreed to by the Director, provided that such alternative date will allow sufficient time to obtain information needed by the Director for his or her annual report to the Congress.

(b) New employees and new members of advisory boards and commissions representing multiple interest hired, appointed, or transferred to perform functions or duties under the Act will be required to file at the time of entrance to duty.

(c) New employees and new members of advisory boards and commissions representing multiple interests are not required to file an annual statement on the subsequent annual filing date if this date occurs within two months after their initial statement was filed. For example, an employee entering duty on December 2, 1986 would file a statement on that date. Because December 2 is within two months of February 1 the employee would not be required to file his or her next annual statement until February 1, 1988.

6. Section 705.15 is revised to read as follows:

§ 705.15 Where to file.

The head of the State Regulatory Authority shall file his or her statement with the Director. All other employees and members of advisory boards and commissions representing multiple interests, as provided in § 705.11, shall file their statements with the head of the State Regulatory Authority or such other official as may be designated by State law or regulation.

[FR Doc. 23462 Filed 10–16–86; 8:45 am]

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federal register

Friday
October 17, 1986

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

CUMULATIVE REPORT ON
RESCISSIONS AND DEFERRALS

October 1, 1986

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93-344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of October 1, 1986, of 21 deferrals contained in the first special message of FY 1987. There were no rescissions proposed. This message was transmitted to the Congress on September 26, 1986.

Rescissions (Table A and Attachment A)

As of October 1, 1986, there were no rescission proposals pending before the Congress.

Deferrals (Table B and Attachment B)

As of October 1, 1986, $1,829.6 million in 1987 budget authority was being deferred from obligation and $6.0 million in 1987 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1987.

Information from Special Messages

The special message containing information on the deferrals covered by this cumulative report is printed in the Federal Register listed below:

Vol. 51, FR p. 35976, Tuesday, October 7, 1986

James C. Miller III
Director

TABLE A

STATUS OF 1987 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	0
Accepted by the Congress	0
Rejected by the Congress	0
Pending before the Congress	0

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TABLE B

STATUS OF 1987 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	1,835.6
Routine Executive releases through October 1, 1986 (OMB/Agency releases of $0 and cumulative adjustments of $0)	0
Overturned by the Congress	0
Currently before the Congress	1,835.6 a/

a/ This amount includes $6.0 million in outlays for a Department of the Treasury deferral (D87-21).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1987

As of October 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
NONE								

Attachment B - Status of Deferrals - Fiscal Year 1987

As of October 1, 1986 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 10-1-86
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	D87-1	95,000		9-26-86					95,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Expenses, brush disposal	D87-2	111,202		9-26-86					111,202
Timber salvage sales	D87-3	29,731		9-26-86					29,731
Cooperative work	D87-4	526,938		9-26-86					526,938
Gifts, donations, and bequests for forest and rangeland research	D87-5	200		9-26-86					200
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, Defense	D87-6	2,350		9-26-86					2,350
Family Housing									
Family housing, Defense	D87-7	76,943		9-26-86					76,943
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation	D87-8	1,065		9-26-86					1,065
DEPARTMENT OF ENERGY									
Power Marketing Administration									
Alaska Power Administration, Operation and maintenance	D87-9	165		9-26-86					165
Southwestern Power Administration, Operation and maintenance	D87-10	7,554		9-26-86					7,554

DEPARTMENT OF HEALTH AND HUMAN SERVICES						
Office of Assistant Secretary for Health Scientific activities overseas (special foreign currency program).....	D87-11	2,900	9-26-86			2,900
Social Security Administration Limitation on administrative expenses (construction).....	D87-12	7,073	9-26-86			7,073
DEPARTMENT OF JUSTICE						
Office of Justice Programs Crime victims fund.....	D87-13	70,000	9-26-86			70,000
DEPARTMENT OF STATE						
Bureau for Refugee Programs United States emergency refugee and migration assistance fund, executive.....	D87-14	6,100	9-26-86			6,100
Other Assistance for implementation of a Contadora agreement.....	D87-15	2,000	9-26-86			2,000
DEPARTMENT OF TRANSPORTATION						
Federal Aviation Administration Facilities and equipment (Airport and airway trust fund).....	D87-16	803,877	9-26-86			803,877
DEPARTMENT OF THE TREASURY						
Office of Revenue Sharing Local government fiscal assistance trust fund.....	D87-17	74,149	9-26-86			74,149
Local government fiscal assistance trust fund.....	D87-21	5,981	9-26-86			5,981
OTHER INDEPENDENT AGENCIES						
Commission on the Ukraine Famine Salaries and expenses.....	D87-18	100	9-26-86			100
Office of the Federal Inspector for the Alaska Natural Gas Transportation System, Salaries and expenses.....	D87-19	411	9-26-86			411
Pennsylvania Avenue Development Corporation Land acquisition and development fund.....	D87-20	11,873	9-26-86			11,873
TOTAL, DEFERRALS.....		1,835,613	0	0	0	0 1,835,613

Note: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D87-21) of outlays only.

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federal register

Friday
October 17, 1986

Part V

Department of the Interior

Minerals Management Service

Central and Western Gulf of Mexico Outer Continental Shelf (OCS) Sulphur Lease Sale; Call for Information and Nominations

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Central and Western Gulf of Mexico
Outer Continental Shelf (OCS) Sulphur Lease Sale

CALL FOR INFORMATION AND NOMINATIONS

Introduction

Since 1976, sulphur consumption in the United States has exceeded supply, and the price has recently risen to the point where the sulphur producing industry is interested in expanding Outer Continental Shelf (OCS) operations. A June 3, 1986, Federal Register Notice responded to this interest by requesting comments on the desirability of conducting a Federal OCS sulphur lease sale in the Gulf of Mexico. The Notice included a brief history of sulphur leasing in the Central and Western Gulf areas. Respondents were asked to provide information on production technology and possible leasing strategies in recognition of the fact that the economics and technology of sulphur production have greatly changed since the last sulphur lease sale in 1969. The responses to the initial Notice have led to the issuance of this Call for Information and Nominations as discussed below.

Purpose of Call

The purpose of the Call is to assist the Secretary of the Interior in carrying out his responsibilities under the OCS Lands Act (OCSLA) (43 U.S.C. 1331-1356 (1982)), as amended by the OCS Lands Act Amendments of 1985 (100 Stat. 147), and regulations appearing at 30 CFR 256 with regard to a proposed OCS sulphur lease sale tentatively considered for 1987. This information-gathering step is important for ensuring that all interests and concerns are communicated to the Department of the Interior (DOI) for future decision points in the leasing process. It should be recognized that this Call does not indicate a preliminary decision to hold a lease sale.

Information submitted in response to this Call will be used for several purposes. First, responses will be used to identify the areas of potential for sulphur development. Second, comments on possible environmental effects and use conflicts will be used in the analysis of environmental conditions in the proposed sale area. Together, these two considerations will allow a preliminary determination of the potential advantages and disadvantages of sulphur exploration and development both to the region and to the Nation. Thus, key decisions can be made in connection with the next step in the planning process--Area Identification--to resolve conflicts by selecting areas only where there is sufficient information to justify that action. The Area Identification selects the blocks to be analyzed and is scheduled for December 1986. At that time the decision will be made on whether to proceed further. If there is a decision to proceed, a third purpose for this Call will be to use the comments collected to initiate scoping procedures and to help identify and analyze alternatives to the proposed action. Fourth, comments may be used in developing lease terms and conditions to assure safe offshore operations. Fifth, comments may be used in understanding and considering ways to avoid or mitigate any potential conflicts between offshore sulphur activities and other offshore activities (including oil and gas operations) and State Coastal Management Programs (CMP).

Description of Area

The general area of this Call covers the Central and Western portions of the Gulf of Mexico which lie between approximately 88° W. longitude on the east and approximately 97° W. longitude on the west and extends from the Federal-State boundaries seaward to approximately 26° N. latitude. The entire Call area is offshore the States of Texas, Louisiana, Mississippi, and Alabama. Although this area constitutes the Central and Western Gulf of Mexico Planning Areas, the DOI at this stage is focusing attention on blocks lying in waters up to 400 feet in depth.

The following list names the Leasing Maps and the OCS Official Protraction Diagrams used in identifying this Call area. These maps and diagrams may be purchased from the Public Information Unit, Gulf of Mexico OCS Region, at the address stated below under "Instructions on Call."

1. Central Gulf of Mexico (CGCM)

Leasing Maps

Outer Continental Shelf Leasing Maps - Louisiana Nos. 1 through 12.
This set of 27 maps sells for $17.00.

Outer Continental Shelf Official Protraction Diagrams

These diagrams sell for $2.00 each.

NH 15-12	Ewing Bank	December 2, 1976
NH 16-4	Mobile	April 19, 1983
NH 16-7	Viosca Knoll	December 2, 1976
NH 16-10	Mississippi Canyon	December 2, 1976
NG 15-3	Green Canyon	December 2, 1976
NG 15-6	Walker Ridge	December 2, 1976
NG 16-1	Atwater Valley	November 10, 1983
NG 16-4	(No Name)	December 2, 1976

2. Western Gulf of Mexico (WGOM)

Leasing Maps

Outer Continental Shelf Leasing Maps - South Texas Nos. 1 through 4.
This set of seven maps sells for $5.00.

Outer Continental Shelf Leasing Maps - East Texas Nos. 5 through 8.
This set of nine maps sells for $7.00

Outer Continental Shelf Official Protraction Diagrams

These diagrams sell for $2.00 each.

NG 14-3	Corpus Christi	January 27, 1976
NG 14-6	Port Isabel	January 27, 1976
NG 15-1	East Breaks	January 27, 1976
NG 15-2	Garden Banks	December 2, 1976
NG 15-4	Alaminos Canyon	March 26, 1976
NG 15-5	Keathley Canyon	December 2, 1976

Areas Deferred from this Call

In the High Island Area, East Addition, South Extension, Flower Garden Blocks A-375 and A-398 have been deferred from this Call.

Instructions on Call

Respondents are requested to indicate interest in and comment on any or all of the Federal acreage within the boundaries of the Call area that they wish to have considered for sulphur leasing. Boundaries of the Call area are shown on the standard Call map available free from the Public Information Unit, Gulf of Mexico OCS Region, Minerals Management Service (MMS), 1420 South Clearview Parkway, New Orleans, Louisiana 70123-2394, telephone (504) 736-2519.

Although individual indications of interest are considered to be privileged and proprietary information, the names of persons or entities indicating interest or submitting comments will be of public record. Those indicating such interest are required to do so on the standard Call map. Interest should be shown by nominating individual blocks.

Information concerning locations of interest will be used in determining the areas subject to analysis. In addition to the indications of interest, further consideration of areas for analysis would be based on sulphur potential and environmental, economic, and multiple-use considerations.

Information is requested on the following specific items in relation to sulphur leasing.

1. Suggested methods and technology for transporting sulphur to shore.

2. Suggested lease terms and conditions.

3. Suggested period of lease (years).

4. Current and projected sulphur market data and information. Contribution of potential OCS sulphur resources to the domestic supply.

5. The technology presently available or anticipated for exploration and development operations in deepwater areas.

6. Particular geological, environmental, biological, archaeological, socioeconomic conditions, conflicts, or other information which might bear upon the potential leasing and development of particular areas.

7. Possible conflicts between future OCS sulphur activities that may result from the proposed sale and State CMP's. If possible, these comments should identify specific CMP policies of concern, the nature of the conflict foreseen, and steps that the MMS could take to avoid or mitigate the potential conflict.

The DOI is evaluating methods for transferring the rights to use OCS salt in the extraction of the sulphur.

Comments may either be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to outline the subject area on the standard Call map.

Indications of interest and comments must be received no later than 45 days following publication of this document in the Federal Register in envelopes labeled "Nominations for Proposed Sulphur Leasing" or "Comments on the Call for Information and Nominations for Proposed Sulphur Leasing."

The standard Call map and indications of interest and/or comments must be submitted to the Regional Supervisor, Leasing and Environment, Gulf of Mexico OCS Region, at the above New Orleans address.

The State of Louisiana has expressed an interest in leasing of sulphur on State submerged lands. The Minerals Management Service has agreed to facilitate their initial information-gathering as to industry interest in such lands. Those who are interested in areas for sulphur leasing or who wish to comment on the questions listed above for State lands offshore Louisiana are urged to reply directly to the State at the following address:

Louisiana State Address: Dr. Charles G. Groat
Louisiana Geological Survey
P.O. Box G, University Station
Louisiana State University
Baton Rouge, Louisiana 70893

Discussions are continuing with the State of Texas concerning sulphur leasing on State submerged lands. Anyone having interest or comments relating to leasing in Texas State waters should provide that information directly to the State. Please note that the Federal Government cannot assure protection of proprietary information provided directly to a State.

Existing Environmental Information

Although environmental impacts from sulphur operations differ somewhat from oil and gas operations, substantial baseline environmental data have been collected through numerous environmental impact statements (EIS's) for oil and gas leasing activities in the Gulf of Mexico since 1970. A Regional EIS also supplemented the overall environmental data base in 1983, and a new Gulfwide Regional EIS planned for publication in 1987 is presently in preparation.

Data from the Environmental Studies Program have provided extensive information regarding the Central and Western Gulf of Mexico Planning Areas. The DOI initiated studies in these areas in 1973. The emphasis, including continuing studies, has been on geological mapping, environmental characterization of biologically sensitive habitats, physical oceanography, ocean circulation modeling, and ecological effects of OCS activities. These studies will provide useful information for a number of environmental issues, including topographic features, biological communities on the continental slope, coastal wetland habitats, and barrier islands.

A complete listing of available study reports and information for ordering copies can be obtained from the Public Information Unit, Gulf of Mexico OCS Region, at the address stated under "Instructions on Call" or by telephone at (504) 736-2519. The reports may also be ordered for a fee directly from the National Technical Information Service by calling (703) 487-4650. The mailing address is U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161.

In addition, a program status report for continuing studies in this area can be obtained from the Chief, Environmental Studies Section, Gulf of Mexico OCS Regional Office at the address stated under "Instructions on Call" or by telephone at (504) 736-2896.

Future Action

Subject to the Area Identification decision to proceed with the planning process, final delineation of the areas for possible leasing would be made at a later date only after compliance with established Departmental procedures, all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347), and the OCSLA, as amended. A final Notice of Sale would then be published in the Federal Register detailing areas to be offered for competitive bidding, stating the terms and conditions for leasing, and announcing the location, date, and time bids would be received and opened.

Director, Minerals Management Service
William D. Bettenberg

Approved:

Assistant Secretary - Land and Minerals Management
J. Steven Griles

OCT 14 1986
Date

[FR Doc. 86-23563 Filed 10-16-86; 8:45 am]
BILLING CODE 4310-MC-M

Federal Register

Friday
October 17, 1986

Part VI

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes to amend the Student Assistance General Provisions regulations, 34 CFR Part 668, to exempt from selected verification requirements for the 1986–87 and 1987–88 award years, institutions selected by the Secretary to participate in the Institutional Quality Control Pilot Project. The Secretary takes this action because it would be duplicative and unnecessarily burdensome to require institutions participating in the Pilot Project to meet these regulatory requirements.

DATE: Comments must be received on or before November 17, 1986.

ADDRESS: Comments should be addressed to Mr. Fred Sellers, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue SW., [Room 4318, Regional Office Building No. 3], Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Deborah Cohen (202) 472–4300.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 14, 1986 (51 FR 8946–8974), the Secretary amended the Student Assistance General Provisions regulations, 34 CFR Part 668, by adding a new Subpart E. That subpart established an integrated system for the verification of student aid application information reported by applicants when they apply to have their expected family contribution calculated for the Pell Grant, campus-based [National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant], and Guaranteed Student Loan programs. Collectively, these programs are known as the Title IV, HEA programs. The Secretary issued those regulations to reduce high error rates in data reported by applicants in order to assure, to the maximum extent possible, that eligible applicants receive the correct amount of Title IV, HEA program assistance. The Secretary believes, however, that an institution could also reduce both institutional and student errors in the awarding of Title IV, HEA program assistance if the institution develops and implements a quality control (QC) system with regard to its administration of these programs. To test this assumption, the Secretary has developed the Institutional Quality Control Pilot Project.

Institutional Quality Control Pilot Project

The Institutional Quality Control Pilot Project (Pilot Project) is an experiment under which a participating institution develops and implements a quality control system in connection with its administration of the Title IV, HEA programs. Under such a quality control system, the institution evaluates its current procedures for administering the Title IV, HEA programs, ("management assessment component"), identifies the errors that result from its procedures ("error measurement process component"), and designs corrections to those procedures that will enable it to eliminate or significantly reduce those errors ("corrective actions process component"). Using these quality control components, an institution participating in the Pilot Project will be able to develop procedures tailored to meet the particular problems it faces in determining the appropriate amount of Title IV, HEA program assistance its students need and in disbursing those funds to them in a timely manner.

The Secretary notes that quality control is dependent on a successful quality assurance function. Quality assurance is the periodic verification, audit, and evaluation of quality control procedures conducted by an independent third party, which could be either an auditor or ED staff, to ensure that QC procedures are adequate and effective. Successful implementation of effective quality assurance functions is considered essential to success of the Pilot Project.

In order to provide the flexibility needed by a participating institution to develop its own QC procedures and to avoid burdening a participating institution with requirements that it may not need to undertake under the QC procedures it develops, the Secretary is proposing to exempt a participating institution from various requirements under the verification regulations for the 1986–87 and 1987–88 award years. The requirements that the Secretary proposes to exempt include the establishment of policies and procedures to verify the application information of applicants in § 668.53(a)(1) through (a)(4); the requirements for selecting applicants for verification in § 668.54(a)(1), (a)(2), and (a)(4); the items in § 668.56 to be verified by applicants selected for verification under § 668.54(a)(1) or (2); the documentation required by applicants selected for verification in § 668.57, except that a participating institution shall continue to require an applicant that it has selected for verification to submit to it a copy of the income tax return, if filed, of the applicant, his or her spouse and his or her parents, if the income reported on the income tax return was used in determining the expected family contribution; and deadlines in § 668.60(a) by which applicants selected for verification must submit the documentation required under § 668.57. The Secretary notes that institutions participating in the Pilot Project remain subject to §668.16(f) of the Student Assistance General Provisions and they must resolve any inconsistent information regarding the information on a student's application.

The Secretary will select institutions to participate in the Pilot Project on the basis of selection criteria published in the **Federal Register.** Proposed selection criteria, additional information concerning the Pilot Project and the deadline date for applying to participate in the Pilot Project are being published in this issue of the **Federal Register.** If an institution is selected to participate in the Pilot Project, the Secretary proposes to exempt it from the verification requirements described above from the date of its selection through the end of the 1987–88 award year.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as nonmajor 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 impact on a substantial number of small entities. A maximum of 102 institutions will be selected on a voluntary basis to participate in the Pilot Project.

Paperwork Reduction Act of 1980

These proposed regulations do not contain any information collection requirements and are therefore not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which governs such requirements.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 30th day after publication

of this document will be considered before the Secretary issues final regulations. All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4318, ROB #3, 7th and D Streets SW., Washington, DC 20202, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291, and the overall requirement of reducing regulatory burden, public comment is especially invited on further opportunities to reduce regulatory burden in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education loan programs—education, Grant programs—education, Student aid.

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 regulations.

Dated: October 10, 1986.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assitance Numbers: Number 84.007, Supplemental Educational Opportunity Grant Program; Number 84.032, Guaranteed Student Loan Program; Number 84.033, College Work-Study Program; Number 84.038, National Direct Student Loan Program; Number 84.063, Pell Grant Program)

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. In § 668.51, paragraph (c) is redesignated as paragraph (d), and a new paragraph (c) is added to read as follows:

§ 668.51 General.

* * * * *

(c) *Institutional Quality Control Pilot Project.* (1) For the 1986–87 and 1987–88 award years, the Secretary exempts institutions selected to participate in the Institutional Qulaity Control Pilot Project from the requirements contained in the following sections:

(i) Section 668.53(a)(1) through (4).

(ii) Section 668.54(a)(1), (2), and (4).

(iii) Section 668.56.

(iv) Section 668.57, except that an institution shall require an applicant that it has selected for verification to sumbit to it a copy of the income tax return, if filed, of the applicant, his or her spouse, and his or her parents, if the income reported on the income tax return was used in determining the expected family contribution.

(v) Section 668.60(a).

(2) For the purpose of this section, the Institutional Quality Control Pilot Project is an experiment under which a participating institution develops and implements a quality control system in connection with its administration of the Title IV, HEA programs. Under such a quality control system, the institution must evaluate its current procedures for administering the Title IV, HEA programs ("management assessment component"), identify the errors that result from its current procedures ("error measurement process component") and design corrections to its procedures that will enable it to eliminate or significantly reduce those errors ("corrective actions process component").

* * * * *

[FR Doc. 86–23541 Filed 10–16–86; 8:45 am]

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federal register

Friday
October 17, 1986

Part VII

Department of Education

Institutional Quality Control Pilot Project; Notice

DEPARTMENT OF EDUCATION

Institutional Quality Control Pilot Project

AGENCY: Department of Education.

ACTION: Notice of the Proposed Selection Criteria and Deadline Date for Participation in the Institutional Quality Control Pilot Project.

SUMMARY: The Secretary proposes selection criteria to be used to select institutions to participate in the Institutional Quality Control Pilot Project (Pilot Project). The Secretary further establishes a deadline date by which an institution of higher education that wishes to participate in the Pilot Project must submit its application to the Secretary.

The Pilot Project is an experiment under which a participating institution develops and implements a quality control system in connection with its administration of the Title IV, HEA programs. The Title IV, HEA programs include the Pell Grant, campus-based [National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant], and Guaranteed Student Loan programs.

DATES: Comments on the proposed selection criteria must be received by November 17, 1986.

There are no formal ED application forms that must be used to apply to participate in the Pilot Project. An institution applies to participate in the Pilot Project by sending a written notice to the Secretary of its request to participate. An institution must submit its request to participate in the Pilot Project by November 17, 1986.

ADDRESS: Comments on the proposed selection criteria and requests to participate in the Pilot Project may be mailed to Jerry Whitlock, Division of Quality Assurance, U.S. Department of Education, 400 Maryland Avenue, SW., [Regional Office Building 3, Room 5082], Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Jerry Whitlock, (202) 245–7505.

Program Information

The Pilot Project is an experiment under which a participating institution develops and implements a quality control system in connection with its administration of the Title IV, HEA programs. Under such a quality control system, the institution evaluates its current procedures for administering the Title IV, HEA programs ("management assessment component"), identifies the errors that result from its current procedures ("error measurement process component"), and designs corrections to its procedures that will enable it to eliminate or significantly reduce those errors ("corrective actions process component"). Using these quality control components, an institution participating in the Pilot Project will be able to develop procedures tailored to meet the particular problems and errors it faces in determining the appropriate amount of Title IV, HEA program assistance its students need and in disbursing those funds to them in a timely manner.

The Secretary notes that quality control is dependent on a successful quality assurance function. Quality assurance is the periodic verification, audit, and evaluation of quality control procedures conducted by an independent third party, which could be either an auditor or ED staff, to ensure that QC procedures are adequate and effective. Successful implementation of effective quality assurance functions is considered essential to success of the Pilot Project.

The criteria the Secretary is proposing to use to select institutions to participate in the Pilot Project are based upon information already in the possession of ED. Therefore, an institution's application to participate will consist solely of its written request to participate. An institution should base its decision to apply on the proposed selection criteria. If, as a result of public comment, the Secretary changes the selection criteria, he will extend the closing date to allow institutions additional time to apply under the new criteria.

The Pilot Project will run through the end of the 1987–88 award year. If an institution is selected to participate in the Pilot Project, the Secretary believes that the institution should be exempt, for the period of its participation in the Pilot Project, from selected requirements set forth in the verification regulations of Subpart E of the Student Assistance General Provisions, 34 CFR Part 668, Subpart E. Therefore, in this issue of the **Federal Register**, the Secretary is proposing to amend § 668.51 of the Student Assistance General Provisions regulations to exempt, for the 1986–87 and 1987–88 award years, institutions participating in the Pilot Project from selected verification requirements.

Proposed Selection Criteria

The Secretary initiated the Pilot Project during the 1985–86 award year, and 42 institutions participated in the Pilot Project in that year. These institutions focused on the first two components of the quality control system. In order not to lose the benefits derived from these institutions' participation in the Pilot Project, the Secretary proposes to permit each of these institutions to continue in the Pilot Project if it so desires. To administer the Pilot Project properly, the Secretary has determined that the number of institutions participating in the Pilot Project should not exceed 102; therefore, if all 42 of the current participants choose to remain in the Pilot Project, the maximum number of institutions the Secretary would select under these selection criteria is 60.

The Secretary has determined that for the Pilot Project to provide a model that other institutions can follow, the institutions selected to participate in the Pilot Project should have experience in all the Title IV, HEA programs and in dealing with a significant number of students and Federal dollars in all the programs. Therefore, the Secretary is proposing selection criteria based on the number of programs in which an institution participates, the number of recipients at those schools, and the total number of dollars received by an institution.

The Secretary developed these criteria so that information used to evaluate an applicant will already be in the possession of ED. Therefore, when applying to participate in the Pilot Project, an applicant would not have to submit any information with its application.

I. In order to be selected to participate in the Pilot Project, an institution would have to—

1. Participate in the Pell Grant, campus-based [National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant] and GSL programs during the 1986–87 award year and have participated in all five programs during the 1984–85 and 1985–86 award years;

2. Have had, in the aggregate, at least 2000 Pell Grant and campus-based program recipients during the 1984–85 award year;

3. Have awarded, in the aggregate, at least $2 million under the Pell Grant and campus-based programs in the 1984–85 award year; and

4. Have submitted and had approved by ED its most recent audit report in which the reported liability was less than $150,000.

II. If not more than 60 applicants meet the above criteria, the Secretary would select all the applicants who meet the criteria to participate in the Pilot Project.

III. If more than 60 applicants meet the above criteria, the Secretary would select applicants on the basis of the following additional criteria.

The Secretary believes that new Pilot Project participants should have a history of proper administration of the Title IV, HEA programs. Therefore, the Secretary is proposing criteria related to potential loss rates in the National Direct Student Loan (NDSL) Program and program review findings. In addition, the Secretary believes that an institution's participation in the procedure of electronic transmission of data under the Pell Grant or campus-based programs evidences a sophistication needed for participation in the Pilot Project. Therefore, the Secretary has included a criterion with regard to participation in the electronic data transmission projects of the Pell Grant and campus-based programs.

To be selected, an applicant would have to score at least 50 points out of a potential 80 points. If more than 60 applicants score at least 50 points, the Secretary would select those applicants that score the highest number of points. The proposed selection criteria and points are:

1. *Findings of the latest ED program review.* (Maximum 15 points) An applicant will receive the following number of points based upon the findings of the latest program review conducted by ED at the institution:

Findings and Points

For each award year covered by the latest program review—
- compliance with all applicable statutes and regulations—15
- failure to comply with applicable statutory and regulatory requirements, which results in an assessed liability of an amount equal to not more than 15 percent of the amount received by the institution under the Pell and campus-based programs for that year—8
- failure to comply with applicable statutory and regulatory requirements, which results in an assessed liability of an amount equal to more than 15 percent of the amount received by the institution under the Pell and campus-based programs for that year—0

2. *The institution's full-time equivalent (FTE) enrollment for the 1984–85 award year.* (Maximum 20 points) An applicant will receive the following number of points based upon its FTE enrollment for the 1984–85 award year:

FTE enrollment	Points
Above 10,000	20
5001 to 10,000	15
2000 to 5000	10
Fewer than 2000	0

3. *Compliance with the Pell Grant Program reporting requirements.* (Maximum 20 points)

An applicant will receive 20 points if it complies with all the deadline dates for the receipt of institutional payment summary (IPS) documents for the 1985–86 award year which were set forth in Table IV of the Pell Grant Program deadline date notice published in the **Federal Register** of February 25, 1986, 51 FR 6583–6585.

4. *The applicant's potential loss rate under the National Direct Student Loan (NDSL) Program as of June 30, 1985.* (Maximum 15 points) A potential loss rate under the NDSL Program is calculated by dividing the cumulative principal amount of loans in default (including those loans that have been assigned or referred to ED for collection) by the cumulative principal amount of loans that have entered repayment. An applicant will receive the following number of points based upon its potential loss rate:

Potential loss rate (percent)	Points
0 to 10	15
10.1 to 15	7
15.1 to 20	3
Above 20	0

5. *Participation in ED electronic data transmission projects.* (Maximum 10 points)

An applicant will receive 10 points for participating in award year 1985–86 in either the "Pell Grant Program Electronic Pilot Project" or the campus-based programs' "Gateway Electronic FISAP" if: With regard to the Pell Grant Program, the institution has a direct electronic hook-up to the Pell Grant Program Central Processing Facility; and, with regard to the campus-based programs, the institution has a direct electronic hook-up to the ED-designated facility or provides the complete floppy disk to that facility. Under the Pell Grant Program, the Electronic Pilot Project is an electronic exchange system between the Secretary and an institution under which a student is able to correct or verify information contained on his or her SAR at the institution he or she is attending and the institution is able to print out a Student Aid Report for the student which is based on the corrected or verified information. Under the campus-based programs, the Gateway Electronic FISAP is an electronic system under which an institution is able to submit a Fiscal Operations Report and Application to Participate (FISAP) to the Secretary.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed criteria. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 30th day after publication of this document will be considered before the Secretary issues final selection criteria. All comments submitted in response to these proposed criteria will be available for public inspection, during and after the comment period, in Room 5082, ROB #3, 7th and D Streets, SW., Washington, DC 20202, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

[Authority: 20 U.S.C. 1094]

Dated: October 10 1986.

William J. Bennett,

Secretary of Education.

(Catalog of Federal Domestic Assistance Numbers: Number 84.007, Supplemental Educational Opportunity Grant Program; Number 84.032, Guaranteed Student Loan Program; Number 84.033, College Work-Study Program; Number 84.038, National Direct Student Loan Program; Number 84.063, Pell Grant Program)

[FR Doc. 86–23542 Filed 10–16–86; 8:45 am]

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federal register

Friday
October 17, 1986

Part VIII

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Denial of Exclusion Petitions

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3096-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Denial of Exclusion Petitions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to deny the petitions submitted by nine petitioners to exclude their solid wastes from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste list. The effect of this action, if promulgated, would be to deny certain wastes generated at nine particular facilities from listing as hazardous wastes under 40 CFR Part 261, and revoke the temporary exclusions of certain wastes generated at these nine facilities. Thus, the petitioned waste at the nine facilities being denied exclusions would then be considered hazardous.

The Agency has previously evaluated all nine of these petitions which are discussed in today's notice. Based on our review at that time, these petitioners were all granted temporary exclusions. Due to changes to the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions, have been evaluated both for the factors for which the wastes were originally listed, as well as other factors which reasonably could cause the wastes to be hazardous.

DATES: EPA will accept public comments on the proposed exclusions and denials until October 24, 1986. Comments postmarked after the close of the comment period will be stamped "late".

Any person may request a hearing on these proposed decisions by filing a request with Bruce Weddle, whose address appears below, by October 24, 1986. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSP/OSW (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F-86-CHDP-FFFFF".

Requests for a hearing should be addressed to Bruce Weddle, Director, Permits and State Programs Division, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at U.S. Environmental Protection Agency, 401 M Street SW. (sub-basement), Washington, DC 20460, and is available for viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost $.20 per page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; (202) 382-5096.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure [EP] toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To be excluded, petitioners must show that a waste generated at their facility does not meet any of the criteria under which the waste was listed. (See 40 CFR 260.22(a) and the background documents for the listed wastes.) In addition, the Hazardous and Solid Waste Amendments of 1984 (HSWA) require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics, as well as present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. (See 40 CFR 260.22(a); section 222 of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6921(f); and the background documents for the listed wastes.) Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of a hazardous waste, generators remain obligated to determine whether their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage or disposal of listed hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. (See 40 CFR 261.3 (c) and (d)(2).) Again, the substantive standard for "delisting" is:

(1) That the waste not meet any of the criteria for which it was listed originally; and (2) that the waste is not hazardous after considering factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Where the waste is derived from one or more listed hazardous waste, the demonstration may be made with respect to each constituent or the waste mixture as a whole. (See 40 CFR 260.22(b).) Generators of these excluded treatment, storage, or disposal residues remain obligated to determine on a periodic basis whether these residues exhibit any of the hazardous waste characteristics.

Approach Used to Evaluate Delisting Petitions

The Agency first will evaluate the petition to determine whether the waste (for which the petition was submitted) is non-hazardous based on the criteria for which the waste was originally listed. If the Agency believes that the waste is still hazardous (based on the original listing criteria), it will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the criteria for which the waste was listed, it then will evaluate the waste with respect to other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous.

The Agency is using a hierarchical approach in evaluating petitions for the other factors or contaminants (*i.e.*, those listed in Appendix VIII of Part 261). This approach may, in some cases, eliminate the need for additional testing. The petitioner can choose to submit a raw materials list and process descriptions. The Agency will evaluate this information to determine whether any Appendix VIII hazardous constituents are used or formed in the manufacturing and treatment process and are likely to be present in the waste at significant levels. If so, the Agency then will request that the petitioner perform additional analytical testing. If the petitioner disagrees, he may present arguments on why the toxicants would not be present in the waste, or, if present, why they would pose no toxicological hazard. The reasoning may include descriptions of closed or segregated systems, or mass balance arguments relating volume of raw materials used to the rate of waste generation. If the Agency finds that the arguments presented by the petitioner are not sufficient to eliminate the reasonable likelihood of the toxicant's presence in the waste, the petition would be tentatively denied on the basis of insufficient information. The petitioner then may choose to submit the additional analytical data on representative samples of the waste during the public comment period.

Rather than submitting a raw materials list, petitioners may test their waste for any additional toxic constituents that may be present and submit this data to the Agency. In this case, the petitioner should submit an explanation of why any constituents from Appendix VIII of Part 261, for which no testing was done, would not be present in the waste or, if present, why they would not pose a toxicological hazard.

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11(a)(2) and (a)(3). Specifically, the Agency considers whether the waste is acutely toxic, as well as the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and bioaccumulate, their persistence in the environment once released from the waste, plausible types of management of the waste, and the quantities of waste generated. In this regard, the Agency has developed an analytical approach to the evaluation of wastes that are landfilled and land treated. See 50 FR 7882 (February 26, 1985), 50 FR 48886 (November 27, 1985), and 50 FR 48943 (November 27, 1985). The overall approach, which includes a ground water transport model, is used to predict reasonable worst-case contaminant levels in ground water in nearby hypothetical receptor wells—"compliance points" (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). The land treatment model also has an air component and predicts the concentration of specific toxicants at some distance downwind of the facility. The compliance point concentration determined by the model then is compared directly to a level of regulatory concern. If the value at the compliance point predicted by the model is less than the level of regulatory concern, then the waste could be considered non-hazardous and a candidate for delisting. If the value at the compliance point is above this level, however, then the waste probably still will be considered hazardous, and not excluded from Subtitle C control.[1]

This approach evaluates the petitioned wastes by assuming reasonable worst-case land disposal scenarios. This approach has resulted in the development of a sliding regulatory scale which suggests that a large volume of waste exhibiting a particular extract level would be considered hazardous, while a smaller volume of the same waste could be considered non-hazardous.[2] The Agency believes this to be a reasonable outcome since a larger quantity of the waste (and the toxicants in the waste) might not be diluted sufficiently to result in compliance point concentrations that are less than the level of regulatory concern. The selected approach predicts that the larger the waste volume, the higher the level of toxicants at the compliance point. The mathematical relationship (with respect to ground water) yields at least a six-fold dilution of the toxicant concentration initially entering the aquifer (*i.e.*, any waste exhibiting extract levels equal to or less than six times a level of regulatory concern will generate a toxicant concentration at the compliance point equal to or less than the level of regulatory concern). Depending on the volume of waste, an additional five-fold dilution may be imparted, resulting in a total dilution of up to thirty-two times.

The Agency is using this approach as one factor in determining the potential impact of the unregulated disposal of petitioned waste on human health and the environment. The Agency has used this approach in evaluating each of the wastes discussed in today's publication. As a result of this evaluation, the Agency is tentatively denying exclusions for the wastes from nine petitioners.

It should be noted that EPA has not verified the submitted test data before proposing to grant these exclusions. The sworn affidavits submitted with each petition bind the petitioners to present truthful and accurate results. The Agency, however, has initiated a spot sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions before final exclusions will be granted.

Finally, before the Hazardous and Solid Waste Amendments of 1984 were enacted, the Agency granted temporary exclusions without first requesting public comment. The Amendments specifically require the Agency to provide notice and an opportunity for comment before granting a exclusion. All nine of the exclusions proposed today will not become effective unless and until made final. A notice of final exclusion will not be published until all public comments (including those that requested hearings, if any) are addressed.

Petitioners

The proposed denials published today are for the following petitioners:

American Telephone & Telegraph, North Andover, Massachusetts;

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[1] The Agency proposed a similar approach, including a ground water transport model, as part of the proposed toxicity characteristic (see 51 *FR* 21648, June 13, 1986). The Agency, has not completed its evaluation of the comments on this proposal, however. If a regulation is promulgated, using the ground water transport model, the Agency will consider revising the delisting analysis.

[2] Other factors may result in the denial of a petition, such as actual ground water monitoring data or spot check verification data.

Diamond Shamrock Refining and Marketing Company, Sunray, Texas;
Hill Petroleum Company, Houston, Texas;
L-TEC Welding and Cutting Systems, Ashtabula, Ohio;
Murphy Oil USA, Inc., Superior, Wisconsin;
New Departure Hyatt, Sandusky, Ohio;
Virginia Chemicals, Inc., Bucks, Alabama;
Titan Oil Company, Indianapolis, Indiana;
Virginia Chemicals, Inc., Leeds, South Carolina.

I. American Telephone & Telegraph

A. Petition for Exclusion

American Telephone & Telegraph (AT&T), formerly Western Electric Company, located in North Andover, Massachusetts, is involved in the manufacturing of electronic telephone transmission equipment. In September of 1981, AT&T petitioned the Agency to exclude its de-watered wastewater treatment sludge, presently listed as EPA Hazardous Waste Number F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.

Based upon the Agency's review of the petition, AT&T was granted a temporary exclusion for its de-watered wastewater treatment sludge on March 4, 1982.[3] The Agency's basis for granting the exclusion at that time was the low migration potential of cadmium, hexavalent chromium, nickel, lead, and cyanide (complexed). Since that time, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part, the Amendments require the Agency to consider other factors (including additional constituents other than those for which the waste was originally listed), if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f)).

[3] The exclusion applied only to the final treated and de-watered sludge. Furthermore, the exclusion was conditional upon batch testing for total cyanide. If the total concentration exceeded 10 ppm, then the waste had to be covered as daily practice in order to avoid photoconversion of the cyanide to cyanide gas.

In response to the Amendments, AT&T submitted a complete list of raw materials used at the facility and additional analytical testing results on December 7, 1984. As a result, the Agency has re-evaluated AT&T's petition to: (1) Determine whether the temporary exclusion should be made final based on the original listing criteria; and (2) evaluate the waste for additional factors (other than those for which the waste was listed) to determine whether the waste is non-hazardous. This notice presents the results of the Agency's re-evaluation of this petition.

In support of their petition, AT&T has submitted a detailed description of its manufacturing and waste treatment processes, including a schematic diagram, total constituent analyses and EP toxicity test results of the filter cake from its vacuum filter press for cadmium, chromium, nickel, and cyanide as well as for the non-listed EP toxic metals; and total oil and grease analyses of the waste.

AT&T manufactures electronic telephone transmission equipment. The manufacturing process uses seven plating lines to deposit copper, nickel, solder (tin, lead), and gold on the electronic components. All parts are cleaned, rinsed, plated, and rinsed. The spent rinse waters, cleaning solutions, etching and acid/alkali baths, chromium wastes from the recirculating baths, and waste ferrite from the ferrite manufacturing process are all treated at the facility's wastewater treatment works.

Wastewater containing cyanide are batch treated by an alkaline chlorination process and the cyanide is reduced to carbon dioxide and nitrogen. The treated wastewater then flows to a collecting flume and rapid mix tank where it is combined with the rest of the treated wastewaters. Wastewaters containing chromates are reduced with sodium metabisulfate. The reduced chromate wastewater then flows to the collecting flume and then to the rapid mix tank where it is combined with the other treated wastewaters. Spent alkali and acid wastes are combined and neutralized with the addition of either sodum hydroxide or sulfuric acid. The neutralized wastewaters then flow to the collecting flume and the rapid mix tank where they are also combined with the other treated wastewaters. Ferrite waste is pH adjusted to a range of 8.8 to 9.2. The ferrite waste is then combined with the other treated wastewater at the rapid mix tank.

The combined treated wastewaters flow to an aeration tank where ferric chloride (primary coagulant) and a coagulant acid (anionic coagulant) are added in order to promote precipitation of the metals as hydoxides. The wastewater is then clarified and de-watered by a rotary vacuum filter using diatomaceous earth as the filter media. The de-watered sludge is taken off-site for disposal.

AT&T collected a total of five samples (four composites and one grab sample) and analyzed them for total constituent concentration and EP leachate concentrations. The four composite samples consisted of eight hourly grabs (500 ml each) taken each day during the periods of March 31, 1981 through April 3, 1981; April 14, 1981 through April 17, 1981; April 23, 1981 through April 26, 1981; and, April 27, 1981 through May 1, 1981. The one grab sample was taken directly from the rotary vacuum filter.

An additional four grab samples were taken on September 21, 1983 (10 am and 4 pm) and September 28, 1983, and were analyzed for total oil and grease. AT&T claims that the samples collected and analyzed are representatives of any variation of the listed and non-listed constituent concentrations in the waste, since the initial sampling program spanned a five month period and the maunfacturing process does not vary significantly over time (*i.e.*, AT&T claims that it is not a job shop and that it does not have seasonal variations in production).

Tables 1 and 2 show the results of total constituent analyses and EP leachate analyses, as reported by AT&T, for the listed constituents of concern and the non-listed EP toxic metals, respectively. The maximum total oil and grease content of the waste was reported as 0.2 percent.

TABLE 1.—MAXIMUM CONCENTRATION FOR THE LISTED CONSTITUENTS OF CONCERN

Listed constituents	Total Constituent concentrations (mg/kg)	EP leachate concentrations (mg/1)
Cd	4.6	[2] 0.5
Cr (total) [1]	1690	0.1
CN (total)	107	0.05
CN (amenable)	77	[3]
Ni	2130	19.9

[1] Hexavalent chromium is listed as the constituent of concern for this waste; however the concentration of the total chromium is low enough to make the determination of hexavalent chromium unnecessary.
[2] Represents the detection limit. The next highest detected value was 0.026 mg/1.
[3] Not Analyzed.

TABLE 2.—MAXIMUM CONCENTRATION FOR THE NON-LISTED CONSTITUENTS OF CONCERN

Non-Listed constituents	Total Constituent concentrations (mg/kg)	EP leachate concentrations (mg/1)
As	12.6	0.025
Ba	104	6.2
Pb	7800	0.16
Ag	15	0.1
Se	8	[1] 0.2
Hg	11	0.004

[1] Represents the detection limit. Next highest detected value was less than 0.02 mg/1.

AT&T's list of raw materials indicated that formaldehyde was used in the manufacturing process. No analyses for formaldehyde, however, were performed.[4] The list of raw materials did not indicate than any other Appendix VIII hazardous constituents are used in the process or are likely to be formed. AT&T also provided test data which indicated that the waste did not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. AT&T claims to generate a maximum of 1,380 tons of sludge per year.

B. Agency Analysis and Action

AT&T has not demonstrated to the Agency that its waste treatment system generates a non-hazardous sludge. Specifically, the date provided by AT&T indicate that the sludge contains hazardous concentrations of nickel and possibly cadmium, selenium and formaldehyde. The Agency, however, is proposing to deny AT&T's petition solely on the basis of the hazardous concentrations of nickel.[5]

The Agency believes that the petitioner has adequately characterized the sludge from the rotary vacuum filter and that the samples analyzed reflect any day-to-day variation in production. The Agency also believes AT&T's claim that the manufacturing and treatment processes are unform and consistent is well substantiated since the facility does not perform as a job shop or have seasonal product variation. Thus, we consider the sampling procedures used by AT&T to be adequate, and as such, they showed no significant variation in constituent concentrations. The Agency, therefore, concludes that the analytical information provided by AT&T is representative of their de-watered sludge.

[4] See the Agency Analysis section for an explanation of why analyses for formaldehyde were not requested.

[5] Since the Agency is proposing to deny AT&T's petition, we have not notified AT&T of our concerns regarding both the high detection limits used in the analyses of EP leachate concentration of cadmium or selenium, and the need for total constituent analyses for formaldehyde.

The Agency has evaluated the mobility of the constituents from AT&T's rotary vacuum filter sludge using the vertical and horizontal spread (VHS) model.[6] The Agency's evaluation of AT&T's 1,380 tons of de-watered sludge using the maximum EP leachate values for the listed constituents of concern and non-listed EP toxic metals generated the compliance point concentrations exhibited in Tables 3 and 4, respectively.

TABLE 3.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS FOR THE LISTED CONSTITUENTS OF CONCERN (PPM)

Listed constituents	Compliance point concentrations	Regulatory standards
Cd	0.042	0.01
Cr	0.008	0.05
CN	0.004	0.2
Ni	1.68	0.35

TABLE 4—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS FOR THE NON-LISTED CONSTITUENTS OF CONCERN (PPM)

Non-listed constituents	Compliance point concentrations	Regulatory standards
As	0.002	0.05
Ba	0.52	1.0
Pb	0.013	0.05
Ag	0.008	0.05
Se	0.016	0.01
Hg	0.001	0.002

The VHS model predicted that the compliance point concentrations of arsenic, barium, mercury, chromium, lead, and silver were all below the National Interim Primary Drinking Water Standards. Compliance point concentrations of cyanide also did not exceed the U.S. Public Health Service's suggested drinking water standard.[7] In addition, the total constituent concentration of cyanide and reactive cyanide are both well below the Agency's interim level of 250 ppm.[8]

The compliance point concentrations (generated by using the detection limits) of cadmium and selenium, however, exceed the National Interim Primary Drinking Water Standards. Additionally, nickel also exceeded the Agency's interim regulatory standard.[9]

The Agency is concerned with the high detection limits achieved in the EP leachate analyses for cadmium and selenium and the lack of analyses for formaldehyde. (As stated above, however, we have not requested additional analyses (which would have been required if the Agency were to propose an exclusion) necessary to correctly quantify the EP leachate levels of cadmium and selenium, and the total constituent concentration of formaldehyde.)

The potentially mobile concentration of nickel has caused the Agency to conclude that AT&T's waste is hazardous in a landfill disposal scenario (as proposed by the petitioner). The Agency concludes that the waste generated at AT&T's North Andover, Massachusetts facility, could present a significant hazard to both human health and the environment. The Agency believes that the waste should therefore be considered hazardous, and again subject to regulation under 40 CFR Parts 262 through 265. The Agency, therefore, proposes to deny AT&T's application for final exclusion and hereby proposes to revoke AT&T's temporary exclusion.

II. Diamond Shamrock

A. Petition for Exclusion

Diamond Shamrock Refining and Marketing Company (Diamond Shamrock) performs petrochemical processing at its McKee Plants refinery near Sunray, Texas. These processes include crude oil refining, natural gas processing, and ammonia production. Diamond Shamrock has petitioned the Agency to exclude several hazardous wastes produced from these processes, including EPA Hazardous Waste No. K048—Dissolved air flotation (DAF) float from the petroleum refining industry; EPA Hazardous Waste No. K049—Slop oil emulsion solids from the petroleum refining industry; and EPA Hazardous Waste No. K051—API separator sludge from the petroleum refining industry. The listed constituents of concern for these wastes are hexavalent chromium and lead.

On February 26, 1982, Diamond Shamrock was granted a temporary exclusion for the K048, K049, and K051 wastes generated at its Sunray, Texas plant. Since that time, the Hazardous and Solid Waste Amendments (HSWA) of 1984 were enacted. In part, the Amendments require the Agency to

[6] See 50 FR 7882, Appendix I (February 28, 1985) for a detailed explanation of the development of the VHS model for use in the delisting program. See also 50 FR 48896, November 27, 1985 for the final version of the VHS model.

[7] Drinking Water Standards, U.S. Public Health Service, Publication No. 956, 1962. (0.2 ppm)

[8] See internal Agency memorandum dated July 12, 1985, regarding "Interim Agency Threshold for Toxic Gas Generation" (in the RCRA public docket).

[9] See 50 FR 20247 (May 15, 1985) for a complete description of the development of the Agency's interim regulatory standard for nickel (0.35 ppm).

[9] See 50 FR 20247 (May 15, 1985) for a complete description of the development of the Agency's interim regulatory standard for nickel (0.35 ppm).

consider factors (including additional toxicants) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such factors are present and could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. § 6921(f).) As a result, the Agency has re-evaluated Diamond Shamrock's petition to: (1) Determine whether the temporary exclusion should be made based on the original listing criteria; and (2) determine if the waste is non-hazardous with respect to factors and toxicants other than the original listing criteria. Today's notice is the Agency's re-evaluation of Diamond Shamrock's petition. Additional information was requested from Diamond Shamrock in order to more fully characterize these refinery wastes. Diamond Shamrock has provided additional information only for the currently generated K048 and K051 waste streams, and only these wastes have been evaluated by the Agency.

In support of its petition, Diamond Shamrock submitted a description of the manufacturing and treatment processes, including schematic diagrams; total constituent and EP toxicity test results for total chromium, hexavalent chromium, and lead; and results from analyses for reactive sulfide. Diamond Shamrock also submitted Oily Waste Extraction Procedure (OWEP) toxicity and total constituent test results for arsenic, barium, cadmium, chromium, lead, nickel, mercury, selenium, and silver; OWEP and total constituent test results for antimony, beryllium, cobalt, and vanadium; and test results from a gas chromatography/mass spectroscopy (GC/MS) scan for organic Appendix VIII constituents characteristically found in refinery wastes. The Agency requested much of this information, as noted above, to determine whether hazardous constituents other than those for which the waste was originally listed are present in the waste.

Diamond Shamrock produces a number of chemical and petrochemical products, including liquified gases, gasoline and diesel fuels, sulfuric acid and other acids, ammonia, and asphalt. The refining processes at the McKee Plants generate both an oily waste stream and a non-oily waste stream, each of which is served by a separate sewer system. The oily sewer collects all wastewaters which may contain oil and oily sludges, including refinery process wastes and desalter sludges. The oily waters are routed to a tandem set of API separators, where oil is recovered and conveyed to a slop oil tank before it re-enters the refinery. Oily sludges from the API separator are sent to a thickener. Oily wastewaters are then combined with non-oily wastewaters such as acid plant waters and caustic scrub waters (which have been pre-treated by adjustment of pH and skimming of floating oils), and sent to an equalization basin. Wastewaters are added into this basin from cooling tower blowdown and ammonia production. Solids that settle out are pumped periodically to the lime pits for disposal. The effluent is then rapid-mixed with a coagulant, and pH is adjusted. A polymer is also added prior to flocculation of solids. Dissolved air flotation (DAF) is used to remove particulate matter from the wastewater; the particulate fraction is collected, agitated, and pumped to the oily sludge thickener with the API separator sludges. The clarified oily wastewater is sand-filtered to remove remaining suspended materials before final disposal in an injection well. Thickened oily sludges are spead on the facility's landfarm.

In its initial (1981) presentation, Diamond Shamrock collected four samples of DAF float, four slop oil samples from the slop oil pits on-site and four samples of fresh slop oil emulsion solids, and four API separator sludge samples from the lime pits and from the API separator itself. The Agency determined that the original analyses performed on these sludges in support of the petition were insufficient, and requested additional information from Diamond Shamrock. Diamond Shamrock submitted test results from OWEP and total constituent analyses of single samples of DAF float and API separator sludge from the McKee Plants refinery. The Agency is, therefore, unable to fully evaluate the petitioned wastes (K048 and K051) or the slop oil emulsion solids (K049) from this facility due to lack of information.

The maximum concentrations of the listed constituents found by OWEP leachate analysis and total constituent analysis of each of the sample wastes are presented in Table 1. The maximum OWEP leachate concentrations and total constituent concentrations of the non-listed constituents are presented in Table 2. Data is presented from separate calculations made by Diamond Shamrock of the mobile metal concentration (MMC) of the sludges, using prefactors of 1 and 20 adjustments to account for the oil volume in the extraction.[10] Oil and grease was found to be present in these wastes at concentrations ranging from 10–23 percent. Diamond Shamrock's original (1981) EP data was not considered in the Agency's evaluation due to potential interferences resulting from the high oil and grease levels.

TABLE 1.—MAXIMUM CONCENTRATIONS [1]

Listed constituents	DAF float			API separator		
	Corrected OWEP analyses (mg/l)		Total constituent analyses (mg/kg)	Corrected OWEP analyses (mg/l)		Total constituent analyses (mg/kg)
	x1	x20		x1	x20	
Cr (total)	112	49	1082	0.7	0.43	226
Pb	1.1	0.48	41.9	<.19	<.12	52.4

[1] Detection limits vary with the method of calculation.

TABLE 2.—MAXIMUM CONCENTRATIONS [1]

Nonlisted constituents	DAF float			API separator		
	Corrected OWEP analyses (mg/l)		Total constituent analyses (mg/kg)	Corrected OWEP analyses (mg/l)		Total constituent analyses (mg/kg)
	x1	x20		x1	x20	
As	1.3	0.55	6.7	<0.38	<0.23	0.4
Ba	1.3	.55	15	.90	.55	13
Cd	0.02	.009	<0.4	.03	<.019	<.4
Hg	<.019	<.008	.44	<.014	<.009	.12
Ni	9.0	3.9	99	1.2	.71	8.6
Se	<.38	<.16	<.4	<.29	<.014	.3
Ag	<.01	<.004	<.3	<.023	<.014	<.3
Sb	<.27	<.12	.4	<.38	<.23	<.2
Be	.004	.002	<.1	.008	<.005	<.1
Co	.061	.026	.7	<.03	<.019	<.3
V	.066	.028	.8	.068	.042	.3

[1] Detection limits vary with the method of calculation.

[10] EPA's response to public comments on the use of the oily waste extraction procedure (OWEP) to evaluate oily wastes allowed petitioners the option of submitting OWEP data corrected for oil volume (with a prefactor of one) until the OWEP published in a final form.

Reactive sulfide was non-detectable in both the DAF float and API separator sludge at a detection limit of 0.5 ppm. No analyses were reported for the concentration of cyanide. Thus, the petition is incomplete.

Diamond Shamrock performed a GC/MS scan for organic constituents believed to be present in refinery wastes such as the DAF float and API separator sludge. The maximum concentrations of the detected compounds are presented in Table 3.

TABLE 3.—MAXIMUM DETECTED ORGANICS CONCENTRATIONS (PPM)

Constituents	DAF float	API separator
Benzene	20	89
Ethyl benzene	60	520
Toluene	130	540
Xylenes (total)	380	1570
Anthracene	2.2	13
Benz(a)anthracene	18	17
Benzo(b)fluoranthene	3.9	4.7
Benzo(a)pyrene	3.9	13
Chrysene	34	49
Dibenz(a,h)anthracene	2.6	4.2
Fluoranthene	2.0	4.2
Indene	1.0	5.4
L-Methyl naphthalene	200	320
Naphthalene	120	180
Pyrene	16	31
P- and m-Cresols	5	1.6
Phenol	5	2.6

Diamond Shamrock did not evaluate its waste for the hazardous waste characteristics of ignitability, corrosivity, and reactivity. Diamond Shamrock claims to generate a maximum of 960 cubic yards of DAF float, and up to 20,000 cubic yards of API separator sludge, on an annual basis.

B. Agency Analysis and Action

Diamond Shamrock has not demonstrated that its waste treatment system produces non-hazardous wastes. The Agency is not certain that the API separator sludge samples and DAF float samples collected at the McKee Plants Refinery were taken in a manner that would prevent test results from being biased. The Agency does not believe that these few samples, taken during a span of five years, adequately represent the variations that may occur in the waste streams petitioned for exclusion. Of the six K048 and six K051 samples collected and submitted to the Agency since 1981, only one sample of each waste was analyzed using the OWEP. The Agency believes that the production and treatment processes employed at the McKee Plants facility are relatively uniform and consistent, but no prediction of waste consistency may be made from the limited number of samples analyzed in the petition.

The Agency has evaluated the mobility of the constituents from Diamond Shamrock's waste using a vertical and horizontal spread (VHS) model.[11] The Agency's evaluation of Diamond Shamrock's annual generation of 960 tons of DAF float and 20,000 tons of API separator sludge and the maximum OWEP extract levels for the listed constituents of concerns using the VHS model has generated the compliance-point concentrations shown in Table 4. The maximum extract values are used in the analysis because only one replicate of OWEP data was submitted by Diamond Shamrock for Agency evaluation; this does not permit the use of any other statistically valid value in the evaluation.[12]

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (mg/l)

Listed constituents	Compliance-point concentrations		Regulatory standards
	DAF float	API separator	
Cr (total)	0.31	0.043	0.05
Pb	<.016	<.016	.05

TABLE 5.—VHS MODEL: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (mg/l) [1]

Nonlisted constituents	Compliance-point concentrations		Regulatory standards
	DAF float	API separator	
As	0.08	<0.06	0.05
Ba	.08	.14	1.0
Cd	.0012	<.0048	.01
Hg	<.0012	<.0022	.002
Ni	.55	.19	.35
Se	<.023	<.046	.01
Ag	<.0006	<.0036	.05
Sb	<.017	<.06	.01
Be	.0002	.0013	.03
Co	.0038	.0048	NA
V	.0041	.011	NA

[1] If total or leachable constitutent concentrations are below detection limits, then the detection limit is assumed to be the maximum total or OWEP concentration for purposes of computation (*e.g.* if detection limit is <1 mg/l, then total concentration = 1 mg/l).

NA = Regulatory standard not available.

Both the DAF float and the API separator sludge exhibited lead levels below the National Interim Primary Drinking Water Standard (NIPDWS) for lead. The DAF float produced a value for chromium which is in excess of the Agency's standard, and chromium is of concern in this waste.[13]

For the non-listed constituents, the DAF float generated compliance-point concentrations for arsenic, nickel, antimony and selenium in excess of the Agency's standards for these metals. These metals are of regulatory concern. Barium, cadmium, and silver did not exceed their respective NIPDWS, so these constituents are not believed to be of concern. There are no regulatory standards available for the remaining metals, but the compliance-point concentrations are not believed to be of regulatory concern. The API separator sludge exceeded the Agency's standards for arsenic, mercury, antimony, and selenium, and these metals are of regulatory concern in this waste.

Reactive sulfides in the waste are not expected to be of regulatory concern from an air contamination route. The

[11] See footnote 6.

[12] In the evaluation, the Agency has used the data generated by the OWEP (with a prefactor of one) and has generally disregarded the OWEP data with a prefactor of 20, as well as earlier conventional EP toxicity data. The Agency was concerned that the earlier conventional EP leachate data was not representative due to the high oil and grease content of the waste. In addition, the Agency now requests petitioners to use the OWEP in the analysis of wastes containing greater than one percent oil and grease. See 49 FR 42591, October 31, 1984.

[13] The Agency believes that the evaluation of hazardous wastes in the context of delisting should include the use of chromium standards which are based upon total chromium, *e.g.* the EP toxicity characteristic. The acute toxicity of hexavalent chromium is well documented, and Cr(VI) has been incorporated in numerous hazardous waste listings as a constituent of concern. The Agency has information, however, which indicates that trivalent chromium, a less toxic form of chromium, is readily interconvertible with Cr(VI) in a number of environmental scenarios. Recent Agency studies on aqueous systems have determined that Cr (III) in ground water may be readily converted to Cr(VI) by chlorination (commonly used to disinfect drinking water supplies), at a rate dependent upon pH (Clifford, Dennis, and Jimmy Man Chau. 1984. The fate of chromium (III) in chlorinated water. Draft report prepared for MERL/ORD, U.S. EPA, Cincinnati, Ohio). The potential to form Cr(VI) exists for the entire pH range of most ground waters (Battelle, Pacific Northwest Laboratories. 1986. Geochemical behavior of chromium species. Interim report no. EA-4544, prepared for Electric Power Research Institute, Palo Alto, California). Cr(III) has also been found to oxidize readily to Cr(VI) under conditions found in many field soils. This reaction is catalyzed by oxidized manganese, such as manganese dioxide which is commonly present in soils and sediments (Bartlett, R. and James Bruce. 1979. Behavior of chromium in soils: III. Oxidation. J. Envir. Qual. 8(1): 31–35). Earlier findings of the potential interconvertibility of chromium species convinced the Agency to set its chromium water standard on the basis of total chromium, not hexavalent chromium. The EP toxicity characteristic was also set on the basis of total chromium. EPA's proposal to amend the characteristic to apply to hexavalent chromium (45 *FR* 72029–72033, October 30, 1980; see also 48 *FR* 22170–22171, May 17, 1983) has not been made final, and is not likely to be made final. A recommended maximum contaminant level (RMCL) of 0.12 mg/1 has been proposed for total chromium (50 *FR* 46936–47016, November 13, 1985). This new RMCL value is a non-enforceable health goal that serves as an initial stage for establishment of drinking water standards. A revised maximum contaminant level (MCL) for chromium will be proposed when the RMCL is promulgated. Until such time that a new MCL, which is an enforceable standard, is promulgated, the Agency will continue to use the current MCL for total chromium, which is the National Interim Primary Drinking Water Standard of 0.05 mg/1.

low (0.5 ppm) concentration of sulfides precludes the generation of hazardous levels of toxic gases. In particular, reactive sulfide levels in the waste are below the air threshold limit set by the American Conference of Governmental Industrial Hygienists (ACGIH).[14] (The capability of a sulfide bearing waste to generate hazardous levels of toxic gases is a property of the reactivity characteristic.)

The Agency has also evaluated the mobility of the toxic organic constituents detected in Diamond Shamrock's wastes. The leachate concentrations of these constituents were calculated using the Agency's organic leaching model.[15] These concentrations were used as inputs into the VHS model to generate compliance-point concentrations for each constituent, and these results are presented in Table 6. Only those organic constitutents found to be present in the petitioned wastes at concentrations above their respective detection limits are included in this evaluation.

TABLE 6.—VHS MODEL: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (PPM) [1]

	Best-fit concentrations		95% Confidence limit concentrations		Regulatory standard
	DAF float	API separator	DAF float	API separator	
Benzene	0.016	0.116	0.020	0.145	0.0012
Ethyl benzene	.014	.147	.016	.182	3.5
Toluene	.03	.236	.037	.297	10.5
Xylenes	.054	.358	.067	.461	2
Anthracene	$8x10^{-5}$	$6x10^{-4}$	$1.2x10^{-4}$	$8.5x10^{-4}$	$2x10^{-3}$
Benz(a) anthracene	$1.3x10^{-4}$	$1.3x10^{-4}$	$1.9x10^{-4}$	$5.2x10^{-4}$	$1x10^{-5}$
Benzo(b) fluoranthene	$7.7x10^{-5}$	$2.0x10^{-4}$	$1.1x10^{-4}$	$3.0x10^{-4}$	$2x10^{-5}$
Benzo(a) pyrene	$5x10^{-5}$	$1.5x10^{-4}$	$8x10^{-5}$	$2.4x10^{-4}$	$3x10^{-6}$
Chrysene	$1.4x10^{-4}$	$4x10^{-4}$	$2.1x10^{-4}$	$7x10^{-4}$	$2x10^{-4}$
Dibenz(a, h) anthracene	$1x10^{-5}$	$4x10^{-5}$	$2.4x10^{-5}$	$9.9x10^{-5}$	$7x10^{-7}$
Fluoranthene	$1x10^{-4}$	$5x10^{-4}$	$1.9x10^{-4}$	$7-6x10^{-4}$	0.2
Indene					NA
1-Methyl naphthalene					NA
Naphthalene	.011	.04	.013	0.053	9
Pyrene	.0004	0.0016	$5.2x10^{-4}$	$2.1x10^{-3}$	4
Cresols	0.018	0.03	.025	.022	1.75
Phenol	0.028	0.044	.039	.063	3.5

NA = Regulatory standard not available.
[1] A blank space found after a compound name indicates that no solubility data was available for that compound.

Both the DAF float and API separator sludge were found to produce compliance-point concentrations for several organic compounds in excess of the Agency's standards for those compounds. Benzene, benzo(b) fluoranthene, benz(a) anthracene, benzo(a) pyrene, and dibenz(a, h) anthracene generated compliance-point concentrations in excess of the Agency's standard in both the DAF float and API separator sludge; the use of the 95 percent confidence version of the organic leachate model shows that chrysene, in addition to the organics mentioned above, will exceed its standard in both the API separator sludge and DAF float. Chrysene was found to exceed its standard for the API separator sludge. Indene and 1-methyl naphthalene do not yet have regulatory standards. The Agency, as a matter of policy, will not use the presence of organic constituents for which there are no standards, as a basis for petition denial.

The Agency believes that the DAF float and API separator sludge generated at Diamond Shamrock's facility are hazardous, and as such should not be excluded from hazardous waste control. Additional information on the wastes generated at the McKee Plants refinery was requested from Diamond Shamrock on several occasions, but the information supplied to the Agency was insufficient to make a more detailed evaluation of the petitioned wastes. The petition is, therefore, incomplete. Due to the predicted potential of these wastes to leach excessive levels of several toxic metals and organic constituents and so contaminate ground water, and because of the lack of information necessary to evaluate these wastes, the Agency proposes to deny the delisting petition submitted by Diamond Shamrock, for its facility in Sunray, Texas, for the K048 and K051 wastes generated from its refinery operations. The Agency also proposes to deny the delisting petition for the K049 sludges (slop oil pits and slop oil emulsion solids) at the McKee Plants facility, which were part of the original delisting petition, but for which no additional data was submitted to the Agency.[16] The Agency also proposes to withdraw the temporary exclusion held by Diamond Shamrock for the K048, K049, and K051 wastes generated at this same facility. The Agency believes that these wastes should be considered hazardous and subject to regulation under 40 CFR Parts 262 through 265.

III. Hill Petroleum Company

A. Petition for Exclusion

Hill Petroleum Company (Hill), formerly Charter International Oil Company, located in Houston, Texas, operates an oil refinery that produces ethyl benzene, aromatics, benzene, fuel oil, leaded and unleaded gasoline, heptane, hexane, jet fuel, kerosene, octane, toluene, and xylene. Hill has petitioned the Agency to exclude its wastewater treatement sludges presently listed as EPA Hazardous Waste No. K048—Dissolved air flotation (DAF) float from the petroleum refining industry, and EPA Hazardous Waste No. K051—API separator sludge from the petroleum refining industry. The listed constituents of concern for these wastes are hexavalent chromium and lead.[17]

Based upon the Agency's review of the petition, Hill was granted a temporary exclusion on February 12, 1982. Since that time, the Hazardous and Solid Waste Amendments (HSWA) of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional toxicants) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. § 6921(f).) As a result, the Agency has re-evaluated Hill's petition to: (1) determine whether the exclusion should be made final based on the factors for which the waste was originally listed; and (2) determine whether the waste is non-hazardous

[14] See *Documentation of Threshold Limit Values for Substances in Workroom Air.* American Conference of Governmental Industrial Hygienists, third edition. 1971. Cincinnati, Ohio.

[15] See 50 *FR* 48953, Appendix I, November 27, 1985 for a detailed explanation of the development of the OLM model for use in the delisting program. See also the revised version of the proposed OLM model, 51 *FR* 27061, July 29, 1986.

[16] Diamond Shamrock was notified, in a letter dated May 15, 1986, that the Characterization and Assessment Division (CAD) would recommend to the Assistant Administrator for Solid Waste and Emergency Response that Diamond Shamrock's petition be denied. Diamond Sharmrock declined to exercise its option to withdraw the petition.

[17] Hill originally petitioned the Agency to exclude five wastestreams: namely their DAF float (K048), slop oil emulsion solids (K049), heat exchanger bundle cleaning sludge (K050), API separator sludge (K051), and waste activated sludge. This notice discusses the Agency's decision regarding Hill's DAF float (K048) and API separator sludge (K051). Hill has withdrawn their petitions for the remaining three wastestreams.

with respect to factors and and toxicants other than the factors for which the waste was originally listed. Today's notice is the result of the Agency's re-evaluation of Hill's petition.

In support of their petition, Hill has submitted a detailed description of its manufacturing and treatement processes, including schematic diagrams; total constituent analysis results, EP toxicity test results, and Oily Waste EP (OWEP) toxicity test results of the DAF float and API separator sludge for the EP toxic metals, nickel, and other metals; and analytical results for reactive sulfides. Hill also submitted results of total oil and grease, and reactivity and corrosivity analyses on representative waste samples. Hill further submitted a list of petroleum feedstocks used at the refinery. As noted above, the Agency requested this information to determine whether toxicants, other than those for which the waste was originally listed, are present in the waste at levels of regulatory concern.

The Hill refinery is a fully integrated oil refining facility with a capacity to refine 70,000 barrels per day. Major process operations include: atmospheric and vacuum distillation, hydrotreating, solvent de-asphalting, fluid catalytic cracking, alkylation-isomerization, and reforming. Liquid wastewater throughout the refinery is collected in a single process sewer. Hill claims that leaded tank bottoms are not discharged to the sewer. Wastewaters flow through the API separator, which provides separation of primay oil, water, and solids. Wastewaters flow into an equalization basin, then enter the DAF unit which provides secondary oil and solids removal, and is followed by activated sludge treatment. Sludge from the bottom of the API separator is scraped mechanically into sludge sumps and allowed to accumulate. After six to eight months, water in the sump is drained or pumped off, and the sludge is transferred by truck to tanks where the sludge is allowed to thicken prior to disposal offsite. DAF float is pumped to a holding tank, dewatered on a continuous belt filter press, and deposited into a container for off-site disposal. The activated sludge treatment generates a waste biological sludge or biosludge. The biosludge is drawn from the bottom of a clarifier and transferred to a sludge thickener. The thickened biosludge also is dewatered on a continuous belt filter press. Normally, the mixture being dewatered is ninety percent DAF float. Filtrate from the filter press is returned to the API separator forebay. Hill claims that its DAF float and API separator sludge are not hazardous because the constituents of concern are essentially in immobile forms. Hill also believes that the wastes are not hazardous for any other reason.

In April 1981, twelve grab samples of filter cake and filtrate were collected directly from the discharge point of the continuous belt filter press after it had dewatered a mixture of biosludge and DAF float, DAF float alone, and biosludge alone (four samples each). Three additional grab samples of dewatered DAF float alone were collected in May through July 1981 at intervals of one month. These samples were analyzed for total concentrations of chromium and lead, leachable concentrations of the EP metals, and oil and grease composition. In September 1981, a dewatered DAF float sample again was collected and analyzed for total concentrations of toluene and benzene. For the purposes of further testing because of HSWA requirements, five samples of the DAF float were collected in 1984 and 1985 and analyzed for total oil and grease, Appendix VIII hazardous constituents identified as of concern to the petroleum refinery industry, and leachable metal concentrations using the OWEP analysis. The four composite samples collected in 1985 were not samples of dewatered DAF float, but were constructed from grab samples taken from a sample tap as DAF float was being pumped from the DAF unit into a tank.

In April 1981, twelve API separator sludge core samples were collected from sludge storage tanks, which had accumulated sludge for 1 to 2 years. Core samples were taken at six points, two samples at each point, and combined in a 20-gallon container from which four composite samples were collected and analyzed. Following sludge removal from the storage tanks, API separator sludge was sampled again in June 1981 after fresh sludge had been allowed to accumulate. One composite sample was collected at this time. These five composite samples were analyzed for leachable concentrations of the EP toxic metals using the standard EP toxicity test. Total constituent analyses for chromium and lead and oil and grease analyses were also performed. In September 1981, two additional composite samples were collected from the storage tanks and analyzed for benzene and toluene concentrations. As a result of HSWA requirements, five API separator sludge composite samples also were collected in 1984 and 1985 from core samples taken from the primary bays of the API separator. These samples were analyzed for total oil and grease levels, Appendix VIII hazardous constituents identified as of concern to the petroleum refinery industry, and leachable metal concentrations using the OWEP analysis.

Hill claims that DAF float and the API separator sludge samples collected are representative of any variation of the listed and non-listed constituent concentrations in the waste. The manufacturing processes used at the facility are relatively uniform and the use of different petroleum feedstocks and petroleum products does not vary significantly over time. In addition, Hill claims that if the feedstocks should vary, the characteristics of the DAF float and API separator sludge are not expected to differ significantly.

Total constituent and OWEP analyses of the DAF float and API separator sludge for the EP toxic and additional metals revealed the maximum concentrations reported in Tables 1 and 2, respectively.[18]

TABLE 1.—DAF FLOAT—MAXIMUM CONCENTRATIONS

Constituents	Total constituent analyses (mg/kg)	OWEP analyses (mg/l)
Antimony	<2.0	0.12
Arsenic	4.1	.12
Barium	75	.77
Beryllium	<0.1	.06
Cadmium	.85	[1] <0.016
Chromium (total)	620	13.37
Cobalt	6.9	[1] .83
Lead	19	.28
Mercury	.68	.03
Nickel	12	1.1
Selenium	2.1	.6
Silver	<0.3	.18
Vanadium	16	.67

<: Denotes concentrations below the detection limit.

[1] Maximum leachable levels for cadmium and lead of 0.24 and 1.5 mg/l, respectively, were reported. However, the leachate levels in the remaining four samples for cadmium were equal to or less than 0.016 mg/l and for lead were equal to or less than 0.28 mg/1. The Agency has concluded that the 0.24 and 1.5 mg/l levels are outliers and, therefore, that 0.016 and 0.28 mg/l more accurately reflect the respective leachable levels of cadmium and lead in the waste. The Agency's conclusion is supported by the Dixon Extreme Value Test.

[18] The Agency requests that the OWEP analysis be run for wastes that have oil and grease levels greater than 1 percent. The maximum total oil and grease levels in the DAF float and API separator sludge are 30.8 and 23.7 percent, respectively.

TABLE 2.—API SEPARATOR SLUDGE—MAXIMUM CONCENTRATIONS

Constituents	Total constituent analyses (mg/kg)	OWEP analyses (mg/l)
Antimony	0.5	<0.13
Arsenic	13	0.03
Barium	140	1.48
Beryllium	.23	0.02
Cadmium	1.5	[1] 0.02
Chromium (total)	560	[1] 0.51
Cobalt	8l.7	0.31
Lead	55	0.20
Mercury	2.6	0.011
Nickel	26	0.84
Selenium	6	0.21
Silver	.7	[1] <0.008
Vanadium	420	0.18

<: Denotes concentrations below the detection limit.
[1] Maximum leachable levels for cadmium, total chromium, and silver of 0.07, 11.06, and 0.05 mg/l, respectively, were reported. The leachate levels in the remaining four samples for cadmium, however, were equal to or less than 0.02 mg/l and for lead were equal to or less than 0.51 mg/1, and for silver were less than 0.008 mg/l. The Agency has concluded that the 0.07, 11.06, and 0.05 mg/l levels are outliers and, therefore, that 0.02, 0.51, and < 0.008 mg/l more accurately reflect the respective leachable levels of cadmium, chromium, and silver in the waste. The Agency's conclusion is supported by the Dixon Extreme Value Test.

Hill also submitted total constituent analyses for Appendix VIII hazardous constituents identified to be of concern in petroleum refining wastes. Maximum concentrations for these constituents detected in the DAF float and API separator sludge are reported in Table 3.

Table 3.—MAXIMUM TOTAL CONCENTRATIONS OF ORGANICS DETECTED IN DAF FLOAT AND API SEPARATOR SLUDGE (ppm)

Constituents	Total constituent analyses	
	DAF float	API separator sludge
Anthracene	160	[1] 120
Benzene	[1] 21	[3] 30
Benzenethiol	[2] 150	[1] 2.85
Benzo(a)anthracene	26	10
Benzo(b)fluoranthene	7	[4] 4
Benzo(a)pyrene	12	5
Chrysene	60	25
o-Cresol	4	7
m-,p-Cresol	61	19
Cresols (total)	61	26
Dibenz(a,h)anthracene	[4] 1	<1
2,4-Dimethylphenol	0.4	0.3
Ethyl benzene	690	700
Fluoranthene	[4] 51	[4] 16
1-Methylnaphthalene	310	460
Naphthalene	160	170
Phenanthrene	1,300	[1] 1,020
Phenol	92	27
Pyrene	45	120
Toluene	370	[5] 190
m-Xylene	170	600
o-,p-Xylene	140	300
Xylenes (total)	310	890

<: Denotes concentration below detection limit.
[1] Value is the average of duplicate analyses results for one sample.
[2] Not recovered consistently by the laboratory.
[3] A maximum benzene concentration of 2,100 ppm was reported; however, the benzene concentrations in the remaining four samples were equal to or less than 30 ppm. The Agency has concluded that the 2,100 ppm value is an outlier and, therefore, 30 ppm more accurately reflects benzene concentrations in the waste. The Agency's conclusion is supported by the Dixon Extreme Value Test.
[4] Tentative identification by the laboratory.
[5] A maximum toluene concentration of 6,600 ppm was reported; however, the toluene concentrations in the remaining four samples were equal to or less than 190 ppm. The Agency has concluded that the 6,600 ppm value is an outlier and, therefore, 190 ppm more accurately reflects toluene concentrations in the waste. The Agency's conclusion is supported by the Dixon Extreme Value Test.

The maximum total oil and grease values reported by Hill for the DAF and API separator sludge were 30.8 and 23.7 percent, respectively. Hill also submitted a list of petroleum feedstocks used at the refinery. This list indicated that no Appendix VIII hazardous constituents, other than those tested for, are used in the process and that formation of any of these constituents is highly unlikely. Hill also provided test data indicating that the DAF float and API separator sludge are not corrosive or reactive. Maximum reactive sulfide levels in the DAF float and API separator sludge were 68 and 12.3 ppm, respectively. Hill did not provide test data indicating the wastes are not ignitable. Hill claims that the wastes were not tested for ignitability because such a test was not available for a solid or semi-solid heterogeneous waste because only a uniform free-flowing liquid can flash. Hill claims to generate a maximum of 31,300 tons of DAF float per year, and a maximum of 4,200 tons of API separator sludge per year.[19]

B. Agency Analysis and Action

Hill has not demonstrated that its waste treatment system produces a non-hazardous sludge. The Agency believes that the DAF float and API separator sludge samples collected by Hill over a period of several years adequately represent any variations that may occur in the wastes. The process generating these wastes is a continuous refining process line, both the production and treatment processes are consistent over time and the facility does not have seasonal changes. The key factor that could vary toxicant concentrations in the DAF float and API separator sludge would be the use of different petroleum feedstocks or petroleum products. Hill claims, however, that even if feedstocks should vary, the characteristics of the wastes should not differ significantly. The Agency believes that the sampling period used by Hill was long enough to cover any scheduled changes in the product line and that the samples are representative of the waste generated by Hill.

The Agency has evaluated the mobility of the inorganic constituents from Hill's DAF float and API separator sludge using the vertical and horizontal spread (VHS) model.[20] The VHS model generated compliance-point values using, as the model input parameters, the maximum generation rate per year and the maximum OWEP levels reported by Hill. These predicted compliance-point concentrations are reported in Table 4. (When leachate concentrations were below the detection limits, the value of the detection limit was used.

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (ppm)

Constituents	Compliance—Point concentrations		Regulatory standards
	DAF flat	API separator sludge	
Antimony	[1] 0.019	0.02	0.01
Arsenic	0.019	0.005	0.05
Barium	0.12	0.228	1.0
Beryllium	0.001	0.003	0.02
Cadmium	0.0025	0.003	0.01
Chromium (total)	[1] 2.12	[1] 0.078	0.05
Cobalt	0.13	0.048	NS
Lead	0.044	0.03	0.05
Mercury	[1] 0.0047	0.0017	0.002
Nickel	0.17	0.13	0.35
Selenium	[1] 0.1	[1] 0.032	0.01
Silver	0.028	0.001	0.05
Vanadium	0.11	0.028	NS

NS: No regulatory standard.
[1] Exceeds regulatory standard.

The DAF float exhibited arsenic, barium, and cadmium, lead and silver levels (at the compliance point) below the National Interium Drinking Water Standards; nickel levels below the Agency's interim health-based advisory; [21] and beryllium levels below its respective regulatory standard. Antimony, chromium, mercury, and selenium levels (at the compliance point) exceeded regulatory standards. Three out of five samples (two at detection limits) exceeded allowable levels for antimony. All five samples exceeded allowable levels for chromium and selenium. One of five samples exceeded allowable mercury levels. With respect to the DAF float, therefore, antimony, chromium, mercury, and selenium are of regulatory concern.

The API separator sludge exhibited metals concentrations below regulatory standards, except for chromium and

[19] Hill's petition and addendums reported conflicting annual waste generation rates for each wastestream. Specifically, the annual generation rate for the DAF float was reported to be both 2,250 and 31,300 tons; the annual generation rate for the API separator sludge was reported to be both 300 and 4,200 tons. The Agency has considered the higher rates during the evaluation of Hill's wastestreams, however, a discussion of the use of the lower rates in the Agency's evaluation is presented later in this notice.

[20] See footnote 6.

[21] See footnote 9.

selenium. The petitioner reported OWEP results for antimony in the API separator sludge of 0.03, <0.12, <0.12, <0.13, and <0.13 mg/l. The maximum detection limit value of 0.13 mg/l generates a compliance point concentration which exceeds the regulatory standard for antimony. The maximum detected concentration (0.03 mg/l), however, passes the VHS model analysis. Since the detection limits for antimony analysis were high, the Agency cannot conclude whether antimony levels are of regulatory concern. Two of four samples exceeded the allowable chromium level. (The result of a fifth sample was determined to be an outlier, as supported by the Dixon Extreme Value Test.) Five samples exceeded the allowable levels for selenium. With respect to the API separator sludge, therefore, chromium and selenium are of regulatory concern.[22]

The DAF float and API separator sludge maximum reactive sulfide contents (*i.e.*, 68 and 12.3 ppm, respectively) are low enough so as not to be of regulatory concern from an air contamination route. That is, the Agency believes these levels to be sufficiently low as as to preclude the generation of hazardous levels of toxic gases.[23]

The Agency also has evaluated the mobility of organic constituents detected in the DAF float and API separator sludge using the VHS model. The VHS model generated compliance point values using the maximum generation rates per year and the maximum reported concentration of organics predicted by the Agency's Organic Leachate Model (OLM).[24] Predicted leachate concentrations, using the baseline version an the 95 percent confidence interval version of the OLM model, compliance point levels, and regulatory standards are presented in Tables 5 and 6, respectively. Since the OLM has not been finalized, both versions have been presented in this notice. Once finalized, only one of these two versions will apply.

TABLE 5.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (MG/1) USING THE BASELINE EQUATION

Constituents	Compliance point concentrations	API separator sludge	Regulatory standards
	DAF float		
Anthracene	[1] 0.003	[1] 0.003	0.002
Benzene	[1] .043	[1] .054	.0012
Benzenethiol [2]	.092	.0065	NS
Benzo(a)anthracene	[1] .00062	[1] .0003	.00001
Benzo(b)fluoranthene	[1] .0002	[1] .00015	.00002
Benzo(a)pyrene	[1] .0001	[1] .000077	.000003
Chrysene	[1] .0005	[1] .00026	.0002
o-Cresol	.04	.058	1.8
m-,p-Cresol	.25	.11	1.8
Cresols	.25	.18	1.8
Dibenz(a,h)anthracene	[1] .00002	ND	.0000007
2,4-Dimethylphenol	.002	.0015	.02
Ethyl benzene	.171	.18	3.5
Fluoranthene	.0027	.0012	.2
1-Methylnaphthalene	.055	.071	NS
Naphthalene	.038	.038	9
Phenanthrene	[1] .043	[1] .03	.002
Phenol	.51	.22	3.5
Pyrene	.0021	.0038	4
Toluene	.19	.12	10.5
m-Xylene	.078	.18	2
o-,p-Xylene	.068	.12	2
Xylenes	.12	.23	2

ND: Concentrations below detection limit.
NS: No regulatory standard.
[1] Exceeds regulatory standard.
[2] Compliance point concentrations based on a solubility of 470 ppm at 15°C.

TABLE 6.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (PPM) USING THE 95 PERCENT CONFIDENCE INTERVAL EQUATION

Constituents	Compliance point concentrations	API separator sludge	Regulatory standards
	DAF float		
Anthracene	[1] 0.005	0.0035	0.002
Benzene	[1] .054	[1] .067	.0012
Benzenethiol [2]	.12	.0082	NS
Benzo(a)anthracene	[1] .0009	[1] .0005	.00001
Benzo(b)fluoranthene	[1] .00036	[1] .00025	.00002
Benzo(a)pyrene	[1] .00022	[1] .00012	.000003
Chrysene	[1] .00074	[1] .0004	.0002
o-Cresol	.06	.066	1.8
m-,p-Cresol	.35	.15	1.8
Cresols	.35	.18	1.8
Dibenz(a,h)anthracene	[1] .00003	ND	.0000007
2,4-Dimethylphenol	.003	.002	.02
Ethyl benzene	.22	.22	3.5
Fluoranthene	.0035	.0015	.2
1-Methylnaphthalene	.07	.086	NS
Naphthalene	.044	.046	9
Phenanthrene	[1] .06	[1] .05	.002
Phenol	.73	.30	3.5
Pyrene	.0022	.0052	4
Toluene	.24	.15	10.5
m-Xylene	.094	.22	2
o-,p-Xylene	.082	.14	2
Xylenes	.14	.29	2

ND: Concentrations below detection limit.
NS: No regulatory standard.
[1] Exceeds regulatory standard.
[2] Compliance point concentrations based on a solubility of 470 ppm at 15°C.

The DAF float and API separator sludge exhibited cresol, 2,4-dimethyl phenol, ethyl benzene, fluoranthene, naphthalene, phenol, pyrene, toluene, and xylene compliance-point concentrations below the respective regulatory standards. Anthracene, benzene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(a)pyrene, chrysene, dibenz(a,h)anthracene (not detected in the API separator sludge), and phenanthrene for the DAF float and API separator sludge exhibited compliance-point concentrations above their respective regulatory standards. These constituents, therefore, are of regulatory concern. The Agency was unable to compare the calculated benzenethiol and 1-methyl naphthalene compliance point concentrations because regulatory standards for these constituents are not currently available. When the Agency cannot determine a regulatory standard for a constituent, as a matter of policy, that constituent will not be grounds for the Agency to continue to regulate the waste as hazardous.[25]

The Agency also reviewed Hill's raw material list. The Agency has concluded from this review that no other Appendix VIII hazardous constituents, other than those tested for, are present in the waste.

The Agency believes that Hill has not demonstrated that the DAF float and API separator sludge are not hazardous. Analysis of the DAF float using the VHS model indicates the potential of that waste to leach antimony, chromium, mercury, selenium, anthracene, benzene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(a)pyrene, chrysene, dibenz(a,h)anthracene and phenanthrene and contaminate the ground water. As well, the analysis of the API separator sludge indicated the potential of that waste to leach levels of chromium, selenium, anthracene, benzene, benzo(a)anthracene, benzo(b)fluoranthene, benzo(a)pyrene, chrysene, and phenanthrene, and contaminate the ground water. The Agency, therefore, proposes to deny Hill Petroleum Company's petition for its DAF float and API separator sludge (respectively listed as EPA Hazardous Waste Nos. K048 and K051) generated at its Houston, Texas facility and revoke its temporary exclusion. The Agency believes that these wastes should be considered hazardous and subject to regulation under 40 CFR 262 through 265.

[22] The Agency wishes to note that if the lower waste generation rates reported by Hill and been used in the VHS model evaluation, leachable chromium and selenium levels in the API separator sludge would not be of regulatory concern (*i.e.*, compliance point concentrations would not exceed regulatory standards). Leachable concentrations of antimony, chromium, mercury, and selenium in the DAF float, however, would still be of regulatory concern.

[23] See footnote 8.

[24] See footnote 15.

[25] The Agency wishes to note that if the lower waste generation rates reported by Hill had been used in the VHS model evaluation, the same organic constituents in the DAF float would be of regulatory concern. With respect to the API separator sludge, all of the same organic levels, except for chrysene and anthracene, would still be of regulatory concern.

IV. L–TEC Welding and Cutting Systems

A. Petition for Exclusion

L–TEC Welding and Cutting Systems (L–TEC), (formerly Union Carbide Corporation, Linde Welding Products Division), located in Ashtabula, Ohio, is involved in the manufacture of coated steel welding wire for use in automatic welding machines. In November 1981, L–TEC petitioned the Agency to exclude its dewatered wastewater treatment sludge as well as its partially treated sludge contained in on-site impoundments, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. The listed constituents of concern in EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed).

Based upon the Agency's review of the petition, L–TEC was granted a temporary exclusion on May 5, 1982. The Agency's basis for granting the exclusion at that time was the low migration potential of cadmium, chromium, nickel, and cyanide. The exclusion applied only to the sludge contained in the treatment pond and dewatered sludge from L–TEC's filter press since L–TEC did not provide representative sample data on the sludge contained in the three other on-site impoundments.

Since that time, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents other than those for which the waste was originally listed), if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In response to the Amendments, L–TEC submitted a complete list of raw materials used at the facility on February 6, 1986. In addition, L–TEC submitted representative sample data on its dewatered filter cake since a new filter press had been in use after the granting of the temporary exclusion. Due to the high EP leachate data for nickel in the filter cake samples, L–TEC amended its petition on May 7, 1986, to seek a one-time delisting of the sludge in its impoundments.[26] As a result, the Agency has re-evaluated L–TEC's petition to: (1) Determine whether a one-time delisting should be granted based the original listing criteria; (2) evaluate the waste for factors (other than those for which the waste was listed) to determine whether the waste is non-hazardous; and (3) to determine if the temporary exclusion should be made final for the treatment pond. This notice presents the Agency's re-evaluation of this petition.

In support of their petition, L–TEC has submitted a detailed description of its manufacturing and waste treatment processes, including a schematic diagram, the size and location of its impoundments, total constituent analyses and EP toxicity test results of the sludge in its impoundments for cadmium, chromium, nickel, and lead as well as for the non-listed metals; total constituent analyses and distilled water leach test results for cyanide; and ground-water analyses from five ground-water monitoring wells.

L–TEC manufactures steel welding wire for use in automatic welding machines. In the production process, coils of steel rod are cleaned and pickled, copper coated, drawn into wires, and then cut to length for packaging and shipping. The copper coating is accomplished by electroplating. In July of 1982, L–TEC replaced its copper cyanide/sodium cyanide plating process with an acid copper plating process.

To characterize the sludge in the impoundments and adequately show its variability, sixteen complete full depth core samples were collected from each impoundment in 1986. Four core samples were collected from random locations and composited for each quadrant, resulting in four composite samples for each impoundment. L–TEC claims that these samples are representative of any variation of the listed and non-listed constituents in the sludge since the manufacturing process did not vary significantly during the time the sludge was accumulated. Consequently, L–TEC believes that the samples collected and analyzed fully characterize the waste.

The maximum total constituent concentrations for both the listed constituents and the non-listed metals contained in the three impoundments is presented in Table 1. Table 2 presents the maximum concentrations for the EP toxicity analyses for both the listed constituents and the non-listed constituents contained in the three surface impoundments.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (MG/KG)

Constituents	Total constituents analyses
As	1.7
Ba	<50
Cd	<2
Cr	67.3
CN	24.3
Ni	231
Pb	<8
Ag	<2
Se	0.16
Hg	3.45

TABLE 2.—MAXIMUM EP LEACHATE CONCENTRATIONS (MG/1)

Constituents	EP leachate analyses
As	<0.001
Ba	<.5
Cd	<.02
Cr	.28
CN	.049
Ni	1.95
Pb	<.08
Ag	.03
Se	<.008
Hg	.007

The total oil and grease content of the waste was found to be less than 0.23 percent.

L-TEC also provided ground-water monitoring data for the listed constituents and lead. The maximum detected values are reported in Table 3. Ground water samples were not tested for the other non-listed constituents.

TABLE 3.—GROUND-WATER ANALYSES (MG/L)

Constitutents	Maximum upgradients concentration	Maximum downgradient concentrations	Regulatory standards
Cd	0.02	0.02	0.01
Cr (total)	<0.05	<0.05	<0.05
Ni	<.07	.07	.350
CN (total)	<0.01	<0.01	.20
Pb	<0.01	<0.01	.05

In July of 1986, the Agency conducted a spot-check verification sampling visit at L-TEC. The Agency randomly collected eight 2-point composite samples from the treatment pond, seven 2-point composite samples from the west impoundment, four 2-point composite samples from the northwest impoundment, and six 2-point composite samples from the northeast impoundment. The samples were

[26] L–TEC does not presently generate any filter cake. The filter cake which was the subject of their original petition has not been generated since 1985. L–TEC has submitted a separate petition to delist new filter cake material generated from a different treatment process. L–TEC will handle its filter cake as a hazardous waste (if it is generated in the future), until a decision is made on this new petition. The temporary exclusion granted for the filter cake as originally petitioned is considered moot. The temporary exclusion, however, still applies to the waste in the treatment pond.

analyzed for total constituent and EP toxicity concentrations of all the EP toxic metals, nickel and cyanide. A total constituent analysis for the volatile organic constituents, and acid/base neutral compounds was also performed on each sample. Table 4 presents the EP toxicity concentrations of nickel, and Table 5 presents the total constituent analyses on the organic constituents detected in L-TEC's waste. (The Agency's total constituent and EP toxicity analyses for the EP toxic metals (except chromium), have not been completed yet; the total constituent analyses for additional organics also have not been completed.) EP chromium was not detected using a detection limit of 0.5 mg/l in the remaining 24 samples.

TABLE 4—EP TOXICITY CONCENTRATIONS OF NICKEL (MG/L) SPOT-CHECK VISIT

Unit	Sample No.	Concentration
Treatment Pond	1	3.3
	2	2.9
	3	2.6
	4	2.5
	5	3.2
	6	3.2
	7	3.4
	8	3.7
West Impoundment	1	0.33
	2	1.9
	3	2.2
	4	0.061
	5	0.15
	6	1.5
	7	1.7
Northwest Impoundment	1	2.4
	2	2.1
	3	2.8
	4	1.6
Northeast Impoundment	1	1.5
	2	1.6
	3	0.21
	4	1.3
	5	2.1
	6	1.4

TABLE 5—MAXIMUM TOTAL CONSTITUENT ANALYSIS (MG/KG) SPOT-CHECK VISIT

Constituents	Maximum concentration
p-Chloro-m-cresol	33
2-Chlorophenol	33
4-Nitrophenol	30
Pentachlorophenol	35
Phenol	21
Acenaphthene	10
1,2,4-Trichlorobenzene	10
1,4-Dichlorobenzene	8.2
2,4-Dinitrotoluene	9.9
n-Nitrosodipropylamine	8.1
Pyrene	10
Bis-2-ethyl hexyl phthalate	4.1

L-TEC also claims that their impounded sludge does not exhibit the characteristics of reactivity, ignitability, or corrosivity. Furthermore, L-TEC submitted a list of raw materials used in the process. This list indicated that no Appendix VIII hazardous constituents are used in the production process, and that the formation of any of these constituents is highly unlikely. L-TEC estimates that the three impoundments contain a combined total of 9,000 tons of sludge.

B. Agency Analysis and Action

L-TEC has not demonstrated that the sludge contained in its impoundments is non-hazardous. The Agency believes the sampling procedure used by L-TEC in 1986 may not adequately characterize that waste, and that the samples analyzed may not accurately reflect variations in impoundment composition. The manufacturing and treatment processes are believed to be uniform and consistent, however, since the facility does not perform as a job shop or have seasonal product variations. The Agency, however, concludes that the analytical information provided by L-TEC is not representative of the sludge contained in its impoundments.[27]

The Agency evaluated the mobility of waste constituents in the sludge using the vertical and horizontal spread (VHS) model.[28] The Agency's evaluation of L-TEC's 9,000 tons of surface impoundment sludge[29] and the maximum EP extract levels for the listed and non-listed constituents of concern remaining in L-TEC's waste using the VHS model has generated the compliance point concentrations exhibited in Table 6.

TABLE 6.—VHS MODEL: CALCULATED COMPLIANCE-POINT CONCENTRATIONS (PPM)

Constituents	Impoundments (L-TEC's data)	Agency's spot-check data	Regulatory standards
As	<0.001		0.05
Ba	<0.079		1.0
Cd	<0.003		.01
Cr	.044	0.017	.05
CN	.007		.2
Ni	.309	0.58	.35
Pb	<0.012		.05
Ag	.004		.05
Se	<0.001		.01
Hg	<0.001		.002

The VHS model predicts that compliance point concentration, of arsenic, barium, cadmium, chromium, mercury, selenium, and silver were below the National Interim Primary Drinking Water Standards. Compliance-point concentrations of cyanide also did not exceed the U.S. Public Health Service's suggested drinking water standard.[30] In addition, total constituent and reactive cyanide concentrations are well below the Agency's interim level of concern of 250 ppm.[31] Nickel levels (at the compliance point), however, exceed the regulatory levels of concern.[32]

The Agency also has evaluated the mobility of the organic constituents detected in the sludge by first estimating their leachate concentrations with the Organic Leachate Model (OLM), and then predicting their compliance-point concentrations with the VHS model.[33] Table 7 presents the compliance-point concentration and the regulatory standard for each of the detected organic constituents.

TABLE 7.—VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS[3] (MG/1)

Constituents	Compliance Point Concentrations		Regulatory Standards[1]
	Baseline	95% Confidence	
p-Chloro-m-cresol	0.078	0.099	0.2
2-Chlorophenol	.16	.22	$5x10^{-5}$
4-Nitrophenol	NC[2]	NC[2]	NA
Pentachlorophenol	.009	.011	1.05
Phenol	.18	.26	3.5
Acenaphthene	NC[2]	NC[2]	NA
1,2,4-Tricholobenzene	.005	.006	.7
1,4-Dichlorobenzene	.007	.008	4.0
2,4-Dinitrotoluene	.012	.014	$1.1x10^{-4}$
n-Nitrosodipropylamine	NC[2]	NC[2]	NA
Pyrene	.0007	.001	4.0
Bis-2-ethyl hexyl phthalate	.0006	.0008	20.0

[1] An explanation of the derivation of the regulatory standards is available in the RCRA public docket.
[2] Not calculated since either the solubility or regulatory standard is not currently available.
[3] Since the OLM has not been finalized, both the baseline equation and the 95 percent confidence interval (applied to the baseline), are calculated here. Once finalized, only one of these two versions will apply.

[27] The Agency suspects that L-TEC's sampling methodology prevented them from obtaining the representative complete depth core samples necessary to characterize any vertical stratification of consistent concentrations contained in the impounded waste. L-TEC used a 5 inch diameter sampling tube and no stopper device or other vacuum promoting device to obtain their core samples. The Agency believes when L-TEC took their samples, that the impounded bottom material did not stay in the sampling tube (*i.e.*, as the tube was withdrawn from the impoundment, the bottom material slid out of the sampling tube). The Agency's samples, however, were obtained by using a sampling tube having a rubber stopper (necessary to ensure a proper seal). The Agency, therefore, believes that the spot-check visit samples more accurately characterize the variations in constituent concentrations contained in L-TEC's impounded wastes, than did L-TEC's samples.

[28] See footnote 6.

[29] Where a facility has more than one on-site impoundment in close proximity to each other, the Agency has concluded that their impact on any underlying aquifer will be considered collectively as a single contaminating source. The VHS analysis, therefore, is performed using the combined total sludge volume of all of the impoundments.

[30] See footnote 7.

[31] See footnote 8.

[32] See footnote 9.

[33] See footnote 15.

As indicated by Table 7, compliance-point concentrations for 2-chlorophenol and 2,4,dinitrotoluene were generated in excess of their respective regulatory standards. The remaining ten constituents were determined not to be present at the compliance-point in concentrations of regulatory concern.[34]

Except for cadmium, the maximum detected ground-water concentrations for the listed constituents and lead were less than regulatory levels of concern. Cadmium levels, however, in four of the five monitoring wells (including the upgradient well) were found to be 0.02 mg/1 exceeding the regulatory standard of 0.01 mg/1. Although the maximum concentration of cadmium in the ground water exceeds the regulatory standard, the Agency believes that there is no statistical basis to attribute this contamination to L-TEC's impoundments since it is present in both the upgradient and downgradient wells.

The Agency is unable to conclude whether or not there are additional Appendix VIII constituents present in the waste, due to the detection of two Appendix VIII hazardous constituents in the waste which were not included on any raw materials lists, or Material Safety Data Sheets. The Agency believes, based on the significantly high EP leachate concentrations of nickel and total constituent concentrations of 2-chlorophenol and 2,4-dinitrotoluene, that L-TEC's impounded sludge, contained in all four impoundments is hazardous, and as such, now presents a substantial hazard to human health and the environment. The Agency, therefore, proposed to deny the petition submitted by L-TEC Welding and Cutting System's, Ashtabula, Ohio facility, for their impounded electroplating wastewater treatment sludge contained in its on-site impoundments. The Agency also proposes to withdraw the temporary exclusion held by this facility. The Agency believes that these wastes should be considered hazardous and subject to regulation under 40 CFR Parts 262 through 265.

V. Murphy Oil USA, Inc.

A. Petition for Exclusion

Murphy OIl USA, Inc. (Murphy) performs petrochemical processing at its Superior Refinery in Superior, Wisconsin. Murphy has petitioned the Agency to exclude the wastewater treatment sludge generated at the facility, presently listed as EPA Hazardous Waste No. K049—Slop oil emulsion solids from the petroleum refining industry; K050—Heat exchanger bundle cleaning sludge from the petroleum refining industry; and K051—API separator sludge from the petroleum refining industry. Murphy has petitioned to exclude its refinery waste sludge because it does not meet the criteria for which it was originally listed.

The listed constituents of concern for K049 and K051 wastes are hexavalent chromium and lead, while the listed constituent for K050 wastes is hexavalent chromium. Murphy claims that its treatment process generates a non-hazardous sludge because the constituents of concern, although present in the waste, are in essentially an immobile form. Murphy further claims that the waste is not hazardous for any other reason.

On February 12, 1982, Murphy was granted a temporary exclusion. Since that time, the Hazardous and Solid Waste Amendments (HSWA) of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional toxicants) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such factors are present and could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) As a result, the Agency has re-evaluated Murphy's petition to: (1) Determine whether the temporary exclusion should be made final based on the original listing criteria; and (2) determine if the waste is non-hazardous with respect to factors and toxicants other than the original listing criteria. Today's notice is the Agency's re-evaluation of Murphy's petition.

The Agency requested additional information from Murphy in order to evaluate additional constituents and factors in the waste, in anticipation of the passage of the Hazardous and Solid Waste Amendments of 1984. Murphy's petition was proposed to be denied on January 17, 1986, due to the lack of this additional information (see 51 FR 2526). The requested information was submitted to the Agency, and this notice presents the results from the Agency's re-evaluation of the petition.

Murphy's Superior Refinery processes 32,000 barrels of crude oil per day, producing a variety of chemical products, including gasolines, distillates, oils, and asphalt. Process wastes from the refinery operations are collected in a common sewer; these wastewaters include wastes from catalytic cracking, alkylation units, cooling towers, naphtha and distillate unifiners, boilers, and other processes. The combined wastewaters are then steam stripped to remove H_2S and ammonia. The stripper bottoms are routed to a desalter for removal of phenols. Desalter effluents are routed back to the sewer system and sent to an API separator (API #1). Effluent from API #1 is sent to another API separator (API #2), where it is combined with boiler blowdown, cooling tower blowdown, and contaminatred runoff. API #2 effluent is pumped to a biological treatment system for settling and aeration. Treated wastewater is discharged to a local creek. Waste oil from the API separators goes to a slop tank for emulsion breaking. Water from this tank goes back to API #2 as contaminated runoff, while recovered oil is routed back to the refinery. Solids from exchanger bundle cleaning and slop oil treatment are mixed with sand and clay entering the sewer from surface runoff. The mixed solids are then removed by vacuum truck and deposited in a surface impoundment for dewatering. Leachate water re-enters API #2 as contaminated runoff, and the dewatered sludges are transported to the City of Superior landfill. Since the API separator sludges are combined with two other listed hazardous wastestreams, the disposed API separator sludges are listed not only as a K051 waste but also as K049 and K050 waste.

Murphy has submitted a detailed description of its production and treatment processes, including schematic diagrams; test results for total constituent and Oily Waste Extraction Procedure (OWEP) tests for arsenic, barium, cadmium, total chromium, lead selenium, mercury, nickel, antimony, beryllium, cobalt, and vanadium; results from OWEP tests for cyanide; test results for total oil and grease; and test results for ignitability, reactivity, and corrosivity. In addition, Murphy presented results from a test scan for organic compounds in the waste. The Agency requested much of this information, as noted above, to determine whether hazardous constituents, other than those for which the waste was originally listed, are present in the waste at levels of regulatory concern.

Composite samples of the API separator sludges were made by taking grab samples with a bucket from each of four quadrants dividing the API separator sludge drying area. The four samples that were collected by Murphy represented sludges that had accumulated over a two to three month

[34] When the Agency cannot determine either the compliance-point concentration (due to the lack of a solubility value) or a regulatory standard, that constituent will not be grounds for the Agency to continue to regulate the waste as hazardous.

period. Murphy's original (1981) demonstration was based upon four grab samples that had been collected from two on-site sludge piles, and four composite samples of fresh API separator sludges. The four most recent samples are claimed by Murphy to be representative of any variation of the listed and non-listed constituent concentrations in the waste.

The total constituent and OWEP analyses of the API separator sludge for the listed constituents revealed the maximum concentrations reported in Table 1. Murphy was requested to perform testing using the OWEP because of the large concentration of oil typically found in the waste.[35] The maximum oil and grease value reported for the API sludge was 790,000 mg/kg (79 percent).

TABLE 1.—MAXIMUM CONCENTRATIONS (PPM)

Constituents	Total constituent analyses	OWEP analyses
Cr (total)	40.3	0.97
Pb	14.8	<1.63

The total constituent and OWEP analyses for the non-listed constituents of the API separator sludge are presented in Table 2. No evaluation of the sludge was made for silver, and no total constituent analysis was made for cyanide. Also, no quantitative evaluation of waste reactivity for cyanide or sulfide was made. Thus, the Agency considers the petition to be incomplete.

TABLE 2.—MAXIMUM CONCENTRATIONS (PPM)

Constituents	Total constituent analyses	OWEP analyses
As	1.6	0.19
Ba	79.1	<3.65
Cd	<0.3	0.23
Hg	0.54	0.0698
Se	1.9	1.13
Ni	45.7	7.68
Sb	<10	3.63
Be	1.9	0.26
Co	4.3	1.71
V	<25	<17
CN^-		0.33

Murphy also evaluated its waste for the presence of organic hazardous constituents. The total constituent analyses uncovered the maximum detectable concentrations given in Table 3.

TABLE 3.—MAXIMUM DETECTED CONCENTRATIONS (PPM)

Constituents	Maximum detected concentrations
Benzene	380
Ethyl benzene	520
Methyl ethyl ketone	297
Toluene	1148
Xylenes	1110
Anthracene	33
Benzo(a)anthracene	15
Bis(2-ethylhexyl)phthalate	1435
Chrysene	32
Fluoranthene	17
1-Methyl naphthalene	166
Naphthalene	105
Phenanthrene	474
Pyrene	79
Phenol	8

None of the samples tested demonstrated reactivity, corrosivity, or ignitability. Murphy claims to generate an annual volume 12,118 gallons of API separator sludge, or approximately 60 cubic yards per year.

B. Agency Analysis and Action

Murphy has not demonstrated that the API separator sludge generated from the treatment of its refinery wastes is non-hazardous. The Agency believes that, due to the mixing occurring in the sewer system and in the treatment process itself, the waste samples collected by Murphy were representative of its waste. The Agency believes that the refining processes performed at this facility are uniform and consistent. The Agency also believes that the sampling procedure chosen by Murphy was, in this case, adequate to obtain representative samples because of the shallow depth of the sludge (6–8 inches): that is, core samples were not necesssary to collect representative samples. The Agency, therefore, concludes that the analytical information provided by Murphy is representative of the API separator sludge.

The Agency has evaluated the mobility of the constituents from Murphy's waste using the vertical and horizontal spread (VHS) model.[36] The Agency's evaluation of the 60 cubic yards of sludge disposed annually by Murphy and the maximum OWEP extract concentrations for the listed constituents of concern in the VHS model generated the compliance-point concentrations given in Table 4.

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE—POINT CONCENTRATIONS/API SLUDGE (PPM)

Constituents	Predicted concentration	Regulatory standard
Cr (total)	0.030	0.05
Pb	<0.050	0.05

The VHS model evaluation for the non-listed constituents of the waste generated the maximum compliance-point concentrations presented in Table 5.

TABLE 5.—VHS MODEL: CALCULATED COMPLIANCE-POINT CONCENTRATIONS/API SLUDGE (PPM)

Constituents	Predicted concentrations	Regulatory standard
As	0.0059	0.05
Ba	<0.11	1.0
Cd	.0071	.01
Hg	.0022	.002
Se	.035	.01
Ni	.24	.35
Sb	.11	[1].01
Be	.008	[2].03
Co	.053	[2] NA
V	<0.53	NA
CN^-	.10	.20

[1] From Verified Reference Doses of the U.S. EPA, 1986.
[2] NA=Regulatory standard not available.

Chromium and lead are not present at the compliance point at concentrations in excess of the Agency's National Interim Primary Drinking Water Standards (NIPDWS) for chromium and lead. These constituents are, therefore, not of regulatory concern. Of the non-listed constituents, mercury and selenium are both present at levels in excess of their respective NIPDWS, and these constituents are of regulatory concern. Antimony also exceeds its regulatory standard. The other EP metals do not exceed their respective standards, and beryllium is not present at levels in excess of its regulatory standard. There are no regulatory standards available for cobalt or vanadium, but the concentrations of these constituents at the compliance point are not expected to be of environmental concern.

The Agency has also evaluated the mobility of the organic compounds found to be present in Murphy's sludge using the Agency's organic leaching model (OLM).[37] The results of this model were then used as inputs into the VHS model to calculate potential impacts upon ground water. The compliance-point concentrations of

[35] The Agency now requests petitioners to use the OWEP in the analysis of wastes containing greater than one percent oil and grease (see 49 FR 42591, October 31, 1984).

[36] See footnote 6.

[37] See footnote 15.

these compounds are presented in Table 6.[38]

TABLE 6.—VHS MODEL: CALCULATED COMPLIANCE—POINT CONCENTRATIONS/API SLUDGE (PPM)

Constituents	Best-fit concentrations	95% confidence limit concentrations	Regulatory standards
Benzene	6.0×10^{-2}	8.0×10^{-2}	1.2×10^{-2}
Ethyl benzene	0.029	0.036	3.5
Methyl ethyl ketone	0.33	0.50	1.75
Toluene	0.081	0.11	10.5
Xylene	0.057	0.073	2
Anthracene	2.4×10^{-4}	3.3×10^{-4}	2×10^{-3}
Benzo(a) anthracene	6.1×10^{-5}	9.2×10^{-5}	1×10^{-5}
Bis(2-ethylhexyl) phthalate	6.9×10^{-3}	8.4×10^{-3}	0.7
Chrysene	6.5×10^{-5}	9.7×10^{-5}	2×10^{-4}
Fluoranthene	2.5×10^{-4}	3.4×10^{-4}	0.2
1-Methyl naphthalene	NSol [1]	NSol	NA [2]
Naphthalene	5.4×10^{-3}	6.4×10^{-3}	9
Phenanthrene	4.4×10^{-3}	5.7×10^{-3}	2×10^{-3}
Pyrene	6.0×10^{-4}	8.0×10^{-4}	4
Phenol	0.018	0.026	3.5

[1] NSol = No solubility data available.
[2] NA = Regulatory standard not available.

Of the organics detected in Murphy's sludge, benzene, benzo(a)anthracene, and phenanthrene are found to generate compliance-point concentrations in excess of the Agency's regulatory standards. Benzene, benzo(a)anthracene, and phenanthrene, therefore, are of concern to the Agency. There is no regulatory standard available for 1-methyl naphthalene, and the concentration of this compound expected to occur at the compliance point may also be of regulatory significance.

The Agency believes that the API separator sludge generated at Murphy's Superior Refinery is hazardous and should be managed under hazardous waste control. The evaluation of this waste with the VHS model indicates the potential for this waste to leach excessive amounts of selenium and mercury, as well as benzene, benzo(a)anthracene, and phenanthrene, and so contaminate ground water. In addition, information necessary to complete the evaluation was not provided to the Agency, which renders the petition incomplete. The Agency, therefore, proposes to deny the petition filed by Murphy Oil USA, Inc. for the API separator sludge generated at its Superior Refinery in Superior, Michigan. The Agency also proposes to withdraw the temporary exclusion held by Murphy for this waste. The Agency believes that these wastes should be considered hazardous and, therefore, should be regulated under 40 CFR Parts 262 to 265.

[38] No detection limits were provided by Murphy for any other, nondetected organic compounds, so the Agency was not able to evaluate any other organic compounds. The Agency, therefore, considers the petition incomplete.

VI. New Departure Hyatt

A. Petition for Exclusion

New Departure Hyatt, located in Sandusky, Ohio, is involved in the plating of machine tools and overmachined bearing components. New Departure Hyatt has petitioned the Agency to exclude its treated sludge, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operation except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel and cyanide (complexed). New Departure Hyatt has petitioned to exclude its waste because it does not meet the criteria for which it was listed.

Based upon the Agency's review of their petition, New Departure Hyatt's Sandusky, Ohio, facility was granted a temporary exclusion for this waste on December 15, 1981, based on the original listing criteria. The Agency's basis for granting the informal exclusion (at that time) was the low migration potential of the constitutents of concern, namely cadmium, hexavalent chromium, cyanide (complexed), and nickel. Since that time, the Hazardous and Solid Waste Amendments (HSWA) of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous (see section 222 of the Amendments, 42 U.S.C. section 6921(f)).

The Agency requested additional information from New Departure Hyatt as required under the HSWA Amendments and has evaluated this information for factors (other than those for which the waste was listed) to determine whether the waste is non-hazardous. The Agency has also re-evaluated New Departure Hyatt's petition to determine whether the final exclusion should be granted based on the original listing criteria. This notice presents the results of the Agency's re-evaluation of this petition.

In support of their petition, New Departure Hyatt has submitted a detailed description of their manufacturing process and waste treatment processes, including: schematic diagrams, total constituent analyses and Oily Waste EP analyses for all of the EP toxic metals and nickel; and total constituent analyses and water leachable test results for cyanide. New Departure Hyatt has also submitted analyses for total oil and grease content; lists of raw materials and material safety data sheets for trade name products; and total constituent analysis data for benzene, chlorobenzene, 1,2-dichlorobenzene, 1,3-dichlorobenzene, 1,4-dichlorobenzene, ethyl benzene, toluene, xylene, naphthalene, and phenol.[39] The Agency requested this information, as noted above, to determine whether hazardous constituents, other than those for which the waste was originally listed, are present in the waste at levels of regulatory concern.

New Departure Hyatt manufactures machine bearings and electroplates worn machine tools and overmachined bearing components for salvage. The production operations include machining, washing, hardening, grinding, and electroplating, honing, and anticorrosion coating.

The chromic acid wastes produced from postplating rinse operations are treated at New Departure Hyatt's industrial waste treatment plant. This system involves chromium reduction using ferrous sulfate, pH adjustment, lime precipitation, clarification, and filter press dewatering.

New Departure Hyatt collected 15 samples from the waste treatment sludge storage hopper during the period from March 21, 1981 through January 24, 1986. Five samples were collected over a 24-day time period in 1981, five samples were collected over a 10-month time period in 1985, and five samples were collected over a 15-day period in 1986. Complete core samples were collected from the hopper. For all samples collected, analysis was started within two hours of sample collection. New Departure Hyatt claims that these samples are representative of any variation of the listed and non-listed constituent concentrations in the

[39] These contaminants were identified as components of raw materials which could possibly enter the subject waste stream.

wastestream, since the samples collected represent waste generation over a two- to three-week period and are representative of any short-term variations. In addition, since the manufacturing processes do not vary over time, significant long-term variations in waste composition are not expected to occur. Consequently, they believe that the samples collected and analyzed fully characterize their waste.

Total constituent analyses for the listed and non-listed constituents revealed the maximum concentrations reported in Table 1.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS

Toxicants	Concentrations (mg/kg)
As	25.2
Ba	96.9
Cd	65.3
Cr	3469.1
CN	5
Ni	204.3
Pb	106.5
Hg	.1
Ag	3
Se	8.7

The total oil and grease content of the waste ranged from 20.7 to 53.2 percent. Since the waste's total oil and grease content was above one percent, the EP leachate data collected between April 1981 and January 1986 were not used and New Departure Hyatt was requested to analyze the waste using the Oily Waste EP Toxicity Test. New Departure Hyatt analyzed additional samples collected in January 1986. The maximum metal concentrations detected using the Oily Waste EP methodology are presented in Table 2.

TABLE 2.—MAXIMUM MOBILE METAL CONCENTRATIONS

Toxicants	Concentrations (mg/1)
As	0.01
Ba	.02
Cd	.13
Cr	3.67
Pb	.77
Hg	.003
Ag	.02
Se	.01

The Agency reviewed the list of raw materials and material safety data sheets submitted by New Departure Hyatt and identified the following Appendix VIII hazardous constituents which may be present in the waste at significant levels: benzene, chlorobenzene, 1,2-dichlorobenzene, 1,3-dichlorobenzene, 1,4-dichlorobenzene, ethyl benzene, toluene, xylene, naphthalene, total aromatic organics, and phenol. New Departure Hyatt analyzed five representative samples collected in January 1986 for total constituent concentrations. The maximum total constituent concentrations detected are presented in Table 3.

TABLE 3.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS

Toxicants	Concentrations (mcg/1)
Benzene	0.4
Chlorobenzene	.5
1,2-Dichlorobenzene	.5
1,3-Dichlorobenzene	.6
1,4-Dichlorobenzene	.6
Ethyl Benzene	.7
Toluene	.4
Xylene	.7
Naphthalene	1.0
Total Aromatic Organics	5.7
Phenol (mg/kg)	9.6

No other Appendix VIII hazardous constituents were identified as components of New Departure Hyatt's raw materials, and it is unlikely that any other constituents are formed during manufacturing or treatment processes. New Departure Hyatt also provided test data indicating that the sludge is not ignitable, corrosive, or reactive. New Departure Hyatt claims to generate a maximum of 1,800 cubic yards per year of filter cake from this process.

B. Agency Analysis and Actions

New Departure Hyatt has failed to sufficiently demonstrate that the filter cake generated at their Sandusky, Ohio facility is non-hazardous. Based on the data presented in New Departure Hyatt's petition, the Agency believes that the petition has adequately characterized the waste filter cake, and that the samples analyzed reflect the day to day variation in production. The Agency believes New Departure Hyatt's claim that the manufacturing and treatment processes are uniform and consistent is well substantiated since this facility does not perform as a job shop or have seasonal product variations. The Agency believes that the 10-month sampling period adequately characterized any expected variation in the waste since all operations were used during this time period.

The Agency has evaluated the mobility of the constituents of New Departure Hyatt's filter cake using the vertical and horizontal spread (VHS) model.[40] The Agency's evaluation of New Departure Hyatt's 1,800 cubic yards of filter cake using the maximum Oily Waste EP extract levels (mobile metal concentrations) for the listed and non-listed inorganic constituents in the VHS model generated the compliance point concentrations in Table 4.

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (PPM)

Constituents	Compliance point concentrations	Regulatory standards
Arsenic	0.001	0.05
Barium	.002	1.0
Cadmium	.013	.01
Chromium	.378	.05
Nickel		.350
Cyanide		.20
Lead	.079	.05
Mercury	.003	.002
Selenium	.001	.01
Silver	.002	.05

The filter cake exhibited cadmium, chromium, and lead levels (at the compliance point) significantly above the National Interim Primary Drinking Water Standards (NIPDWS). The filter cake did not, however, exhibit hazardous levels of arsenic, barium, selenium, or silver. New Departure Hyatt did not provide mobile metal concentrations for nickel or cyanide.

Since the total constituent concentration of cyanide was low (*i.e.*, <5 mg/kg), the filter cake material would not be expected to exhibit leachable cyanide at levels which would create a health hazard. Total cyanide, and thus, free cyanide, are not present in sufficient concentrations to volatilize and produce concentrations that exceed the workroom air threshold limit of 10 ppm set by the American Conference of Governmental Industrial Hygienists (ACGIH).[41] Lastly, the filter cake is not reactive, ignitable, or corrosive.

The organic compounds listed in Table 3 were evaluated by first estimating their leachate concentrations using both baseline and 95 percent versions of the Organic Leachate Model (OLM),[42] and then predicting their compliance point concentrations with the VHS model. This procedure resulted in the compliance point concentrations presented in Table 5. Table 5 also presents for each organic compound, the regulatory standard to which the predicted concentration is compared.

[40] See footnote 6.
[41] See footnote 14.
[41] See footnote 15.

TABLE 5.—VHS Model: Predicted Compliance Point Concentrations (mg/l)

Compound	Leachate concentration		Compliance point concentration		Regulatory standard [1]
	(Baseline)	(95 percent confidence)	(Baseline)	(95 percent confidence)	
Benzene	.0002	.0003	.000021	.00003	0.0012
Chlorobenzene	.00009	.0002	.000009	.00002	1.1
1,2-Dichlorobenzene	.00005	.0001	.000005	.00001	3.2
1,3-Dichlorobenzene	.00006	.00011	.000001	.000011	3.8
1,4-Dichlorobenze	.00006	.0001	.000001	.00001	3.8
Ethyl Benzene	.00009	.00012	.000009	.000012	3.5
Toluene	.0001	.0002	.00001	.000021	10.5
Xylene	.0001	.00014	.00001	.000014	2
Naphthalene	.00007	.00013	.000007	.000013	9
Phenol	.45	.65	.046	.067	13.5

[1] The references for these regulatory standards are available in the RCRA docket.

As indicated in Table 5, the concentration levels of the organic constituents at the compliance point do not exceed their respective regulatory standards. The Agency identified these constituents as components used by New Departure Hyatt through a review of their raw materials list, and thus, had reason to believe that they could be present in New Departure Hyatt's filter cake.

While the Agency did not use the EP leachate data collected by New Departure Hyatt because of the high concentration of oil and grease in the waste, we are concerned, however, with the level of leachable chromium present in the filter cake. In particular, the maximum reported EP leachate concentration for total chromium was 6.63mg/l. Under 40 CFR 261.20, a solid waste is considered a hazardous waste if it exhibits any of the characteristics of a hazardous waste including ignitability, corrosivity, reactivity, and EP toxicity if the extract from a representative sample of the waste contains any of the contaminants listed in 40 CFR 261.24(b) at a concentration equal to or greater than that specified. The maximum concentration of total chromium reported by New Departure Hyatt exceeds the maximum concentration for chromium specified in 40 CFR 261.24(b) and, accordingly, the waste is considered to exhibit the characteristic of EP toxicity.

The Agency has concluded, based on the potentially mobile concentration of cadmium, chromium, and lead in the waste as well as the representative sample of the waste exhibiting the characteristic of EP toxicity for chromium, that this waste is hazardous. New Departure Hyatt's wastes, therefore, generated at their Sandusky, Ohio facility, could present a significant hazard to both human health and the environment. The Agency believes that the waste should be considered hazardous and subject to regulation under 40 CFR Parts 262 thorugh 265. The Agency, therefore, proposes to deny New Departure Hyatt's application for final exclusion.

VII. Virginia Chemicals—Bucks

A. Petition For Exclusion

Virginia Chemicals, Inc. (Virginia Chemicals), involved in manufacturing sodium hydrosulfite at its facility in Bucks, Alabama, has petitioned the Agency to exclude its still bottoms presently listed as EPA Hazardous Waste No. F003—The following spent non-halogenated solvent: methanol; and the still bottoms from the recovery of this solvent. This waste is listed as a hazardous waste because of the characteristic of ignitability.

Based upon the Agency's review of the petition, Virginia Chemicals was granted a temporary exclusion on December 31, 1980 (see 45 FR 86544). The basis for granting the exclusion (at that time) was the low percentage of methanol contained in the waste (<0.1 percent by volume) and the non-ignitability of the waste (*i.e.*, a flashpoint greater than 212°F). Since that time, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional toxicants) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such factors are present and could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. § 6921(f).) As a result, the Agency has re-evaluated Virginia Chemicals' petition to: (1) Determine whether the temporary exclusion should be made final based on the factors for which the waste was originally listed; and (2) determine if the waste is non-hazardous with respect to factors and toxicants other than those for which the waste was originally listed. Today's notice is the result of the Agency's re-evaluation of Virginia Chemicals' petition.

In support of their petition, Virginia Chemicals submitted a detailed description of its sodium hydrosulfite production and methanol recovery process (including a schematic diagram);[43] constituent analyses of the still bottoms for methanol; analytical results for pH, sulfides, and oil and grease; and flashpoint tests for this material. Virginia Chemicals also submitted a list of raw materials used in the manufacturing process. As noted above, the Agency requested much of this information to determine if toxicants other than the original listing criteria are present in the waste at levels of regulatory concern. The Agency requested additional information from Virginia Chemicals on August 23, 1983; November 26, 1984; and June 2, 1986. Virginia Chemicals responded to all three information requests. Virginia Chemicals, however, did not respond completely to the request of June 2, 1986.

Virginia Chemicals manufactures sodium hydrosulfite using the sodium formate process. The reaction is run in a methanol solution; the methanol is not part of the reaction. The product precipitates directly from the solution during the reaction. The methanol then is recovered by distillation from filtrate and other solutions of the reaction and is recycled to the process. Virginia Chemicals states that the design efficiency of the methanol recovery column is 99.9+ percent. The still bottoms from the methanol recovery process are composed primarily of sodium and sulfur salts in an aqueous solution. The still bottoms are sold to users in the pulp and paper industry.[44] Virginia Chemicals claims that its still bottoms do not exhibit any of the properties for ignitable wastes. Virginia Chemicals also claims that the still bottoms are non-hazardous water solutions of chemicals that do not meet any of the characteristics of hazardous waste described in 40 CFR Parts 261.21 through 261.24.

[43] Virginia Chemicals has claimed their process description as confidential business information (CBI). This information, therefore, is not available in the public docket.

[44] In general, recycling activities involving hazardous wastes are subject to regulation from the point of generation until reclamation is commenced. Although sold Virginia Chemical's still bottoms are still considered to be a waste because the users in the pulp and paper industry are recovering sodium and sulfur salts from the still bottoms. (*i.e.*, reclamation activities are not complete at the time the still bottoms are transferred off-site.) Thus, the still bottoms are considered to be listed by-products (F003) being reclaimed and, therefore, are solid and hazardous wastes.

Virginia Chemicals collected ten grab samples of the still bottoms from the recycle pump sump valve of the methanol recovery column. These samples were collected between February 24 and March 7, 1980. Virginia Chemicals did not provide any other specific information regarding sample collection times or methods. Virginia Chemicals does claim that the samples are non-biased and representative of any variation in the still bottoms at any point in time. Virginia Chemicals claims that the production process, including the methanol recovery distillation column, operates continuously and does not vary substantially with time.

Analyses of all ten samples showed the material to be an aqueous solution of sodium and sulfur salts, specifically sodium bisulfite, sodium thiosulfate, sodium formate, sodium sulfate, and sodium chloride. These constituents are all non-hazardous (*i.e.*, they are not listed on Appendix VIII of Part 261). The percent solids content ranged from 23.4 to 28.6 while the reported minimum water content was 64.13 percent. Virginia Chemicals also reported that the total organic carbon ranged from 16,600 to 20,300 ppm and claimed that these values are the result of the alcohol which remains in solution after distillation. Virginia Chemicals also claimed that oil and grease are only present as a result of routine maintenance at 50 to 80 ppm. Virginia Chemicals did not make the oil and grease determination as a result of sample collection and analysis in support of this petition, but as a result of the analyses of samples collected during a process quality control check. (Virginia Chemicals regularly collects and analyzes samples for this purpose.)

Two of the ten samples from the facility were analyzed for methanol. Methanol was detected at less than 0.1 percent in each of the two samples. An ignitability test result for one sample also indicated that the flashpoint of the still bottom material was greater than 212°F. The pH of all ten samples ranged from 5.9 to 6.3. Virginia Chemicals also reported that sulfides are present at less than 0.01 ppm.

Virginia Chemicals also submitted a list of raw materials used in their manufacturing process. This list indicated that no Appendix VIII hazardous constituents are used in the process and that formation of such constituents is highly unlikely. Virginia Chemicals claims to generate a maximum of 31,500 tons of their still bottom waste per year.

B. Agency Analysis and Action

Virginia Chemicals has not demonstrated that its methanol recovery process generates non-hazardous still bottoms. Since the petitioner did not submit sufficient information regarding sampling methods, the Agency cannot determine whether the samples collected from the distillation column were non-biased and adequately represent any variations that may occur.

EPA Hazardous Waste No. F003 is listed solely for ignitability. Virginia Chemicals has demonstrated that the still bottoms are an aqueous solution. Virginia Chemicals' analyses of two samples indicated methanol concentrations in the still bottoms are less than 0.1 percent by volume. This is well below the limit of 24 percent alcohol set in § 261.21(a)(1) of the regulations. Section 261.21(a)(1) of the regulations also indicates that solutions with flashpoints above 140°F are considered non-ignitable. A flashpoint test run on one sample of the still bottoms indicated a flashpoint of greater than 212°Φ. Virginia Chemicals, however, did not submit a sufficient number of analytical results for percent of methanol by volume to demonstrate that the still bottoms do not exhibit the characteristic of ignitability.

The Agency also reviewed Virginia Chemicals' raw material list. This review concluded that no Appendix VIII hazardous constituents are expected to be present in the still bottoms. Virginia Chemicals, however, did not submit any analytical results to demonstrate that its waste does not exhibit the characteristic of EP toxicity. Virginia Chemicals did not adequately demonstrate that the waste is not reactive. Information regarding sampling procedures was not specific and, therefore, the Agency is unable to determine whether the total sulfide analyses are representative of the sulfide content of the waste. In addition, cyanide results were not submitted.

Virginia Chemicals has not demonstrated sufficiently that its methanol recovery system distillation column bottoms are non-hazardous. Virginia Chemicals did not completely respond to the Agency's request for additional information; consequently, the petition is not complete and the Agency cannot determine whether the waste is non-hazardous. The Agency, therefore, proposes to deny a final exclusion to Virginia Chemicals for the methanol recovery still bottoms generated at its Bucks, Alabama facility and revoke its temporary exclusion.[45]

VIII. Titan Oil Company

A. Petition for Exclusion

Titan Oil Company (Titan) located in Indianapolis, Indiana is involved in the reprocessing of hydraulic fluids and cutting oils. In October 1981, Titan petitioned the Agency to exclude its de-watered wastewater sludge, presently listed as EPA Hazardous Waste Nos. F010—Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process, and F012—Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process.

Based upon the Agency's review of the petition, Titan was granted a temporary exclusion for its de-watered wastewater treatment sludge on May 5, 1982.[46] The Agency's basis for granting the exclusion was the low concentration and migration potential of cyanide salts and complexed cyanide. Since that time, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part, the Amendments require the Agency to consider other factors (including additional constituents other than those for which the waste was originally listed), if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In response to the Amendments, Titan was requested to submit a complete list of clients and wastes treated at the facility and results from additional analytical testing. This material was never received by the Agency. As a result, the Agency has re-evaluated Titan's petition to: (1) Determine whether the delisting should be granted based on the original listing criteria; and (2) evaluate the waste for additional factors (other than those for which the waste was listed) to determine whether the waste is non-hazardous. This notice presents the results of the Agency's re-evaluation of this petition.

In support of their petition, Titan has submitted a description of its waste treatment process, EP toxicity concentrations for the listed and non-listed constituents of concern, and information regarding ignitability, reactivity, and corrosivity.

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[45] The Agency notes that Virginia Chemicals intends to submit the additional information necessary to make its petition complete and is in the process of compiling this information.

[46] The exclusion, applied only to the final treated and de-watered sludge, as the petitioner requested.

Titan reprocesses approximately 700,000 gallons of hydraulic fluids and cutting oils per month. The spent hydraulic fluids and cutting oils are pumped to a settling tank, from which the free liquids are skimmed from the top and the settled solids are collected from the bottom. The free liquids are then batch neutralized, first with the addition of spent battery acid and polymers, and then by settling. The free liquids are discharged to the sewer and the settled solids are combined with the settled solids obtained from the oil settling tank. The combined settled solids are neutralized with spent battery acid. A polymer is added to the neutralized solids and the mixture is pumped to one of two storage tanks. The stored solids flow to a centrifuge for de-watering. The supernatant is pumped back to the free liquids treatment unit and the de-watered filter cake is disposed off-site.

Titan analyzed four samples collected from the centrifuge on April 15, 1981, July 6, 1981, August 3, 1981 and August 25, 1981. Each sample consisted of a five gallon grab taken directly from the centrifuge. The samples were only analyzed for EP toxicity, ignitability, reactivity, and corrosivity. The EP toxicity data, however, has not been used by the Agency, since Titan's waste exhibits a total oil and grease content exceeding one percent. The Agency requests that the EP Toxicity Test for Oily Wastes be used on any waste which exhibits a total oil and grease content greater then one percent due to the inability of the EP Toxicity Test to filter the oil fraction of the waste.

The Agency conducted a spot-check verification sampling visit at Titan on June 24, 1985. Although Titan's centrifuge was inoperable; one composite sample from centrifuge waste remaining in an on-site dumpster was collected. In addition, two samples were taken from each of the two solids storage tanks. Sludge was collected from each release valve by first purging five gallons of sludge and then collecting two gallons of sludge. The two 2 gallon samples of the bottom sludges from both solids storage tanks were composited, and the four 1 gallon samples (multi-depth) from the first solids storage tank were composited with the one 2 gallon sample collected from the eight-foot release valve from the second solids storage tank. The Agency elected to composite the two multi-depth composite samples together and the two tank bottom samples together since both solids storage tanks feed the filter press with no pre-assigned pattern. A total of three samples, therefore, were analyzed for total constituent concentrations and mobile metal concentrations of all the EP toxic metals, nickel, and cyanide. Additionally, priority pollutant analyses were also performed on sample. Table 1 and 2 present the results of the total constituent analyses and Oily Waste EP leachate analysis for all the EP toxic metals, nickel, and cyanide, respectively. Table 1 also presents the total sulfide concentration of each sample.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (MG/KG)

Constituents	Solids Storage Tanks		Dumpster
	Bottom composite	Multi-depth composite	
As	2.8	2.3	3.3
Ba	170	140	260
Cd	5.02	2.0	3.8
Cr	640	150	360
CN	<0.281	0.194	<0.275
Ni	70	40	81
Pb	300	170	330
Hg	2.0	0.83	4.1
Se	<2.5	<2.5	<2.4
Ag	0.68	<0.5	0.93
Sulfide	140	740	120

TABLE 2.—MAXIMUM MOBILE METAL CONCENTRATIONS (mg/l)

Constituents	Solids Storage Tanks		Dumpster
	Bottom composite	Multi-depth composite	
As	<0.079	<0.062	<0.078
Ba	1.2	.32	1.5
Cd	<0.045	<0.044	<0.044
Cr	1.5	.37	2.9
CN	[1]	[1]	[1]
Ni	.65	.33	1.2
Pb	.38	.11	1.2
Hg	<0.001	<0.001	0.003
Se	<0.08	<0.06	<0.078
Ag	<0.023	<0.022	<0.022

[1] Not analyzed due to the low total constituent concentration of cyanide (<0.281 mg/kg).

TABLE 3.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (ppm)

Constituents	Solids Storage Tanks		Dumpster
	Bottom composite	Multi-depth composite	
1,1,1-Trichloroethane	10.0	4.5	10.0
Trichloroethylene	28.0	14.0	47.0
Tetrachloroethylene	16.0	22.0	47.0
Toluene	5.1	3.8	11.0
Ethyl benzene	ND	1.5	10.0
Xylenes	17.0	13.0	73.0
p-Chloro-m-cresol	27.0	11.0	50.0
Phenol	72.0	28.0	38.0
Bis(2-ethylhexyl) phthalate	14.0	5.5	39.0
Butyl benzyl phthalate	22.2	9.5	47.0
Diethyl phthalate	ND	5.3	ND
Phenanthrene	21.0	8.8	65.0
Fluoranthene	6.2	ND	20.0
Naphthalene	12.0	ND	31.0
Di-n-octyl phthalate	16.0	ND	62.0
Pyrene	5.9	ND	19.0
1,1-Dichloroethylene	ND	ND	6.4
Anthracene	ND	ND	11.0
Fluorene	ND	ND	13.0

TABLE 3.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (ppm)—Continued

Constituents	Solids Storage Tanks		Dumpster
	Bottom composite	Multi-depth composite	
Polychlorinated biphenyls	[1] 5	[1] 5	[1] 5

[1] The Agency analyzed Titan's waste for polychlorinated biphenyls (PCBs), however, due to the waste matrix, a detection limit of 5 mg/kg was used and no PCBs were detected. During the spot-check visit, however, the Agency reviewed Titan's analytical data which indicated that their waste generally contains 3-5 ppm of PCBs. The tabulated value of 5 mg/kg is included in this table since it was obtained during the spot-check visit.

Table 3 presents the total constituent concentrations of all the organics detected in the priority pollutant analyses. The waste exhibited a maximum of 740 mg/kg of total sulfide and a maximum of <0.281 mg/kg of cyanide. Titan claims to generate a maximum of 1,200 cubic yards (1,215 tons) of sludge per year.

B. Agency Analysis and Action

Titan has not demonstrated to the Agency that its waste treatment system generates a non-hazardous sludge. Specifically, the data provided by the Agency's spot-check verification sampling visit indicates that the sludge contains significant concentrations of chromium, lead, 1,1-dichloroethylene, trichloroethylene, tetrachloroethylene, and PCBs. The Agency, therefore, is proposing to deny Titan's petition on this basis.

The Agency is also denying Titan's petition due to the following factors discovered during the spot check visit: (1) Titan accepted and treated other listed hazardous wastes, specifically EPA Hazardous Waste F006, which was not specified in their petition request; (2) Titan does not operate an adequate pre-screening program (that is, incoming waste is not verified on a daily basis); and, (3) Titan has no treatment system for the destruction of cyanides at the facility (cyanide is the listed constituent of concern for EPA Hazardous Wastes Nos. F010 and F012).

Titan's petition states that only EPA Hazardous Waste Nos. F010 and F012 are handled at their facility. Upon inspection of the facility's records, however, it was discovered that Titan Oil was also accepting EPA Hazardous Waste No. F006. (This was determined through inspection of Hazardous Waste Manifests by Agency personnel.)

The Agency also considers Titan's petition to be incomplete since they have not provided total constituent analyses or Oily Waste EP leachate analyses for all of the EP toxic metals, nickel, and cyanide as requested by the

Agency. The Agency does not consider the original four samples analyzed for EP leachate concentrations as representative of the waste since Titan did not use the Oily Waste EP toxicity analysis methodology.

The Agency believes that the sampling methodology used to collect samples during its site visit at Titan's facility was adequate. The samples were collected from the two solids storage tanks and represented at least two weeks of stored material. The Agency believes that the samples collected during its site visit indicate the potential for significant concentrations of hazardous materials (see below) to be present. The Agency notes that the samples obtained from the solids storage tanks represent material which has not been completely de-watered. The Agency, however, does not believe the de-watering process, in Titan's case, will decrease the concentrations of constituents. This belief is supported by the analytical data on the filter cake which exhibits greater arsenic, barium, cadmium, nickel, lead, and mercury levels than the waste stored prior to dewatering.

The Agency has evaluated the mobility of the constituents from both Titan's incompletely de-watered sludge and de-watered sludge using the vertical and horizontal spread (VHS) model.[47] The Agency's analysis of Titan's 1,200 cubic yards of de-watered sludge using the maximum Oily Waste EP leachate values for the listed constituent of concern and non-listed constituents of concern generated the compliance-point concentrations exhibited in Table 4.

The VHS model predicts that the compliance-point concentrations of arsenic, barium, cadmium, mercury, selenium, and silver were all below the National Interim Primary Drinking Water Standards. Compliance point concentrations for cyanide also did not exceed the U.S. Public Health Service's suggested drinking water standard.[48]

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS FOR THE LISTED AND NON-LISTED CONSTITUENTS OF CONCERN

Constituent	Solid Storage Tanks		Dumpster sludge	Regulatory standard
	Bottom composite	Multi-depth composite		
As	<0.005	<0.004	<0.005	0.05
Ba	.088	.023	.111	1.0
Cd	<.003	<.003	<.003	.01
Cr	.111	.027	.215	.05
CN	[1] <.021	[1] .0141	[1] <.021	.2

[47] See footnote 6.

[48] See footnote 7.

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS FOR THE LISTED AND NON-LISTED CONSTITUENTS OF CONCERN—Continued

Constituent	Solid Storage Tanks		Dumpster sludge	Regulatory standard
	Bottom composite	Multi-depth composite		
Ni	.048	.024	.088	.35
Pb	.028	.008	.088	.05
Hg	<.001	<.001	<.001	.002
Sc	<.005	<.004	.005	.01
Ag	<.001	<.001	<.001	.05

[1] Calculated using the total constituent concentration detected or inferred by detection limit (worst case analysis, assuming no dilution by the Oily Waste EP leachate analysis and 100 percent leaching).

In addition, the total constituent concentration of cyanide and reactive cyanide are both well below the Agency's interim level of 250 ppm.[49] Additionally, the compliance point concentration of nickel did not exceed the Agency's interim regulatory standard.[50]

The compliance point concentrations of chromium and lead from the sample obtained from the dumpster, and compliance point concentration of chromium from the sample obtained from the composite of the bottom solids, however, exceed the National Interim Primary Drinking Water Standards. The one sample obtained by compositing the multi-depth samples exhibited sufficient levels of total sulfide (although no analyses for reactive sulfide) to potentially be reactive (*i.e.*, the concentration of total sulfide is 740 mg/kg, therefore, it is possible for the concentration of reactive sulfide to exceed 500 mg/kg).[51]

The organic constituents detected by the priority pollutants analyses (listed in Table 3) were evaluated by first estimating their leachate concentrations (using the proposed Organic Leachate Model) and then predicting their compliance point concentrations with the VHS model.[52] This procedure resulted in the compliance point concentrations presented in Table 5 through 7. Table 5 through 7 also present, for each organic constituent, the regulatory standard to which the predicted compliance point concentration is compared.

As indicated in Tables 5 and 6, both the settled solids multi-depth composite and bottom's composite exhibited compliance point concentrations (using both the best-fit equation and the 95 percent confidence equation) of trichloroethylene, tetrachloroethylene, and PCBs in excess of their respective regulatory standards. As indicated in Table 7, the dumpster sludge exhibited predicted compliance point concentrations (using both the best-fit and the 95 percent confidence equation) of 1,1-dichloroethylene, trichloroethylene, tetrachloroethylene, and PCBs in excess of the constituents' regulatory standards.

[49] See footnote 8.

[50] See footnote 9.

[51] See internal Agency memorandum dated July 12, 1985, regarding "Reactivity Threshold for Sulfide" (in the RCRA public docket).

[52] See footnote 15.

TABLE 5.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS SOLIDS STORAGE TANKS MULTI-DEPTH COMPOSITE (mg/l)

Constituents	Compliance point concentrations		Regulatory standards
	Baseline	95 percent confidence	
1,1,1-Trichloroethane	0.006	0.0084	1.2
Trichloroethylene	.012	.016	0.0032
Tetrachloroethylene	.008	.01	0.00069
Toluene	.003	.0048	10.5
Ethyl benzene	.001	.0017	3.5
Xylene	.006	.0077	2.0
p-Chloro-m-cresol	.017	.022	0.2
Phenol	.106	.150	3.5
Bis(2-ethylhexyl)phthalate	.0003	.00047	0.7
Butyl benzyl phthalate	.001	.0014	8.75
Diethyl phthalate	.002	.0036	455
Phenanthrene	.0006	.00088	0.002
Polychlorinated biphenyls	.00013	.00018	8.1×10^{-6}

[1] An explanation of the derivation of these regulatory standards is available in the public docket.

TABLE 6.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS SOLIDS STORAGE TANKS—BOTTOM COMPOSITE (mg/l)

Constituents	Compliance point concentrations		Regulatory standards [1]
	Baseline	95 percent confidence	
1,1,1-Trichloroethylene	0.011	0.014	1.2
Trichloroethylene	.0204	.025	0.0032
Tetrachloroethylene	.0066	.008	0.00069
Toluene	.0049	.006	10.6
Xylene	.0077	.009	2.0
p-Chloro-m-cresol	.03	.04	0.2
Phenol	.20	.267	2.5
Bis(2-ethylhexyl)Phthalate	.0007	.00088	0.7
Butyl benzyl phthalate	.0019	.0024	8.75
Phenanthrene	.0012	.0016	0.002
Fluoranthene	.0003	.00037	0.2
Naphthalene	.0031	.00370	9.0
Di-n-octylphthalate	.0015	.0019	0.6
Pyrene	.0002	.00034	4.0
Polychlorinated biphenyls	.00013	.00018	8.1×10^{-6}

[1] An explanation of the derivation of these regulatory standards is available in the public docket.

TABLE 7.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS DUMPSTER SLUDGE (MG/1)

Constituents	Compliance point concentrations		Regulatory standards [1]
	Baseline	95 percent confidence	
1,1,1-Trichloroethylene.	0.011	0.014	1.2
Trichloroethylene.	.0290	.036	0.0032
Tetrachloroethylene.	.014	.016	0,00069
Toluene	.0083	.010	10.5
Xylene	.0048	.0059	3.5
p-Chloro-m-cresol.	.04	.061	0.2
Phenol	.13	.19	3.5
Bis(2-ethylhexyl) phthalate.	.0013	.0017	0.7
Butyl benzyl phthalate.	.00320	.004	8.75
Phenanthracene.	.0026	.0033	NA [2]
Fluoranthene	.00067	.000890	0.2
Naphthalene	.0058	.0069	9.0
Di-n-octyl phthalate.	.0039	.0047	0.6
Pyrene	.00054	.00073	4.0
1,1-Dichloroethylene.	.00980	.012	0.0003
Antracene	.000260	.00037	0.002
Fluorene	.0011	.0014	0.002
Polychlorinated biphenyls.	.00013	.00018	8.1 x 10^{-6}

[1] An explanation of the deviation of these regulatory standards is available in the public docket.
[2] A regulatory standard is not currently available.

The Agency believes that the final dewatered sludge, (which is the petitioned wastestream), contains significant concentrations of mobile chromium, lead, 1,1-dichloroethylene, trichloroethylene, tetrachloroethylene, and PCBs. In addition, the Agency is concerned about the misrepresentation of the wastes accepted by Titan for reprocessing, the lack of a formal prescreening program (required for all multiple waste treatment facilities) and the lack of an acceptable cyanide treatment process. The Agency believes, therefore, that Titan has not demonstrated that their waste treatment residue is non-hazardous and that the centrifuge cake now presents and will continue to present substantial hazard to human health and the environment. The Agency, therefore, proposes to deny Titan Oil Company's petition to delist the residue generated from their Indianapolis, Indiana facility. The Agency believes that this waste should be considered hazardous and subject to regulation under 40 Parts 262 through 265.

IX. Virginia Chemicals—Leeds

A. Petition For Exclusion

Virginia Chemicals, Inc. (Virginia Chemicals), involved in manufacturing sodium hydrosulfite at its facility in Leeds, South Carolina, has petitioned the Agency to exclude its still bottoms presently listed as EPA Hazardous Waste No. F003—The following spent non-halogenated solvent: methanol; and the still bottoms from the recovery of this solvent. This waste is listed as a hazardous waste because of the characteristic of ingnitability.

Based upon the Agency's review of the petition, Virginia Chemicals was granted a temporary exclusion on December 31, 1980 (see 45 FR 86544). The basis for granting the exclusion (at that time) was the low percentage of methanol contained in the waste (<0.1 percent by volume) and non-ignitability of the waste (*i.e.*, a flashpoint greater than 212 °F). Since that time, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional toxicants) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such factors are present and could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. § 6921 (f).) As a result, the Agency has re-evaluated Virginia Chemicals' petition to: (1) Determine whether the temporary exclusion should be made final based on the factors for which the waste was originally listed and (2) determine if the waste is non-hazardous with respect to factors and toxicants other than those for which the waste was originally listed. Today's notice is the result of the Agency's re-evaluation of Virginia Chemicals' petition.

In support of their petition, Virginia Chemicals submitted a detailed description of its sodium hydrosulfite production and methanol recovery process (including a schematic diagram); [53] constituent analyses of the still bottoms for methanol; analytical results for pH, sulfides, and total organic carbon, and flashpoint tests for this material. Virginia Chemicals also submitted a list of raw materials used in the manufacturing process. As noted above, the Agency requested this information to determine if toxicants other than the original listing criteria are present in the waste at levels of regulatory concern. The Agency requested additional information from Virginia Chemicals on August 23, 1983; November 26, 1984; and June 2, 1986. Virginia Chemicals responded to all three information requests. Virginia Chemicals, however, did not respond completely to the request of June 2, 1986.

Virginia Chemicals manufactures sodium hydrosulfite using the sodium formate process. The reaction is run in a methanol solution; the methanol is not part of the reaction. The product precipitates directly from the solution during the reaction. The methanol then is recovered by distillation from filtrate and other solutions of the reaction and is recycled to the process. Virginia Chemical states that the design efficiency of the methanol recovery column is 99.9+ percent. The still bottoms from the methanol recovery process are composed primarily of sodium and sulfur salts in an aqueous solution. The still bottoms are sold to users in the pulp and paper industry.[54] Virginia Chemicals claims that its still bottoms do not exhibit any of the properties for ignitable wastes. Virginia Chemicals also claims that the still bottoms are non-hazardous water solutions of chemicals that do not meet any of the characteristics of hazardous waste described in 40 CFR Parts 261.21 through 261.24.

Virginia Chemicals collected ten grab samples of the still bottoms from the methanol recovery column. These samples were collected between February 25 and 29, 1980. Virginia Chemicals did not provide any other specific information regarding sample collection times or methods. Virginia Chemicals does claim that the samples are non-biased and representative of any variation in the still bottoms at any point in time. Virginia Chemicals claims that the production process, including the methanol recovery distillation column, operates continuously and does not vary substantially with time.

Analyses of all ten samples showed the material to be an aqueous solution of sodium and sulfur salts, specifically sodium bisulfite, sodium thiosulfate, sodium formate, sodium sulfate, and sodium chloride. These constituents are all nonhazardous (*i.e.*, they are not listed on Appendix VIII of Part 261). The percent solids content ranged from 23.4 to 35.5 while the reported minimum water content was 65.11 percent.

[53] Virginia Chemicals has claimed their process description as confidential business information (CBI). This information, therefore, is not available in the public docket.

[54] In general, recycling activities involving hazardous wastes are subject to regulation from the point of generation until reclamation is commenced. Although sold Virginia Chemicals' still bottoms are still considered to be a waste because the users in the pulp and paper industry are recovering sodium and sulfur salts from the still bottoms (*i.e.*, reclamation activities are not complete at the time the still bottoms are transferred off-site.) Thus, the still bottoms are considered to be listed by-products (F003) being reclaimed and, therefore, are solid and hazardous wastes. 40 C.F.R. 261.2(c)(3).

Virginia Chemicals also reported that the total organic carbon ranged from 16,600 to 20,300 ppm and claimed that these values are the result of the alcohol which remains in solution after distillation. Virginia Chemicals also claimed that oil and grease are only present as a result of routine maintenance at 50 to 80 ppm. Virginia Chemicals did not make the oil and grease determination as a result of sample collection and analysis in support of this petition, but as a result of the analyses of samples collected during a process quality control check. (Virginia Chemicals regularly collects and analyzes samples for this purpose.)

Two of the ten samples from the facility were analyzed for methanol. Methanol was detected at less than 0.1 percent in each of the two samples. An ignitability test result for one sample also indicated that the flashpoint of the still bottom material was greater than 212°F. The pH of all ten samples ranged from 5.9 to 6.3. Virginia Chemicals also reported that sulfides are present at less than 0.01 ppm.

Virginia Chemicals also submitted a list of all raw materials used in their manufacturing process. This list indicated that no Appendix VIII hazrdous constitents are used in the process and that formation of such constituents is highly unlikely. Virginia Chemicals claims to generate a maximum of 26,500 tons of their still bottom waste per year.

B. Agency Analysis and Action

Virginia Chemicals has not demonstrated that its methanol recovery process generates non-hazardous still bottoms. Because Virginia Chemicals did not submit sufficient information regarding sampling methods, the Agency cannot determine whether the samples collected from the distillation column were non-biased and adequately represent any variations that may occur.

EPA Hazardous Waste No. F003 is listed solely for ignitability. Virginia Chemicals has demonstrated that the still bottoms are an aqueous solution. Virginia Chemicals' analyses of two samples indicated methanol concentrations in the still bottoms are less than 0.1 percent by volume. This is well below the limit of 24 percent alcohol set in § 261.21(a)(1) of the regulations. Section 261.21(a)(1) of the regulations also indicates that solutions with flashpoints above 140°F are considered non-ignitable. A flashpoint test run on one sample of the still bottoms indicated a flashpoint of greater than 212°F. Virginia Chemicals, however, did not submit a sufficient number of analytical results for percent of methanol by volume to demonstrate that the still bottoms do not exhibit the characteristic of ignitability.

The Agency also reviewed Virginia Chemicals' raw material list. This review concluded that no Appendix VIII hazardous constituents are expected to be present in the still bottoms. Virginia Chemicals, however, did not submit any analytical results to demonstrate that its waste does not exhibit the characteristic of EP toxicity. Virginia Chemicals did not adequately demonstrate that the waste is not reactive. Information regarding sampling procedures was not specific and, therefore, the Agency is unable to determine whether the total sulfide analyses are representative of the sulfide content of the waste. In addition, cyanide results were not submitted.

Virginia Chemicals has not demonstrated sufficiently that its methanol recovery system distillation column bottoms are non-hazardous. Virginia Chemicals did not completely respond to the Agency's request for additional information; consequently, the petition is not complete and the Agency cannot determine whether the waste is non-hazardous. The Agency, therefore, proposes to deny a final exclusion to Virginia Chemicals for the methanol recovery still bottoms generated at its Leeds, South Carolina facility and revoke its temporary exclusion.[55]

X. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. For the nine petitioners who may have their temporary exclusions revoked and their final exclusions denied, however, this is not the case. These petitioners may be required to revert back to handling their wastes as they did before they were granted their temporary exclusions (*i.e.*, they must handle their waste as hazardous). These petitioners would need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of these temporary exclusions would be six months after publication in the **Federal Register**.[56]

XI. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. In addition, this proposal is not major even though it would also revoke a total of nine temporary exclusions and deny final exclusions to these facilities. The effect of this proposal would increase the overall costs for these nine facilities which currently have a temporary exclusion. The actual cost to these companies, however, would not be significant. In particular, in calculating the amount of waste that is generated by these facilities and considering a disposal cost of $300/ton, the increased cost to these facilities is approximately $30 million, well under the $100 million level constituting a major regulation.

XII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

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[55] The Agency notes that Virginia Chemicals intends to submit the additional information necessary to make its petition complete and is in the process of compiling this information.

[56] The Agency notes that two petitions submitted by Virginia Chemicals are being denied due to lack of sufficient information which prohibited the Agency from determining the characteristics of the petitioned wastes (*i.e.*, the petitions are not complete). The effective date of the denial and revocation of the temporary exclusions would be November 8, 1986. If the requisite information would be submitted to the Agency prior to the close of the 15-day comment period of this notice (*i.e.*, if the petitions are complete), the Agency will evaluate Virginia Chemicals' petitions and make a decision to grant or deny the petitions.

This amendment will have no effect of increasing overall waste disposal costs. Some of the facilities (being denied) in this notice may be considered small entities, however, this rule only effects nine facilities in different industrial segments. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that his proposed regulation will not have a significant economic impact on a substantial numbers of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: October 10, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86-23562 Filed 10-16-86; 8:45 am]

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federal register

Friday
October 17, 1986

Part IX

Department of Health and Human Services

Health Care Financing Administration

Medicare Program Criteria for Medicare Coverage of Heart Transplants; Proposed Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BERC-362-PN]

Medicare Program; Criteria for Medicare Coverage of Heart Transplants

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This notice proposes Medicare coverage of heart transplantations under certain circumstances. We would extend coverage to heart transplants based on the results of the National Heart Transplant Study and our subsequent determination that heart transplants are a medically reasonable and necessary service when furnished by participating facilities that meet specific criteria, including patient selection criteria.

DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on November 17, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-362-PN, P.O. Box 26676, Baltimore, Maryland 21270.

In addition, please address a copy of your comments on the information collection requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503, Attention: Fay Iudicello.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, D.C., or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-362-PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Barton McCann, M.D. (301) 594-9370.

SUPPLEMENTARY INFORMATION:

I. Background

In November 1979, Medicare began paying for heart transplantation procedures performed for Medicare beneficiaries at Stanford University Medical Center. This was an interim decision, based on preliminary findings by the Public Health Service (PHS) regarding the safety and efficacy of heart transplants performed at that center. We had expected to reach a final decision quickly, not only about coverage at that center, but also on generally applicable, broadly based criteria for approving Medicare coverage of heart transplants of other facilities.

Upon review of Medicare coverage of heart transplants, we determined that the issues were much more complex than originally thought and that adequate data did not exist to resolve many of them. Consequently, the Secretary of HHS announced a decision to exclude heart transplants from Medicare coverage, with the exception of a very few patients previously selected for and awaiting transplantations. That decision was announced June 12, 1980 by the Secretary and published as a notice of HCFA Ruling (HCFAR 80-1) in the **Federal Register** on August 6, 1980 (45 FR 52296).

Accompanying the decision to exclude heart transplants from Medicare coverage was an announcement that HCFA, in close cooperation with the PHS would conduct a broad study of heart transplants. On January 22, 1981, we published a notice in the **Federal Register** (46 FR 7072) that described the study in detail and solicited applications from hospitals and medical centers wishing to participate. We awarded the contract for the National Heart Transplant Study to the Battelle Human Affairs Research Centers of Seattle, Washington. The study had two aspects:

- Six hospitals and medical centers were selected to participate. These facilities were reimbursed for a limited number of heart transplants performed on Medicare patients during the course of the study. In addition, these facilities furnished data about heart transplants performed at their facilities.
- The contractor (Battelle) gathered, coordinated, evaluated, and reported the data it collected from those facilities and other sources.

The study encompassed analysis of data obtained from the six facilities on 441 heart transplant recipients (including 152 living recipients) from 1968 to June 30, 1983.

As part of the January 1981 notice, we stated that when the results of the study were analyzed, we would publish a proposed decision regarding Medicare coverage and would give the public an opportunity to comment on our proposal before developing a final policy.

II. Proposed Policy

After analyzing findings of the Battelle study and consulting with PHS, we have determined that, for Medicare coverage purposes, heart transplants are medically reasonable and necessary when performed in facilities that meet certain criteria. Facilities that wish to obtain this coverage for their Medicare patients would be required to submit an application and supply documentation showing their initial and ongoing compliance with each of the criteria. We will reexamine the use of the criteria in three years to verify its continuing appropriateness. For facilities which are approved. Medicare would cover under Part A (Hospital Insurance) all medically reasonable and necessary impatient services. Payment for these services generally would be made under the Diagnosis Related Group (DRG) classification code #103, "Heart transplants". Organ acquisition costs would be paid separately on a cost-reimbursement basis. Physician services, as well as other non-hospital services related to the transplant, and pre- and post-transplant care, would be covered under Part B (Supplementary Medical Insurance) and reimbursed on the basis of reasonable charges. This post-transplant care would not include outpatient, self-administrable immunosuppressant drugs, such as cyclosporine, since Medicare coverage of self-administered drugs is excluded under section 1861(s)(2) of the Social Security Act. If a Medicare beneficiary receives a covered heart transplant from an approved facility, reasonable and necessary services for followup care and for complications are covered, even if such services are furnished by a hospital that is eligible for Medicare reimbursement but is not specifically approved by Medicare for heart transplantation.

We propose to make the effective date of coverage of heart transplants the date of publication of this proposed notice. Coverage as of the date of this proposed notice would be effective only for those facilities which would have qualified as heart transplant facilities when the transplant was performed and whose applications are received by HCFA within 90 days of the **Federal Register** publication of the final notice announcing our policy. The effective date of coverage for heart transplants performed at facilities applying after

that date would be the date the facility receives approval from HCFA as a heart transplant facility.

Under the proposal, Medicare would not cover transplants or re-transplants in facilities which have not been approved as Medicare transplant facilities. If a Medicare beneficiary received a heart transplant from a facility that is not approved by Medicare for heart transplantation, we would not cover any inpatient services associated with the transplantation procedure. Neither would we cover physician services. Thus, payment would not be made for the performance of the transplant or for any other services which are incorporated into a global fee.

Additionally, we propose that, after a beneficiary has been discharged from a hospital (which has not been approved by Medicare as a heart transplant center) in which he or she received the heart transplant, medical and hospital services required as a result of the prior non-covered transplant may be covered in a facility otherwise eligible for Medicare reimbursement when they are reasonable and necessary in all other respects. Thus, coverage would be provided for subsequent inpatient stays or outpatient treatment ordinarily covered by Medicare even if the need for treatment arose because of a previous non-covered heart transplant procedure. These services also would be covered for Medicare beneficiaries who were not beneficiaries at the time they received a heart transplant regardless of whether or not the transplant was performed at an approved facility.

The PHS National Heart, Lung, and Blood Institute (NHLBI) has reported to us that heart transplantation has resulted in incremental increases in life expectancy and improvements in the quality of life in certain cases. These are cases of carefully selected patients managed according to specific protocols by experienced medical teams at facilities that have had substantial dedication to and experience with the procedure. This practice of patient selection for heart transplants is widely accepted by the medical profession. Thus, when specific criteria are considered in connection with the assessment of an individual patient's suitability for a heart transplant, we believe that heart transplants are medically reasonable and necessary. In conjunction with PHS and with technical assistance from the NHLBI, we have developed proposed patient selection guidelines, which are a subset of the criteria that facilities must meet so that we may be assured of their qualifications to provide medically reasonable and necessary heart transplants to Medicare patients. Thus, we propose to rescind the HCFA Ruling, HCFAR 80–1, "Exclusion of Heart Transplantation Procedures from Medicare Coverage".

The criteria we would use are an adaptation of those published in the January 1981 **Federal Register** and required for facility participation in the National Heart Transplant Study. The criteria we used for the National Heart Transplant Study were developed by NHLBI with the advice of experts in cardiology, cardiovascular surgery, organ transplantation and immunology. These criteria were used in the selection process to ensure that only qualified facilities could participate so that it would be most likely that patients chosen for transplants would receive optimum care. The criteria reflected the following factors that we considered necessary for clinical effectiveness:

- Careful and appropriate patient selection.
- Expert surgery.
- Postoperative care.
- Immunosuppression.
- Management of complications associated with immunosuppression.
- Patient education.
- Liaison with the patient's permanent physician for subsequent lifelong care.

These proposed criteria take into consideration advances in the cardiac transplantation field and reflect discussions with experts in cardiology cardiovascular surgery, cardiac transplantation, biostatistics, and experts familiar with the data bank of the International Society for Heart Transplantation. We realize that the indicators to measure the safety and efficacy of heart transplantations will continue to evolve. Thus, the criteria we propose may need to be updated periodically to recognize further developments in heart transplantation technology.

Under current Medicare policies, a procedure can be considered medically reasonable and necessary only if its safety and efficacy have been demonstrated adequately by scientific evidence, such as controlled clinical studies, and it has been accepted for general use by the medical community. Normally, surgical procedures and medical regimens, although requiring competent, skilled personnel, are of a nature that they can be performed successfully on most patients who require them in most facilities that meet the Medicare conditions of participation for hospitals (42 CFR Part 482). In the case of heart transplantation, however, many other factors are thought to be related to the safety and efficacy of the procedure. Thus, coverage of heart transplants requires detailed criteria to identify the context in which heart transplantations can be considered medically reasonable and necessary.

We would cover only those heart transplantations performed in facilities which demonstrate good patient outcomes, and broad compliance with the facility criteria. (While we believe that survival rates are important measures of successful outcomes, we do not believe that they can serve as the only criteria a center would have to meet in order to receive Medicare payment for heart transplants.) Once a facility applies for approval and is approved as a heart transplant facility for Medicare purposes, it is obliged to report immediately to HCFA any events or changes which would affect its approved status. Specifically, a facility must report any significant decrease in its experience level or survival rates, the loss of key members of the transplant team or any other major changes that could affect the performance of heart transplants at the facility. Changes from the terms of approval may lead to withdrawal of approval for Medicare coverage of heart transplants performed at the facility.

A facility that we would approve as meeting the criteria set forth in this notice could seek Medicare payment from its Medicare intermediary for heart transplants performed on Medicare patients. For facilities receiving Medicare payment under the Medicare prospective payment system, we would use the DRG classification #103, "Heart transplants". We have established a relative weight of 14.9944 for DRG 103 and a 51 day outlier threshold. DRG 103 will have the highest relative weight among the 473 DRGs.

The methodology used to compute the heart transplant weight was based on the procedures that were published in our September 3, 1985 final notice on FY 1986 prospective payment rates for hospitals (50 FR 35646). Since this was a low volume procedure, that is, less than 10 heart transplant cases appeared in Medicare's 1984 PATBILL file, we based the DRG weight on the most recent Medicare and non-Medicare charge data accumulated under the National Heart Transplant Study for procedures performed in 1983. The Hospital Input Price Index was used to update the 1983 charge data and to make the National Heart Transplant Study data consistent with the 1984 PATBALL data. [Note: In view of advances in the management of

heart transplant recipients, we believe that the DRG weight may need to be revised. We are exploring the possibility of examining other sources of heart transplant cost data and, if appropriate, will revise the weight accordingly and publish any change in the **Federal Register.**]

The charge data from the National Heart Transplant Study that we used included 54 transplants performed at six hospitals across the country. As is the standard procedure in computing a DRG weight, those hospital stays with standardized charges which were more than three standard deviations from the mean of the log distribution of standardized charges per case for the DRG were eliminated from the data base to avoid distorting the results. In this case, we eliminated two non-Medicare cases. Our analysis, therefore, included four cases from the National Heart Transplant Study data that were paid by Medicare and 48 cases that were paid by sources other than Medicare.

Organ procurement amounts were also removed from our computations for heart transplants in order to be consistent with the rules pertaining to kidney transplants. Kidney acquisition costs are treated apart from the prospective payment rate and are reimbursed on a retrospective cost basis.

We propose that heart acquisition costs would be reimbursed as a cost pass through, in the same manner as kidney acquisition costs are handled in the ESRD program under Medicare.

A discussion of the proposed criteria that we would require facilities to meet in order to receive Medicare payment for heart transplantations follows.

A. Criteria for Facilities

1. *Patient selection.* A facility must have adequate patient selection criteria and an implementation plan for their application. (Guidelines for patient selection criteria appear in section II. D. of this preamble.)

2. *Patient management.* A facility must have adequate patient management plans and protocols that include the following:

a. Detailed plans for therapeutic and evaluative procedures for the acute and long-term management of a patient, including commonly encountered complications. The basis for confidence in these plans must be stated.

b. The logistics of the plans for patient management and evaluation during the waiting and immediate post-discharge, as well as in-hospital, phases of the program.

c. The logistics of the plans for long-term management and evaluation, including education of the patient, liaison with the patient's attending physician, and the maintenance of active patient records for five years.

3. *Commitment.* A facility must make a sufficient commitment of resources and planning to the heart transplant program to carry through its application. Indications of this commitment could include the following:

a. Commitment of the facility to the heart transplant program is at all levels and broadly evident throughout the facility. (A cardiac transplantation program requires a major commitment of resources. These may intermittently include many other departments as well as the principal sponsoring departments.)

b. The facility has both the expertise and the commitment for participation in medical, surgical, and other relevant areas, particularly cardiology, cardiovascular surgery, anesthesiology, immunology, infectious diseases, pulmonary diseases, pathology, radiology, nursing, and social services. The facility must identify individuals in these areas in order to achieve an identifiable and stable transplant team. Responsible medical/surgical members of the team must be board certified or eligible in their respective disciplines.

(1) The component teams must be integrated into a comprehensive team with clearly defined leadership and corresponding responsibility.

(2) The facility must have an active cardiovascular medical and surgical program. (General indicators of this type of program would be a minimum of 500 cardiac catheterizations and coronary arteriograms annually, with the ability and willingness to do these procedures on an emergency basis, and a surgical group that has demonstrated low mortality rates in an active open heart surgical program involving at least 250 procedures a year.) The surgical team responsible for transplantation must be an identified, stable group.

(3) The anesthesia service must identify a team for transplantation that must also be available at all times.

(4) The infectious diseases service must have both the professional skills and laboratory resources needed to discover, identify, and manage the complications from a whole range of organisms, many of which are uncommonly encountered in the usual infectious diseases laboratory.

(5) The nursing service must identify a team or teams trained not only in hemodynamic support of the patient, but also in the special problems of managing immunosuppressed patients.

(6) Pathology resources must be available for studying and reporting promptly the pathological responses to transplantation.

(7) Adequate social service resources must be available.

(8) Mechanisms must be in place for managing the heart transplant program which assure that—

(A) Patient selection criteria are consistent with those set forth in the facility's written patient selection criteria;

(B) The facility is responsible for the ethical, and medical considerations involved in the patient selection process and application of patient selection criteria.

(9) Adequate plans exist for organ procurement meeting legal and ethical criteria, as well as yielding viable transplantable organs in reasonable numbers.

4. *Facility plans.* The facility must have overall facility plans, commitments, and resources for a program that will assure a reasonable concentration of experience; specifically, 12 or more cardiac transplantation cases per year. This level of activity must be shown feasible and likely on the basis of plans, commitments, and resources.

5. *Experience and survival rates.* The facility must demonstrate experience and success with a clinical organ transplantation program involving immunosuppressive technique.

The facility must have an established cardiac transplantation program with documented evidence of 12 or more patients in each of the two preceding 12-month periods and 12 patients prior to that. Such programs are deemed to have the potential for acceptable data bases for estimating survival.

Survival rates may be influenced by many factors, including random chance and patient selection. However, most authorities agree that a patient who is not free of adverse prognostic factors warrants cardiac transplantation only if he or she has a reasonable prognosis and the donor heart cannot be used in a patient who is a good candidate with at least a moderately urgent need and who is in reasonable geographic proximity.

Initially, the facility must demonstrate actuarial survival rates of 73 percent for one year and 65 percent for two years for patients who have had heart transplants since January 1, 1982 at that facility.

6. *Maintenance of data.* The facility must agree to maintain and, when requested, periodically submit to HCFA summary data, in standard format, about patients selected, protocols used

and short- and long-term outcome on all patients undergoing cardiac transplantation, not only those for whom payment under Medicare is sought. (Such data are necessary to provide a data base for an ongoing assessment of cardiac transplantation and to assure that approved facilities maintain appropriate patient selection criteria, adequate experience levels and satisfactory patient outcomes.) In addition, facilities must agree to notify HCFA immediately of any change related to the facility's transplant program that could effect the health or safety of patients selected for covered Medicare heart transplants or which would otherwise alter specific elements in their application.

7. *Organ procurement.* The facility must participate in an organ procurement program to obtain donor organs.

a. If a cardiac transplantation center utilizes the services of an outside organ procurement agency to obtain donor organs, it must have a written arrangement covering these services. The cardiac transplantation center must notify the Secretary in writing within 30 days of terminating such arrangements.

b. "Organ procurement agency" is defined as an organization that performs or coordinates all of the following services:

(1) Harvesting of donated hearts;

(2) Preservation of donated hearts;

(3) Transportation of donated hearts; and

(4) Maintenance of a system to locate prospective recipients for harvested organs.

8. *Laboratory services.* The facility must make available, directly or under arrangements, laboratory services to meet the needs of patients. Laboratory services are performed in a laboratory facility approved for participation in the Medicare program.

B. Process for Review and Approval of Facilities

The approval of facilities would be based on a careful review of the materials submitted regarding their experience and expertise, as well as their commitment to the heart transplant program. We propose to conduct the review with the aid and advice of a panel of non-Federal experts in such relevent fields as cardiology, cardiovascular surgery, organ transplantation, immunosuppression and health care resource utilization. The experts would report to use on their findings with respect to individual applications and would provide the basis for decisions as to the approval or disapproval of such applications.

We believe this approach would permit the most effective use of the talents of experts in determining promptly and efficiently whether applicants meet the heart transplant facility criteria. It would permit relatively rapid implementation of the criteria once they have been published in final form, and should assure applicants that their qualifications have been thoroughly and objectively reviewed by experts in the field of cardiac transplantation.

In approving facilities, we would compare the facility's submission against the criteria specified in this notice. The approval granted would be for a three year period and extensions of approval would require submission of a continuation application and would not be automatic.

In addition to reviewing applications, the expert panel may propose specific changes to the coverage criteria. Finally, in certain limited cases, exceptions to the strict criteria proposed may be warranted. We invite comments on the need for an exceptions policy and the structure this policy might take.

C. Application Procedure

In order to facilitate the approval of qualified facilities, we now will accept and begin to review applications from facilities that believe they are qualified based on the proposed criteria. Although the applications would be approved only on the basis of the criteria to be published in our final notice, we believe the proposed criteria provide a sufficient framework for facilities to develop and submit an application. To the extent that the proposed criteria are modified as a result of public comment, we would give facilities that submitted applications prior to the date of the final notice the opportunity to submit any necessary revision and additions to their applications.

The applications procedure is as follows:

1. An original and two copies of the application must be submitted on 8½ by 11 inch paper, signed by a person authorized to do so. The facility must be a participating hospital under Medicare and must specify its provider number, and the name and telephone number of an individual we could contract should we have questions regarding the application.

2. Information and data must be clearly stated, well organized and appropriately indexed to aid in its review against the criteria specified in this notice. Each page must be numbered.

3. To the extent possible, the application should be organized into eight sections corresponding to each of the eight major criteria and addressing, in order, each of the sub-criteria identified.

4. The application should be mailed to the address below in a manner which provides the facility with documentation that it was received by us.

Administrator, Health Care Financing Administration, c/o Office of Executive Operations, Room 777 East High Rise, 6325 Security Blvd., Baltimore, Maryland 21207

D. Guidelines for Patient Selection Criteria

We would require facilities to have written patient selection criteria, which they would follow in determining candidates for heart transplants. Such criteria should include or be comparable to, but need not be limited to, the following:

1. Patient selection criteria must be based upon both a critical medical need for transplantation and a maximum likelihood of successful clinical outcome.

2. The patient must have a very poor prognosis (for example, less than a 25 percent likelihood of survival for six months) as a result of poor cardiac status, but must otherwise have a good prognosis.

3. All other medical and surgical therapies that might be expected to yield both short- and long-term survival (for example, 3 or 5 years), comparable to that of cardiac transplantation, must have been tried or considered.

4. Many factors must be recognized at the present time to exert an adverse influence on the outcome after cardiac transplanation. The manner and extent to which adverse risk is translated into contraindication varies. A patient who meets patient selection criteria under section D. 2., 3., and 5., and is free of the adverse factors under this section 4a. and b., is considered a good candidate for cardiac transplantion. Some experts would not require freedom from all adverse factors under this section 4b. We recognize that some who may not be considered "good candidates" may also benefit,but the likelihood or extent of benefit is significantly less.

a. Strongly adverse factors include:

(1) Advancing age; for example, a patient beyond 53 to 57 years of age (the mid-50's). Until not long ago, limited experience with patients over age 50 showed that these patients had both impaired capacity to withstand post-operative and immunosuppressive complications and lessened survival. More recently, carefully selected patients through age 55 have had good

survival experience; but experience with patients beyond age 55 is limited. The selection of any patient for transplantation beyond age 50 must be done with particular care to ensure an adequately young "physiologic" age and the absence or insignificance of coexisting disease.

(2) Severe pulmonary hypertension (because of the limited work capacity of the typical donor right ventricle which is an important consideration in orthotopic cardiac transplantation). Generally, pulmonary vascular resistance above 5 Wood units or pulmonary artery systolic pressure over 65 mm Hg is a serious adverse factor. However, these patients may be acceptable if a pulmonary vasodilator drug reduces both pulmonary vascular resistance below 3 Wood units and pulmonary artery systolic pressure below 50 mm Hg.

(3) Renal or hepatic dysfunction not explained by the underlying heart failure and not deemed reversible (because of the nephrotoxicity and hepatotoxicity of cyclosporine). For patients who are to receive azathioprine and high-dose corticosteroid rather than cyclosporine, a slightly higher level of hepatic or renal dysfunction is acceptable, but substantial dysfunction is still a contraindication (because of the likelihood of early exacerbation postoperatively and because of interference with immunosuppressive regimens).

(4) Acute severe hemodynamic compromise at the time of transplantation if accompanied by compromise or failure of one or more vital end-organs (because of a substantially less favorable prognosis for survival than for the average transplant recipient).

(5) Symptomatic peripheral or cerebrovascular disease (because of accelerated progression in some patients after cardiac transplantation and on chronic corticosteroid treatment).

(6) Chronic obstructive pulmonary disease or chronic bronchitis (because of poor postoperative course and likelihood of exacerbation of infection with immunosuppression).

(7) Active systemic infection (because of the likelihood of exacerbation with initiation of immunosuppression).

(8) Recent and unresolved pulmonary infarction, pulmonary roentgenographic evidence of infection, or of abnormalities of unclear etiology (because of the likelihood that this represents pulmonary infection).

(9) Systemic hypertension, either at transplantation or prior to development of end-stage heart disease, that required multi-drug therapy for even moderate control (for example, multidrugs to bring diastolic pressure below 105 mm Hg) for patients who would be on cyclosporine protocols (because of the substantial exacerbation of hypertension with cyclosporine and the difficulty of its management).

(10) Any other systemic disease considered likely to limit or preclude survival and rehabilitation after transplantation.

(11) Cachexia, even in the absence of major end-organ failure (because of the significantly less favorable survival of these patients).

(12) The need for or prior transplantation of a second organ such as lung, liver, kidney, or marrow (because this represents the coexistance of significant disease, and because multi-organ transplantation must still be considered experimental).

(13) A history of a behavior pattern or psychiatric illness considered likely to interfere significantly with compliance with a disciplined medical regimen (because a lifelong medical regimen is necessary, requiring multiple drugs several times a day, with serious consequences in the event of their interruption or excessive consumption).

(14) The use of a donor heart, that may have had its effectiveness compromised by such factors as the use of substantial vasopressors prior to its removal from the donor, its prolonged or compromised maintenance between the time of its removal from the donor and its implantation into the patient, or pre-existing disease.

b. Other factors given less adverse weight by some experts but considered importantly adverse by others include:

(1) Insulin-requiring diabetes mellitus, in the judgment of most experts (because the diabetes is often accompanied by occult vascular disease and because the diabetes and its complications are exacerbated by chronic corticosteroid therapy; even current cyclosporine immunosuppression regimens require chronic long-term corticosteroid, though at a lower dose, and high dose corticosteroid is used in the treatment of acute rejection).

(2) Asymptomatic severe peripheral or cerebrovascular disease (because of accelerated progression in some patients after cardiac transplantation and on chronic corticosteroid treatment).

(3) Documented peptic ulcer disease (because of the likelihood of early postoperative exacerbation).

(4) Current or recent history of diverticulitis (which must be considered a source of active infection that may be exacerbated with the initiation of immunosuppressant).

5. Plans for long-term adherence to a disciplined medical regimen must be feasible and realistic for the individual patient.

III. Regulatory Impact Analysis

A. Introduction

Executive Order 12291 requires us to prepare and publish an initial regulatory impact analysis for any document such as this that meets the criteria of a "major rule". A major rule is one that is likely to result in:

- An annual effect on the economy of $100 million or more;
- A major increase in costs of prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), we prepare and publish an initial regulatory flexibility analysis for documents such as this, unless the Secretary certifies that implementation of the proposal would not have a significant economic impact on a substantial number of small entities.

Implementation of this proposal would not be likely to have an annual economic effect exceeding $100 million, or result in a major increase in costs or prices. However, it would affect all facilities that consider themselves capable of performing heart transplants. These facilities are considered small entities under the Regulatory Flexibility Act.

Our proposal could provide those hospitals that meet the criteria for performing heart transplants with a significant amount of additional Medicare revenue. Also, these hospitals could use their status as Medicare heart transplant centers to enhance their prestige and standing in the industry. This, in turn, could enable them to increase their overall market share of heart transplants at the expense of hospitals that also perform heart transplants but did not meet our criteria. It is important to emphasize, however, that since the market for heart transplants is supply-constrained, we do not believe that the criteria would in any way reduce the number of transplants. Those facilities that would not meet the proposed criteria may view our proposal as having a significant

adverse effect on competition. Therefore, we have prepared the following analysis, which, in combination with the other sections of this proposed notice, is intended to conform to the objectives of E.O. 12291 and the RFA.

B. Entities Affected

In calendar year 1985, there were about 72 facilities that characterized themselves as heart transplantation facilities in this country. This number includes facilities that have performed at least one heart transplant in the past and could be interested in re-entering the field. We believe the criteria that we have developed are essential to the maintenance of high standards of quality and the most successful outcomes. We expect that the application of the proposed criteria would result in the approval of about ten facilities initially, with a total of approximately 20 a year later.

Many facilities that have performed at least one heart transplant would not meet the levels of experience and success required under the facility criteria that we are proposing. However, some might be found to have acceptable clinical programs with an adequate prospect for successful outcomes. We expect that Medicare coverage of heart transplantation could prompt additional third party payors, including State Medicaid plans, to cover this procedure and create incentives for some facilities to establish heart transplant programs.

C. Impact on Beneficiaries

It is likely that few Medicare beneficiaries would be suitable heart transplant recipients because the advanced age of most beneficiaries would generally make them poor medical candidates for this procedure. Beneficiaries entitled to Medicare on the basis of disability are required by law to serve a 24-month waiting period in addition to the 5 months they must have been disabled prior to entitlement to disability cash benefits. We recognize that the use for cardiac transplantation among some of those disabled by heart disease may arise earlier than the twenty-nine months that they must wait until they are entitled to Medicare.

We believe that the criteria we are proposing are the most effective means available to ensure that the heart transplants that are made available to Medicare beneficiaries are provided in a safe and effective manner so that they can be considered to be reasonable and necessary within the meaning of the law. We recognize that the criteria are fairly restrictive. However, we believe this approach is justified, considering both our concerns for patient safety and the success rates that are currently achievable with this modality. In any event, we do not believe that the criteria would have an effect on the number of heart transplants performed.

D. Projected Expenditures

It is difficult to make a precise estimate of future Medicare costs, largely due to the difficulty of predicting the extent to which heart transplantations will be performed successfully in increasingly older patients over the next few years. All dollar estimates depend on assumptions and estimates related to the number of covered transplants. Therefore, we considered factors necessary for developing high and low estimates.

In developing the high estimate, we made assumptions about the total number of heart transplants performed nationwide, and the future rate of increase of the number of transplants performed at approved facilities. We assumed this would go up with the number of facilities, but the rate of increase was assumed to fall over time due to competition for suitable recipients and available donor organs. In developing the low estimate, we assumed that initially very few heart recipients would also be eligible for Medicare, and that the age of recipients (hence, the probability of their Medicare eligibility) would not increase over the next five years. We also recognized that changes in Medicare coverage of heart transplants would affect Medicaid. Although we cannot be certain that all States that do not cover heart transplants now (approximately 20 such States) would do so if Medicare decided to provide coverage, we assumed that they would for the purposes of estimating Medicaid costs. We also assumed that the overall number of Medicaid transplants would be about twice the number of Medicare transplants, but the Medicaid reimbursement per transplant would be about 10 percent lower than for Medicare. The absence of increased Medicaid costs during FY 1987 and 1988 reflects the fact that States that do not now cover heart transplants would begin over the next two years to adopt Medicare's policy on heart transplants. As a result, we would not expect to see a noticeable increase in Medicaid expenditures until FY 1989.

Note that, due to the sensitivity of these assumptions and the uncertainty of actual outcomes, we view our projection of expenditure increases as an opinion, rather than an estimate.

PROJECTED INCREASES IN HEART TRANSPLANT EXPENDITURES

[Federal Expenditures (rounded to nearest $5 million)]

	Fiscal year—				
	1987	1988	1989	1990	1991
Medicare low	0	0	0	0	0
Medicare high	$5	$10	$15	$20	$25
Medicaid	0	0	5	5	5

E. Alternatives Considered

We considered two major options in addition to the proposed criteria:

- To continue not to cover heart transplants; or
- To allow all Medicare participating hospitals to establish transplant programs without additional facility criteria, although requiring use of patient selection criteria.

Alternative 1: Continue present policy of noncoverage of heart transplants. The main reason for rejecting this option is our determination that heart transplants, when performed in accordance with the proposed criteria, would be medically reasonable and necessary and would meet the requirements for Medicare coverage.

Alternative 2: Allow all Medicare participating hospitals to establish transplant programs without additional selection criteria, although the patient selection criteria would have to be used. Although we are unable to estimate the number of facilities that may qualify, the Battelle Study projected that just under 200 facilities could be interested in qualifying in the next 5 years.

Our major reason for rejecting this alternative was that it would permit uncontrolled proliferation of transplant facilities, raising all the concomitant questions about the quality of services, given the limited availability of donor organs and experienced teams. Further, because the procedure would be spread among a larger number of facilities, it is likely the average experience level would be lower and would probably result in lower success and survival rates among recipients.

F. Conclusion

We believe that the proposal we are making would maintain the quality of the services required by this complex procedure, minimize coverage of the benefit at facilities and under conditions which have not been shown to be safe and effective, and allow entry of new, qualified providers. The proposed criteria for experience, survival rates and facility commitment are somewhat restrictive. We believe this approach is justified, particularly in view of the

typical relationship between experience and quality of services.

IV. Paperwork Burden

This proposed notice contains information collection requirements that are subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980. Specifically, facilities that wish to obtain approval for Medicare coverage of heart transplantation services must submit an application and documentation pertinent to the transplantation services. We submitted a copy of this proposed notice to the Executive Office of Management and Budget (EOMB) for its review of these information collection requirements. EOMB has approved the information collection requirements contained in this proposed notice under OMB control No. 0938–0490. Other organizations and individuals desiring to submit comments on the information collection requirements should follow the directions in the ADDRESS section of this preamble.

V. Response to Public Comments

Because of the large number of items of correspondence we normally receive on a proposed notice, we are not able to acknowledge or respond to them individually. However, in preparing the final notice, we will consider all comments that we receive by the date and time specified in the "Dates" section of this preamble, and, if we decide to proceed with a final notice, we will respond to the comments in the preamble of that notice.

(Secs. 1102, 1862(a)(1) and 1871 of the Social Security Act (42 U.S.C. 1302, 1395y(a)(1) and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance Program)

Dated: August 15, 1986.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: September 30, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86–23666 Filed 10–16–86; 8:45 am]

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LIST OF PUBLIC LAWS

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H.R. 2183/Pub. L. 99-466

To amend title 28 of the United States Code to make certain changes with respect to the participation of judges of the Court of International Trade in judicial conferences and for other purposes. (Oct. 14, 1986; 2 pages) Price: $1.00

H.R. 2721/Pub. L. 99-467

To amend title 13, United States Code, to require the collection of statistics on domestic apparel and textile industries. (Oct. 14, 1986; 1 page) Price: $1.00

H.R. 2971/Pub. L. 99-468

Granting the consent of the Congress to the amendments to the Susquehanna River Basin Compact. (Oct. 14, 1986; 2 pages) Price: $1.00

H.R. 4217/Pub. L. 99-469

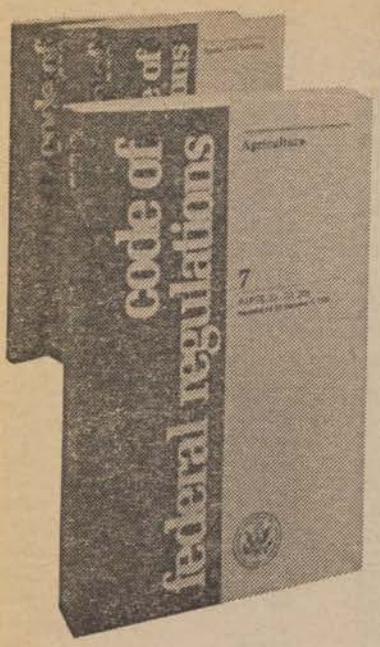
Tohono O'odham Tat Momolikot Dam Settlement Act. (Oct. 14, 1986; 3 pages) Price: $1.00

H.R. 4588/Pub. L. 99-470

To authorize appropriations for the Administrative Conference of the United States, and for other purposes. (Oct. 14, 1986; 1 page) Price: $1.00

S.J. Res. 390/Pub. L. 99-471

To authorize and request the President to proclaim the week of November 23, 1986, to November 30, 1986, as "American Indian Week." (Oct. 14, 1986; 1 page) Price: $1.00



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